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Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

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Sequence Number: 12-15-16
Rule ID(s): 0380
File Date: 12/28/16
Effective Date: 3/28/17

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:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, Deputy General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park, Knoxville, TN
Zip:	37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.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
1720-01-01	Classifying Students In-State And Out-of-State
Rule Number	Rule Title
1720-01-01-.04	Out-of-State Students Who Are Not Required To Pay Out-of-State Tuition

The University of Tennessee (All Campuses)
Chapter 1720-01-01
Residency Classification/Classifying Students In-State and Out-of-State

Amendments

Chapter 1720-01-01-.04 Out-of-State Students Who Are Not Required To Pay Out-of-State Tuition is amended by deleting the text of paragraph (7) in its entirety and by substituting instead the following language so that, as amended, new paragraph (7) shall read:

- (7) A veteran, or any individual entitled to the veteran's educational benefits, enrolled in any public 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 or the eligible individual:
- (a) Is eligible for post-9/11 GI Bill benefits or Montgomery GI Bill benefits; and
 - (b) Enrolls in a public institution of higher education, after satisfying all admission requirements, within three (3) years 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.

To continue to qualify for in-state tuition and fees after three (3) years have passed from 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, a veteran or eligible individual shall:

- (a) Maintain continuous enrollment (as defined by the public institution of higher education in which the veteran is enrolled); and
- (b) Demonstrate objective evidence of established residency in this State by presenting at least two (2) of the following:
 - 1. Proof of voter registration in this State;
 - 2. A Tennessee driver license;
 - 3. A Tennessee motor vehicle registration;
 - 4. Proof of established employment in this State; or
 - 5. Other documentation clearly evidencing domicile or residence in the state, as determined by THEC.

Authority: Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5 and Public Acts of Tennessee, 1807, Chapter 64; Tenn. Code Ann. § 49-9-105; Tenn. Code Ann. § 49-9-209.

University of Tennessee Rules
 Chapter 1720-01-01-.04 Out-of-State Students Who Are Not Required To Pay Out-of-State Tuition

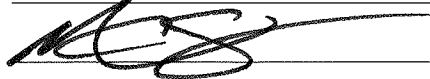
* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Bill Haslam				x	
Commissioner Julius Johnson	X				
Commissioner Candice McQueen				x	
Dr. Joe DiPietro	X				
Dr. Russ Deaton (non-voting)					
Charles C. Anderson, Jr.				X	
Jalen Blue	X				
Shannon Brown	X				
George E. Cates				X	
Spruell Driver, Jr.	X				
Dr. William E. Evans	X				
John N. Foy	X				
Crawford Gallimore	X				
Dr. David Golden	X				
Vicky B. Gregg				X	
Raja J. Jubran	X				
Brad A. Lampley	X				
James L. Murphy, III	X				
Sharon J. Miller Pryse	X				
Dr. Jefferson S. Rogers (non-voting)					
Miranda N. Rutan (non-voting)					
Rhedona Rose	X				
John Tickle	X				
Julia T. Wells	X				
Charles E. Wharton	X				
Tommy G. Whittaker	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the University of Tennessee Board of Trustees on 04/01/2016, 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 ninety (90) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

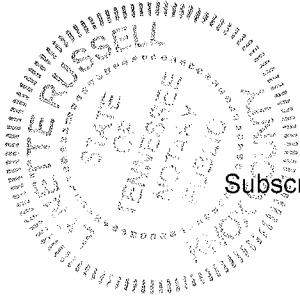
Date: 11/28/2016

Signature: _____



Name of Officer: Matthew Scoggins

Title of Officer: Deputy General Counsel



Subscribed and sworn to before me on: 11-28-16

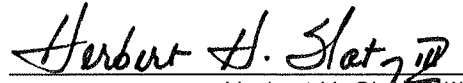
Notary Public Signature: _____



My commission expires on: _____

12-4-18

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.



Herbert H. Slatery III
Attorney General and Reporter

12/15/2016

Date

Department of State Use Only

Filed with the Department of State on: _____

12/28/16

Effective on: _____

3/28/17



Tre Hargett
Secretary of State

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PUBLICATIONS

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.

(If applicable, insert Regulatory Flexibility Addendum here)

The Regulatory Flexibility Addendum is not applicable.

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)

The University of Tennessee anticipates that this rule change will have 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;

In response to recent state legislation, Public Chapter 219 (2015), the University's rule on classifying students as state or out-of-state must be amended as follows:

- Remove the language, "has not been dishonorably discharged from the U.S. Armed Forces or the national guard;"
- Add the language, "any individual entitled to the veteran's educational benefits," to the types of persons eligible for the waiver of out-of-state tuition and fees;
- Increase the time for a veteran to enroll and qualify for in-state tuition from two (2) years to three (3);
- Change the grace period for a veteran to demonstrate objective evidence of residency to three (3) years from the date of discharge (previously, the veteran had one (1) year from the date of enrollment); and
- Remove voter registration as a single method of demonstrating residency.

