

Council on Postsecondary Education
September 10, 2009

Revision to Student Residency Regulation

ACTION: The staff recommends that the Council approve the revision to the residency administrative regulation to conform to new federal legislation on tuition benefits for active duty military personnel.

KRS 164.020(8) says in part that the Council shall: “(8) Determine tuition and approve the minimum qualifications for admission to state postsecondary education institutions. . .” Kentucky historically has distinguished tuition rates for Kentucky residents from those of nonresidents with higher tuition rates for nonresidents. Kentucky institutions also may have limitations on the number of nonresidents who may be admitted to selective programs at colleges or universities.

The policies establishing differential tuition rates for residents and nonresidents, and the need to sometimes make selective admission decisions based on residency, give rise to the need for an administrative regulation that sets out the criteria for evaluating whether a person is, in fact, a Kentucky resident. That administrative regulation is *13 KAR 2:045. Determination of residency status for admission and tuition assessment purposes.*

Recently, the federal government enacted legislation (The Higher Education Opportunity Act) requiring states that participate in federal student financial aid programs to grant in-state tuition to members of the Armed Forces who have been on active duty for 30 days, where that member has a permanent duty station in the state where he/she is enrolling. The federal law also provides that the benefit will continue regardless of the status of the individual if that person remains in continuous enrollment. The benefit conferred by the federal law extends to the spouse of a person so situated and a dependent child of that person. The new federal provision took effect July 1, 2009.

Kentucky’s residency provisions contained in 13 KAR 2:045, Section 7, have slightly different criteria from those set forth in the federal law. Kentucky requires that a person have an assignment that stations them in Kentucky for one year before being entitled to in-state tuition.

The best way to conform the Kentucky administrative regulation to the new federal law is to use the emergency provisions of the administrative regulation process. This allows Kentucky to conform to the changes in the federal law immediately without going through the regulatory review process. However, in order to use the emergency regulation process, an

ordinary administrative regulation that ultimately will replace the emergency administrative regulation must be filed simultaneously.

The recommendation above includes approval of both the emergency regulation, designated by the letter "E," and the ordinary administrative regulation that will replace it.

STATEMENT OF EMERGENCY

13 KAR 2:045E. Determination of residency status for admission and tuition assessment purposes.

- (1) The federal government passed the Higher Education Opportunity Act, HR 4137, with an effective date of July 1, 2009. One of the provisions of HR 4137 adds a new section to 20 U.S.C 1015, § 135 granting in-state tuition rates to members of the armed forces on active duty, and to their spouses and dependents. The current Kentucky administrative regulation on student residency contains criteria for determining state residency for military personnel that conflicts with the new federal legislation. The emergency administrative regulation brings Kentucky into compliance with the new federal law.
- (2) The administrative regulation is promulgated under the emergency provisions of KRS 13A.190(1)(2)2., in order that military families enrolling at state colleges and universities for the Fall semester can be evaluated based on the new residency criteria. A delay in implementation of the federal provisions is not possible, and the current conflicts between the federal and state provisions will confuse military members applying to colleges and universities and to the staff at those colleges and universities who implement the administrative regulation.
- (3) This administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on September 14, 2009.

Steven L. Beshear, Governor

Paul E. Patton, Chairman
Council on Postsecondary Education

1 COUNCIL ON POSTSECONDARY EDUCATION

2 (Emergency Amendment)

3 13 KAR 2:045E. Determination of residency status for admission and tuition assessment purposes.

4 RELATES TO: KRS Chapter 13B, 164.020, 164.030, 164A.330(6)

5 STATUTORY AUTHORITY: KRS 164.020(8)

6 NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.020(8) requires the Council on
7 Postsecondary Education to determine tuition and approve the minimum qualifications for
8 admission to a state-supported postsecondary education institution and authorizes the Council to
9 set different tuition amounts for residents of Kentucky and for nonresidents. This administrative
10 regulation establishes the procedure and guidelines for determining the residency status of a
11 student who is seeking admission to, or who is enrolled at, a state-supported postsecondary
12 education institution.

