

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 08-02-14
Rule ID(s): 5782
File Date: 8/11/14
Effective Date: 11/1/14

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Tennessee Board of Regents
Division:	System-wide Student Rules
Contact Person:	Dr. Randall C. Schulte
Address:	1415 Murfreesboro Rd. Ste. 324 Nashville, Tennessee
Zip:	37217
Phone:	615-365-1505
Email:	Randy.Schulte@tbr.edu

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0240-02-02	Classifying Students In-State and Out-of-State
Rule Number	Rule Title
0240-02-02-.03	Rules for Determination of Status
0240-02-02-.04	Out-of State Students Who Are Not Required to Pay Out-of-State Tuition

Chapter 0240-02-02
Classifying Students In-State and out-of-State
Amendments

Rule 0240-02-02-.03 Rules for Determination of Status is amended by adding paragraphs (5) and (6) and by deleting paragraphs (3) and (4) in their entirety and substituting the following language so that, as amended, the new paragraphs shall read:

- (3) The domicile of an unemancipated person is that of his or her parent, except as provided in paragraph (5) of this rule.
- (4) Unemancipated students of divorced parents shall be classified as "in-state" when one (1) parent, regardless of custodial status, is domiciled in Tennessee, except as provided in paragraph (5) of this rule.
- (5) A student is classified "in-state" for fee and tuition purposes if the student is a citizen of the United States, has resided in Tennessee for at least one (1) year immediately prior to admission and has:
 - (a) Graduated from a Tennessee public secondary school;
 - (b) Graduated from a private secondary school that is located in this state; or
 - (c) Earned a Tennessee high school equivalency diploma.
- (6) The spouse of a student classified as "in-state" shall also be classified as "in-state", subject to the requirements of Tennessee Code Annotated, Title 4, Chapter 58.

Authority: T.C.A. §49-8-104 and 49-8-203. Administrative History: Repeal of all rules by Public Chapter 261; effective July 1, 1983. New rule filed April 28, 1983; effective July 13, 1983. Amendment filed August 7, 1995; effective December 29, 1995. Amendment filed August 11, 2004; effective December 29, 2004.

Rule 0240-02-02-.04 Out-of-State Students Who Are Not Required to Pay Out-of-State Tuition is amended by correcting the misspelling of the word "dependant" in paragraph (6) so that, as amended, paragraph (6) shall read:

- (6) Any dependent child who qualifies and is selected to receive a scholarship under the Dependent Children Scholarship Act (T.C.A. § 49-4-704) because his or her parent is a law enforcement officer, fireman, or emergency medical service technician who was killed or totally and permanently disabled while performing duties within the scope of employment, shall not be charged out-of state tuition.

Rule 0240-02-02-.04 Out-of-State Students Who Are Not Required to Pay Out-of-State Tuition is amended by adding paragraph (13) and (14) with the following language so that, as amended, the new paragraphs shall read:

- (13) A veteran enrolled in any Tennessee Board of Regents (TBR) institution of higher education in this state shall not be required to pay out-of-state tuition or any out-of-state fee, if the veteran:
 - (a) Has not been dishonorably discharged from a branch of the United States armed forces or the National Guard;
 - (b) Is eligible for Post-9/11 GI Bill benefits or Montgomery GI Bill benefits; and
 - (c) Enrolls in the TBR institution, after satisfying all admission requirements, within twenty-four (24) months after the date of discharge as reflected on the veteran's certificate of release or discharge from active duty, Form DD-214, or an equivalent document.

- (14) To continue to qualify for in-state tuition and fees under paragraph (13), a veteran shall:
- (a) Maintain continuous enrollment as defined by the TBR institution at which the veteran is enrolled; and
 - (b) Within one (1) year of enrolling in the TBR institution:
 - 1. Register to vote in this state; or
 - 2. Demonstrate by objective evidence intent to be a resident of this state by obtaining at least two (2) of the following:
 - (i) A Tennessee driver license;
 - (ii) A Tennessee motor vehicle registration;
 - (iii) Proof of established employment in the state; or
 - (iv) Other documentation clearly evidencing domicile or residence in the state, as determined by the Tennessee Higher Education Commission.