- (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;

None.

- (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;

Students of the University of Tennessee are most directly affected by this rule. The student member of the UT Board of Trustees voted to approve the rule.

- (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;

Not significant.

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

Matthew Scoggins
Deputy General Counsel
University of Tennessee

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

Matthew Scoggins
Deputy General Counsel
University of Tennessee

- (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

Matthew Scoggins
Deputy General Counsel
University of Tennessee
719 Andy Holt Tower
Knoxville, TN 37996-0170
scoggins@tennessee.edu
865-974-3245

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

None.

**RULES OF
THE UNIVERSITY OF TENNESSEE (ALL CAMPUSES)**

**CHAPTER 1720-01-01
CLASSIFYING STUDENTS
IN-STATE AND OUT-OF-STATE
TABLE OF CONTENTS**

1720-01-01-01	Intent	1720-01-01-05	Presumption
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1720-01-01-01 INTENT.

- (1) It is the intent that the public institutions of higher education in the State of Tennessee shall apply uniform rules, as described in these regulations and not otherwise, in determining whether students shall be classified "in-state" or "out-of-state" for fees and tuition purposes and for admission purposes.

1720-01-01-02 DEFINITIONS. Wherever used in these regulations.

- (1) "Public higher education institution" shall mean a university or community college supported by appropriations made by the Legislature of this State.
- (2) "Residence" shall mean continuous physical presence and maintenance of a dwelling place within this State, provided that absence from the State for short periods of time shall not affect the establishment of a residence.
- (3) "Domicile" shall mean a person's true, fixed, and permanent home and place of habitation; it is the place where he or she intends to remain, and to which he or she expects to return when he or she leaves without intending to establish or having established a new domicile elsewhere. Undocumented aliens cannot establish domicile in Tennessee, regardless of length of residence in Tennessee.
- (4) "Emancipated person" shall mean a person who has attained the age of eighteen (18) years and whose parents have entirely surrendered the right to the care, custody, and earnings of such person and are no longer under any legal obligation to support or maintain such person.
- (5) "Parent" shall mean a person's father or mother. If there is a non-parental guardian or legal custodian of an unemancipated person, then "parent" shall mean such guardian or legal custodian; provided, that there are not circumstances indicating that such guardianship or custodianship was created primarily for the purpose of conferring the status of an in-state student on such emancipated person.
- (6) "Continuous enrollment" or "continuously enrolled" shall mean enrollment at a public higher educational institution or institutions of this State as a full-time student, as such term is defined by the governing body of said public higher education institution or institutions, for a normal academic year or years or the appropriate portion or portions thereof since the beginning of the period for which continuous enrollment is claimed. Such person need not enroll in summer sessions or other such inter-sessions beyond the normal academic year in order that his or her enrollment be deemed continuous. Enrollment shall be deemed continuous notwithstanding lapses in enrollment occasioned solely by the scheduling of the commencement and/or termination of the academic years, or appropriate portion thereof, of the public higher educational institutions in which such person enrolls.
- (7) "U.S. Armed Forces" shall mean the U.S. Army, Navy, Air Force, Marine Corps, and Coast Guard.

- (8) "Veteran" means:
- (a) a former member of the U.S. Armed Forces; or
 - (b) a former or current member of a reserve or Tennessee national guard unit who was called into active military service of the United States, as defined in Tennessee Code Annotated § 58-1-102.

1720-01-01-.03 RULES FOR DETERMINATION OF STATUS.

- (1) Every person having his or her domicile in this State shall be classified "in-state" for fee and tuition purposes and for admission purposes.
- (2) Every person not having his or her domicile in this State shall be classified "out-of-state" for fee and tuition purposes and for admission purposes.
- (3) The domicile of an unemancipated person is that of his or her parent, except as provided in paragraph (4) of this Section .03. Unemancipated students of divorced parents shall be classified "in-state" when one (1) parent, regardless of custodial status, is domiciled in Tennessee, except as provided in paragraph (4) of this Section .03.
- (4) A student shall be classified as "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 Tennessee; or
 - (c) Earned a Tennessee high school equivalency diploma.
- (5) The spouse of a student classified as "in-state" shall also be classified "in-state."
- (6) All classifications shall be subject to the Eligibility Verification for Entitlements Act, Tennessee Code Annotated § 4-58-101 *et seq.*

1720-01-01-.04 OUT-OF-STATE STUDENTS WHO ARE NOT REQUIRED TO PAY OUT-OF-STATE TUITION.