13 Section 1. Definitions. (1) "Academic term" means a division of the school year during which
14 a course of studies is offered, and includes a semester, quarter, or single consolidated summer term
15 as defined by the institution.

16 (2) "Continuous enrollment" means enrollment in a state-supported postsecondary education
17 institution at the same degree level for consecutive terms, excluding summer term, since the
18 beginning of the period for which continuous enrollment is claimed unless a sequence of

1 continuous enrollment is broken due to extenuating circumstances beyond the student's control,
2 including serious personal illness or injury, or illness or death of a parent.

3 (3) "Degree level" means enrollment in a course or program which could result in the award of

4 a:

5 (a) Certificate, diploma or other program award at an institution;

6 (b) Baccalaureate degree or lower including enrollment in a course by a nondegree-seeking
7 postbaccalaureate student;

8 (c) Graduate degree or graduate certification other than a first-professional degree in law,
9 medicine, dentistry or "Pharm. D"; or

10 (d) Professional degree in law, medicine, dentistry, or "Pharm. D".

11 (4) "Demonstration of Kentucky domicile and residency" means the presentation of
12 documented information and evidence sufficient to prove by a preponderance of the evidence that
13 a person is domiciled in Kentucky and is a resident of Kentucky.

14 (5) "Dependent person" means a person who cannot demonstrate financial independence from
15 parents or persons other than a spouse and who does not meet the criteria established in Section 5
16 of this administrative regulation.

17 (6) "Determination of residency status" means the decision of a postsecondary education
18 institution that may include a formal hearing that results in the classification of a person as a
19 Kentucky resident or as a nonresident for admission and tuition assessment purposes.

20 (7) "Domicile" means a person's true, fixed, and permanent home and is the place where the
21 person intends to remain, and to which the person expects to return if absent without intending to
22 establish a new domicile elsewhere.

1 (8) "Full-time employment" means continuous employment for at least forty-eight (48) weeks
2 at an average of at least thirty (30) hours per week.

3 (9) "Independent person" means a person who demonstrates financial independence from
4 parents or persons other than a spouse and who can meet the criteria established in Section 5 of this
5 administrative regulation.

6 (10) "Institution" means an entity defined in KRS 164.001(11) if the type of institution is not
7 expressly stated and includes the Kentucky Virtual University, the Council on Postsecondary
8 Education, and the Kentucky Higher Education Assistance Authority.

9 (11) "Kentucky resident" means a determination by an institution that a person is domiciled in
10 and is a resident of Kentucky as determined by this administrative regulation.

11 (12) "Nonresident" means a person who is domiciled outside of Kentucky or who currently
12 maintains legal residence outside Kentucky or who is not a Kentucky resident within the meaning
13 of this administrative regulation.

14 (13) "Parent" means one (1) of the following:

15 (a) A person's father or mother; or

16 (b) A court-appointed legal guardian if:

17 1. The guardianship is recognized by an appropriate court within the United States;

18 2. There was a relinquishment of the rights of the parents; and

19 3. The guardianship was not established primarily to confer Kentucky residency on the person.

20 (14) "Preponderance of the evidence" means the greater weight of evidence, or evidence
21 which is more credible and convincing to the mind.

1 (15) "Residence" means the place of abode of a person and the place where the person is
2 physically present most of the time for a noneducational purpose in accordance with Section 3 of
3 this administrative regulation.

4 (16) "Student financial aid" means all forms of payments to a student if one (1) condition of
5 receiving the payment is the enrollment of the student at an institution.

6 (17) "Sustenance" means living expenses including room, board, maintenance, transportation,
7 and also may include educational expenses including tuition, fees, books, and supplies.