Authority: T.C.A. §§49-8-104 and 49-8-203. Public Chapter No. 612, Tennessee Veterans Education Transition Support Act. Administrative History: Repeal of all rules by Public Chapter 261; effective July 1983. New rule filed April 28, 1983; effective July 13, 1983. Amendment filed July 29, 1986; effective October 29, 1986. Amendment filed July 29, 1988; effective October 29, 1988. Amendment filed February 8, 1989; effective May 29, 1989. Amendment filed August 7, 1995; effective December 29, 1995. Amendment filed August 11, 2004; effective December 29, 2004.

The vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Bill Haslam				X	
Gregory Duckett	X				
John M. Farris	X				
Darrell Freeman	X				
Tom Griscom				X	
Commissioner Kevin S. Huffman	X				
Commissioner Julius Johnson	X				
Jonas Kisber	X				
Fran Marcum				X	
Rebecca Reeves	X				
Emily Reynolds	X				
Howard Roddy	X				
Parker Smith				X	
Johnny Stites	X				
Robert P. Thomas	X				
Danni Varlan	X				
Dotty Webb	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Board of Regents in Special Session on 07/15/2014, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 7-16-2014

Signature: Mary G. Moody

Name of Officer: Mary G. Moody

Title of Officer: General Counsel and Board Secretary



Subscribed and sworn to before me on: 7-16-14

Notary Public Signature: [Signature]

My commission expires on: 2-6-2017

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

RE Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

7-30-14

Date

Department of State Use Only

Filed with the Department of State on: 8/9/14

Effective on: 11/1/14

Tre Hargett
Tre Hargett
Secretary of State

FILED
2014 AUG -4 AM 11:41
OFFICE OF
SECRETARY OF STATE

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

N/A

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

No impact on local governments

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Amendments due to passage of 2014 Public Act 745. The Act permits a student at a public institution of higher education to be charged in-state tuition, if the student is a citizen of the United States, has resided in Tennessee for at least one year and has graduated from a Tennessee public secondary school or a private secondary school in this state or earned a Tennessee high school equivalency diploma. - Amends T.C.A. Title 49
Passage of 2014 Public Act 612. The Act permits a veteran to pay in-state tuition and fees while attending any public institution of higher education in Tennessee subject to the provisions of the Act.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

2014 Public Act 745, revision of T.C.A. § 49-8-104 Rules and regulation for defining residency. T.C.A. §§ 4-5-101 et seq., Uniform Administrative Procedures Act, establishes provisions for rulemaking for Tennessee agencies; T.C.A. § 49-8-203, State University and Community College System, Powers and Duties, authorizes the board to establish policies and regulations regarding the campus life of the institutions, including, but not limited to, the conduct of students, student housing, parking and safety, and delegate responsibility for the efficient administration of the institution and its programs to the institutions chief executive officer. 2014 Public Act 612, Tennessee Veterans Education Transition Support Act.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

University and College administration; students, who urge adoption.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

ESTIMATED FISCAL IMPACT: Revision to T.C.A. § 49-8-104:
Increase State Revenue – Net Impact –
\$149,200/FY14-15/Higher Education Institutions
\$158,200/FY15-16/Higher Education Institutions
Exceeds \$167,700/FY16-17 and Subsequent Fiscal Years/Higher Education Institutions
Assumptions:
 According to TBR and UT, students with foreign-born parents who are undocumented aliens and unemancipated students who have remained in Tennessee while their parents have moved out of the state will be eligible to receive in-state tuition.
 With a six percent annual increase in tuition, the average difference in FY14-15 between in-state and out-of-state tuition is estimated to be \$16,268 at a TBR university; \$11,620 at a community college; and \$16,727 at a UT institution.
TBR estimates that 56 students currently enrolled within the TBR system will be eligible to receive in-state tuition; 28 at a university and 28 at a community college.
 UT estimates that 14 currently enrolled students will be eligible to receive in-state tuition.
 In FY14-15, the decrease in state revenue is estimated to be \$1,015,042 [(\$16,268 x 28) + (\$11,620 x 28) +

(\$16,727 x 14)].