- (1) An unemancipated, currently enrolled student shall be reclassified out-of-state should his or her parent, having theretofore been domiciled in the State, remove from the State. However, such student shall not be required to pay out-of-state tuition nor be treated as an out-of-state student for admission purposes so long as his or her enrollment at a public higher educational institution or institutions shall be continuous.
- (2) An unemancipated person whose parent is not domiciled in this State but is a member of the armed forces and stationed at Fort Campbell pursuant to military orders shall be classified out-of-state, but shall not be required to pay out-of-state tuition. Such a person, while in continuous attendance toward the degree for which he or she is currently enrolled, shall not be required to pay out-of-state tuition if his or her parent thereafter is transferred on military orders.
- (3) Part-time students who are not domiciled in this State but who are employed full-time in the State shall be classified out-of-state but shall not be required to pay out-of-state tuition. This shall apply to part-time students who are employed in the State by more than one employer, resulting in the equivalent of full-time employment.

- (4) A member of the U.S. Armed Forces on active duty for more than thirty (30) days and who has a permanent duty station in the State of Tennessee (or the spouse or dependent child of such a member) who should be classified out-of-state in accordance with other provisions of these regulations will be classified out-of-state but shall not be required to pay out-of-state tuition. This provision shall continue to apply to such a member, spouse, or dependent child while continuously enrolled at that public higher education institution, notwithstanding a subsequent change in the permanent duty station of the member to a location outside the State.
- (5) A person who is domiciled in the Kentucky counties of Fulton, Hickman, or Graves shall be classified out-of-state and shall not be required to pay out-of-state tuition at The University of Tennessee at Martin if qualified for admission. This exemption is on condition that Murray State University in Murray, Kentucky, continues to admit Tennessee residents from selected Tennessee counties to enroll at that institution without payment of out-of-state tuition.
- (6) Any dependent child not domiciled in Tennessee but 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 be classified out-of-state but shall not be required to pay out-of-state tuition.
- (7) A veteran, or any individual entitled to the veteran's educational benefits, enrolled in any public 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 or the eligible individual:
- (a) ~~Has not been dishonorably discharged from a branch of the U.S. Armed Forces or the national guard;~~
 - (b)(a) Is eligible for Post-9/11 GI Bill benefits or Montgomery GI Bill benefits; and
 - (e)(b) Enrolls in a public institution of higher education, after satisfying all admission requirements, within three (3) years ~~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.

To continue to qualify for in-state tuition and fees after three (3) years have passed from 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, under this subsection, a veteran or eligible individual shall:

- (a) Maintain continuous enrollment (as defined by the public institution of higher education in which the veteran is enrolled); and
- (b) Demonstrate objective evidence of established residency in this State by presenting at least two (2) of the following:
 1. Proof of voter registration in this State;
 2. A Tennessee driver license;
 3. A Tennessee motor vehicle registration;
 4. Proof of established employment in this State; or
 5. Other documentation clearly evidencing domicile or residence in the state, as determined by THEC.

~~(c) Within one (1) year of enrolling in the public institution of higher education:~~

~~(1) Register to vote in the State of Tennessee; or~~

~~(2) Demonstrate by objective evidence intent to be a resident of the State of Tennessee by obtaining at least two (2) of the following:~~

~~(i) A Tennessee driver's license;~~

~~(ii) A Tennessee motor vehicle registration;~~

~~(iii) Proof of established employment in the State of Tennessee; or~~

~~(iv) Other documentation clearly evidencing domicile or residence in this State, as determined by the Tennessee Higher Education Commission.~~

(8) Students not domiciled in Tennessee but who are selected to participate in institutional undergraduate honors programs specified by the public higher education institution in which the student is enrolled shall be classified out-of-state but shall not be required to pay out-of-state tuition.

(9) A "covered individual" under the federal Veterans Access, Choice, and Accountability Act of 2014, Public Law 113-146, who maintains continuous enrollment at the same public institution of higher education.

1720-01-01-.05 PRESUMPTION. Unless the contrary appears from clear and convincing evidence, it shall be presumed that an emancipated person does not acquire domicile in this State while enrolled as a full-time or part-time student at any public or private higher educational institution in this State, as such status is defined by such institution.

1720-01-01-.06 EVIDENCE TO BE CONSIDERED FOR ESTABLISHMENT OF DOMICILE. If a person asserts that he or she has established domicile in this State he or she has the burden of proving that he or she has done so. Such a person is entitled to provide to the public higher educational institution by which he seeks to be classified or reclassified in-state, any and all evidence which he or she believes will sustain his or her burden of proof. Said institution will consider any and all evidence provided to it concerning such claim of domicile but will not treat any particular type or item of such evidence as conclusive evidence that domicile has or has not been established.

1720-01-01-.07 APPEAL. The classification officer of each public higher educational institution shall be responsible for initially classifying students "in-state" or "out-of-state." Appropriate procedures shall be established by each such institution by which a student may appeal his or her initial classification.

1720-01-01-.08 EFFECTIVE DATE FOR RECLASSIFICATION. If a student classified out-of-state applies for in-state classification and is subsequently so classified his or her in-state classification shall be effective as of the date on which reclassification was sought. However, out-of-state tuition will be charged for any semester during which reclassification is sought and obtained unless application for reclassification is made to the classification officer on or before the last day of regular registration of that semester.

1720-01-01-.09 REPEALED.