8 Section 2. Scope. (1) State-supported postsecondary education institutions were established and
9 are maintained by the Commonwealth of Kentucky primarily for the benefit of qualified residents
10 of Kentucky. The substantial commitment of public resources to postsecondary education is
11 predicated on the proposition that the state benefits significantly from the existence of an educated
12 citizenry. As a matter of policy, access to postsecondary education shall be provided so far as
13 feasible at reasonable cost to an individual who is domiciled in Kentucky and who is a resident of
14 Kentucky.

15 (2) The Council on Postsecondary Education may require a student who is neither domiciled in
16 nor a resident of Kentucky to meet higher admission standards and to pay a higher level of tuition
17 than resident students.

18 (3) This administrative regulation applies to all student residency determinations regardless of
19 circumstances, including residency determinations made by the state-supported institutions for
20 prospective and currently-enrolled students; the Southern Regional Education Board contract
21 spaces; reciprocity agreements, where appropriate; the Kentucky Virtual University; academic
22 common market programs; the Kentucky Educational Excellence Scholarship Program; and other
23 state student financial aid programs, as appropriate.

1 Section 3. Determination of Residency Status; General Rules. (1) A determination of residency
2 shall include:

3 (a) An initial determination of residency status by an institution during the admission process
4 or upon enrollment in an institution for a specific academic term or for admission into a specific
5 academic program;

6 (b) A reconsideration of a determination of residency status by an institution based upon a
7 changed circumstance; and

8 (c) A formal hearing conducted by an institution upon request of a student after other
9 administrative procedures have been completed.

10 (2) An initial determination of residency status shall be based upon:

11 (a) The facts in existence when the credentials established by an institution for admission for a
12 specific academic term have been received and during the period of review by the institution;

13 (b) Information derived from admissions materials;

14 (c) Other materials required by an institution and which are consistent with this administrative
15 regulation; or

16 (d) Other information available to the institution from any source.

17 (3) An individual seeking a determination of Kentucky residency status shall demonstrate that
18 status by a preponderance of the evidence.

19 (4) A determination of residency status shall be based upon verifiable circumstances or actions.

20 (5) Evidence and information cited as the basis for Kentucky domicile and residency shall
21 accompany the application for a determination of residency status.

22 (6) A student classified as a nonresident shall retain that status until the student is officially
23 reclassified by an institution.

1 (7) A student may apply for a review of a determination of residency status once for each
2 academic term.

3 (8) If an institution has information that a student's residency status may be incorrect, the
4 institution shall review and determine the student's correct residency status.

5 (9) If the Council on Postsecondary Education has information that an institution's
6 determination of residency status for a student may be incorrect, it may require the institution to
7 review the circumstances and report the results of that review.

8 (10) An institution shall impose a penalty or sanction against a student who gives incorrect or
9 misleading information to an institutional official, including payment of nonresident tuition for
10 each academic term for which resident tuition was assessed based on an improper determination of
11 residency status. The penalty may also include:

12 (a) Student discipline by the institution through a policy written and disseminated to students;
13 or

14 (b) Criminal prosecution.

15 Section 4. Presumptions Regarding Residency Status. (1) In making a determination of
16 residency status, it shall be presumed that a person is a nonresident if:

17 (a) A person is, or seeks to be, an undergraduate student and admissions records show the
18 student to be a graduate of an out-of-state high school within five (5) years prior to a request for a
19 determination of residency status;

20 (b) A person's admissions records indicate the student's residence to be outside of Kentucky at
21 the time of application for admission;

22 (c) A person moves to Kentucky primarily for the purpose of enrollment in an institution;

1 (d) A person moves to Kentucky and within twelve (12) months enrolls at an institution more
2 than half time; or

3 (e) A person has a continuous absence of one (1) year from Kentucky.

4 (2) A presumption arising from subsection (1) of this section shall be overcome by presentation
5 of evidence that is sufficient to demonstrate that a person is domiciled in and is a resident of
6 Kentucky.

7 Section 5. Determination of Whether a Student is Dependent or Independent. (1) In a
8 determination of residency status, an institution shall first determine whether a student is dependent
9 or independent. This provision is predicated on the assumption that a dependent person lacks the
10 financial ability to live independently of the person upon whom the student is dependent and
11 therefore lacks the ability to form the requisite intent to establish domicile.