TBR estimates that an additional 164 students will enroll at a TBR institution as a result of this bill; 82 at a TBR university and 82 at a community college.

UT estimates an additional 43 students will enroll at a UT institution as a result of this bill.

ESTIMATED FISCAL IMPACT: 2014 Public Act 612:

Not Significant

Assumptions:

Based on information received from THEC, veterans who enroll from out-of-state will not be charged more for tuition and fees than what is paid by the G.I. Bill, which reimburses for in-state tuition only.

In their initial year of enrollment, new enrollees will be counted as in-state students for the purposes of tuition.

The University of Tennessee and Tennessee Board of Regents will be reimbursed in-state tuition for any new enrollees by the federal government through the G.I. Bill. No increase in state expenditures for new military veteran enrollees as a result of this bill.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Dr. Randall C. Schulte
Assistant Vice Chancellor for Academic Affairs
Tennessee Board of Regents

Mary G. Moody
General Counsel
Tennessee Board of Regents

Donald R. Ungurait
Assistant General Counsel
Tennessee Board of Regents

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Dr. Randall C. Schulte
Assistant Vice Chancellor for Academic Affairs
Tennessee Board of Regents

Donald R. Ungurait
Assistant General Counsel
Tennessee Board of Regents

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Dr. Randall C. Schulte
Tennessee Board of Regents
1415 Murfreesboro Rd., Ste. 324
Nashville, TN 37217

Donald R. Ungurait
Tennessee Board of Regents
1415 Murfreesboro Rd., Ste. 336
Nashville, TN 37217

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

None

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Chapter 0240-02-02
Classifying Students In-State and out-of-State
Amendments

0240-2-2-.03 RULES FOR DETERMINATION OF STATUS.

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- (4) Unemancipated students of divorced parents shall be classified as "in-state" when one parent, regardless of custodial status, is domiciled in Tennessee, except as provided in paragraph (5) of this rule.
- (5) A student is classified "in-state" for fee and tuition purposes if the student is a citizen of the United States, has resided in Tennessee for at least one (1) year immediately prior to admission and has:
 - (a) Graduated from a Tennessee public secondary school;
 - (b) Graduated from a private secondary school that is located in this state; or
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0240-2-2-.04 OUT-OF-STATE STUDENTS WHO ARE NOT REQUIRED TO PAY OUT-OF- STATE TUITION.

- (6) Any dependant dependent child who qualifies and is selected to receive a scholarship under the Dependiant Dependent Children Scholarship Act (T.C.A. §49-4-704) because his or her parent is a law enforcement officer, fireman, or emergency medical service technician who was killed or totally and permanently disabled while performing duties within the scope of employment, shall not be charged out-of-state tuition.
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 - (a) Has not been dishonorably discharged from a branch of the United States armed forces or the National Guard;
 - (b) Is eligible for Post-9/11 GI Bill benefits or Montgomery GI Bill benefits; and
 - (c) Enrolls in the TBR institution, after satisfying all admission requirements, within twenty-four (24) months after the date of discharge as reflected on the veteran's certificate of release or discharge from active duty, Form DD-214, or an equivalent document.
- (14) To continue to qualify for in-state tuition and fees, a veteran shall:
 - (a) Maintain continuous enrollment as defined by the TBR institution at which the veteran is enrolled; and
 - (b) Within one (1) year of enrolling in the TBR institution:

- 1. Register to vote in this state; or**
- 2. Demonstrate by objective evidence intent to be a resident of this state by obtaining at least two (2) of the following:**
 - (i) A Tennessee driver license;**
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Authority: T.C.A. §§49-8-104 and 49-8-203. Public Chapter No. 612, Tennessee Veterans Education Transition Support Act. Administrative History: Repeal of all rules by Public Chapter 261; effective July 1983. New rule filed April 28, 1983; effective July 13, 1983. Amendment filed July 29, 1986; effective October 29, 1986. Amendment filed July 29, 1988; effective October 29, 1988. Amendment filed February 8, 1989; effective May 29, 1989. Amendment filed August 7, 1995; effective December 29, 1995. Amendment filed August 11, 2004; effective December 29, 2004.