12 (2) In determining the dependent or independent status of a person, the following information
13 shall be considered as well as other relevant information available at the time the determination is
14 made:

15 (a)1. Whether the person has been claimed as a dependent on the federal or state tax returns of
16 a parent or other person for the year preceding the date of application for a determination of
17 residency status; or

18 2. Whether the person is no longer claimed by a parent or other person as a dependent or as an
19 exemption for federal and state tax purposes; and

20 (b) Whether the person has financial earnings and resources independent of a person other than
21 an independent spouse necessary to provide for the person's own sustenance.

1 (3) An individual who enrolls at an institution immediately following graduation from high
2 school and remains enrolled shall be presumed to be a dependent person unless the contrary is
3 evident from the information submitted.

4 (4) Domicile may be inferred from the student's permanent address, parent's mailing address, or
5 location of high school of graduation.

6 (5) Marriage to an independent person domiciled in and who is a resident of Kentucky shall be
7 a factor considered by an institution in determining whether a student is dependent or independent.

8 (6) Financial assistance from or a loan made by a parent or family member other than an
9 independent spouse, if used for sustenance of the student:

10 (a) Shall not be considered in establishing a student as independent; and

11 (b) Shall be a factor in establishing that a student is dependent.

12 Section 6. Effect of a Determination of Dependent Status on a Determination of Residency
13 Status. (1) The effect of a determination that a person is dependent shall be:

14 (a) The domicile and residency of a dependent person shall be the same as either parent. The
15 domicile and residency of the parent shall be determined in the same manner as the domicile and
16 residency of an independent person.

17 (b) The domicile and residency of a dependent person whose parents are divorced, separated, or
18 otherwise living apart shall be Kentucky if either parent is domiciled in and is a resident of
19 Kentucky regardless of which parent has legal custody or is entitled to claim that person as a
20 dependent pursuant to federal or Kentucky income tax provisions.

21 (2)(a) If the parent or parents of a dependent person are Kentucky residents and are domiciled
22 in Kentucky but subsequently move from the state, the dependent person shall be considered a

1 resident of Kentucky while in continuous enrollment at the degree level in which currently
2 enrolled.

3 (b) If continuous enrollment is broken or the current degree level is completed, the dependent
4 person's residency status shall be reassessed when the circumstances detailed in subparagraph 1 of
5 this paragraph are present.

6 Section 7. Member of Armed Forces of the United States, Spouse and Dependents; Effect on a
7 Determination of Residency Status. (1) A member, spouse, or dependent of a member whose
8 domicile and residency was Kentucky at the time of induction into the Armed Forces of the United
9 States, and who maintains Kentucky as home of record and permanent address, shall be entitled to
10 Kentucky residency status:

11 (a) During the time of active service; or

12 (b) If the member, [~~spouse, or dependent~~] returns to this state within six (6) months of the date
13 of the member's discharge from active duty.

14 (2)(a) A member of the armed services on active duty who meets the criteria set forth in 20
15 U. S. C § 1015d shall be classified as Kentucky resident and shall be entitled to in-state tuition as
16 shall the spouse or a dependent of the member [~~A member, spouse or dependent of a member of~~
17 ~~the Armed Forces of the United States stationed in Kentucky on active military orders shall be~~
18 ~~considered a Kentucky resident while the member is on active duty in this state pursuant to those~~
19 ~~orders if the member is not:~~

20 1. ~~Stationed in Kentucky for the purpose of enrollment at an institution; or~~

21 2. ~~On temporary assignment of less than one (1) year].~~

1 (b) A member, spouse or dependent of a member, shall not lose Kentucky residency status if
2 the member is thereafter transferred on military orders while the member, spouse or dependent
3 requesting the status is in continuous enrollment at the degree level in which currently enrolled.

4 (3) Membership in the National Guard or civilian employment at a military base alone shall not
5 qualify a person for Kentucky residency status under the provisions of subsections (1) and (2) of
6 this section.

7 (4) A person's residency status established pursuant to this section shall be reassessed if the
8 qualifying condition is terminated.

9 Section 8. Status of Nonresident Aliens; Visas and Immigration. (1)(a) A person holding a
10 permanent residency visa or classified as a political refugee shall establish domicile and residency
11 in the same manner as another person.

12 (b) Time spent in Kentucky and progress made in fulfilling the conditions of domicile and
13 residency prior to obtaining permanent residency status shall be considered in establishing
14 Kentucky domicile and residency.

15 (2) A person holding a nonimmigrant visa with designation A, E, G, H-1, H-4 if accompanying
16 a person with an H-1 visa, I, K, L, N, R, shall establish domicile and residency the same as another
17 person.

18 (3)(a) An independent person holding a nonimmigrant visa with designation B, C, D, F, H-2,
19 H-3, H-4 if accompanying a person with an H-2 or H-3 visa, J, M, O, P, Q, S, TD or TN shall not
20 be classified as a Kentucky resident, because that person does not have the capacity to remain in
21 Kentucky indefinitely and therefore cannot form the requisite intent necessary to establish domicile
22 within the meaning of this administrative regulation.

1 (b) A dependent person holding a visa as described in paragraph (a) of this subsection, but who
2 is a dependent of a parent holding a visa as described in subsection (2) of this section, shall be
3 considered as holding the visa of the parent.

4 (c) A dependent person holding a visa described in subsection (2) of this section or paragraph
5 (a) of this subsection, if a parent is a citizen of the United States and is a resident of and domiciled
6 in Kentucky, shall be a resident of Kentucky for the purposes of this administrative regulation.

7 (4) A person shall be a Kentucky resident for the purpose of this administrative regulation if
8 the person graduated from a Kentucky high school and:

9 (a) Is an undocumented alien;

10 (b) Holds a visa listed in subsections (2) or (3)(a) of this section; or

11 (c) Is a dependent of a person who holds a visa listed in subsections (2) or (3)(a) of this
12 section.

13 (5)(a) Except as provided in paragraph (b) of this subsection, a person who has petitioned the
14 federal government to reclassify visa status shall continue to be ineligible until the petition has
15 been decided by the federal government.

16 (b) A person who has petitioned the federal government to reclassify visa status based on a
17 marriage to a Kentucky resident and who can demonstrate that the petition has been filed and
18 acknowledged by the federal government, may establish Kentucky domicile and residency at that
19 time.

20 Section 9. Beneficiaries of a Kentucky Educational Savings Plan Trust. A beneficiary of a
21 Kentucky Educational Savings Plan Trust shall be granted residency status if the beneficiary meets
22 the requirements of KRS 164A.330(6).

1 Section 10. Criteria Used in a Determination of Residency Status. (1) A determination of
2 Kentucky domicile and residency shall be based upon verifiable circumstances or actions. A single
3 fact shall not be paramount, and each situation shall be evaluated to identify those facts essential to
4 the determination of domicile and residency.

5 (2) The following facts, although not conclusive, shall have probative value in their entirety
6 and shall be individually weighted, appropriate to the facts and circumstances in each
7 determination of residency:

8 (a) Acceptance of an offer of full-time employment or transfer to an employer in Kentucky or
9 contiguous area while maintaining residence and domicile in Kentucky;

10 (b) Continuous physical presence in Kentucky while in a nonstudent status for the twelve (12)
11 months immediately preceding the start of the academic term for which a classification of
12 Kentucky residency is sought;

13 (c)1. Filing of Kentucky resident income tax return for the calendar year preceding the date of
14 application for a change in residency status; or

15 2. Payment of Kentucky withholding taxes while employed during the calendar year for which
16 a change in classification is sought;

17 (d) Full-time employment of at least one (1) year while living in Kentucky;

18 (e) Attendance as a full-time, nonresident student at an out-of-state institution based on a
19 determination by that school that the person is a resident of Kentucky;

20 (f) Abandonment of a former domicile or residence and establishing domicile and residency in
21 Kentucky with application to or attendance at an institution following and incidental to the change
22 in domicile and residency;

1 (g) Obtaining licensing or certification for a professional and occupational purpose in
2 Kentucky;

3 (h) Payment of real property taxes in Kentucky;

4 (i) Ownership of real property in Kentucky, if the property was used by the student as a
5 residence preceding the date of application for a determination of residency status;

6 (j) Long-term lease of at least twelve (12) consecutive months of noncollegiate housing;

7 (k) Marriage of an independent student to a person who was domiciled in and a resident of
8 Kentucky prior to the marriage;

9 (l) Continued presence in Kentucky during academic breaks; and

10 (m) The extent to which a student is dependent on student financial aid in order to provide
11 basic sustenance.

12 (3) Except as provided in subsection (4) of this section, the following facts, because of the ease
13 and convenience in completing them, shall have limited probative value in a determination that a
14 person is domiciled in and is a resident of Kentucky:

15 (a) Kentucky automobile registration;

16 (b) Kentucky driver's license; and

17 (c) Registration as a Kentucky voter.

18 (4) The absence of a fact contained in subsection (3) of this section shall have significant
19 probative value in determining that a student is not domiciled in or is not a resident of Kentucky.

20 (5) A person shall not be determined to be a Kentucky resident by the performance of an act
21 which is incidental to fulfilling an educational purpose or by an act performed as a matter of
22 convenience. Mere physical presence in Kentucky, including living with a relative or friend, shall

1 not be sufficient evidence of domicile and residency. A person shall respond to all information
2 requested by an institution.

3 Section 11. Effect of a Change in Circumstances on Residency Status. (1) If a person becomes
4 independent or if the residency status of a parent or parents of a dependent person changes, an
5 institution shall reassess residency either upon a request by the student or a review initiated by the
6 institution.

7 (2) Upon transfer to a Kentucky institution, a student's residency status shall be assessed by the
8 receiving institution.

9 (3) A reconsideration of a determination of residency status for a dependent person shall be
10 subject to the provisions for continuous enrollment, if applicable.

11 Section 12. Student Responsibilities. (1) A student shall report under the proper residency
12 classification which includes the following actions:

13 (a) Raising a question in a timely manner concerning residency classification;

14 (b) Making application for change of residency classification in a timely manner with the
15 designated office or person at the institution; and

16 (c) Notifying the designated office or person at the institution immediately upon a change in
17 residency.

18 (2) If a student fails to notify an institutional official of a change in residency, an institutional
19 official may investigate and evaluate the student's residency status.

20 (3)(a) If a student fails to provide, by the date specified by the institution, information required
21 by an institution in a determination of residency status, the student shall be notified by the
22 institution that the review has been canceled and that a determination has been made.

23 (b) Notification shall be made by registered mail, return receipt requested.

1 (c) Notification shall be made within ten (10) calendar days after the deadline for receipt of
2 materials has passed.

3 (4) A student shall not be entitled to appeal a determination of residency status if the
4 determination made by an institution is because a student has failed to meet published deadlines for
5 the submission of information as set forth in subsection (3) of this section. A student may request a
6 review of a determination of residency status in a subsequent academic term.

7 Section 13. Institutional Responsibilities. Each institution shall:

8 (1) Provide for an administrative appeals process that includes a residency appeals officer to
9 consider student appeals of an initial residency determination and which shall include a provision
10 of fourteen (14) days for the student to appeal the residency appeals officer's determination;

11 (2) Establish a residency review committee to consider appeals of residency determinations
12 by the residency appeals officer. The residency review committee shall make a determination of
13 student residency status and notify the student in writing within forty-five (45) days after receipt
14 of the student appeal;

15 (3) Establish a formal hearing process as described in Section 14 of this administrative
16 regulation; and

17 (4) Establish written policies and procedures for administering the responsibilities established
18 in subsections (1), (2), and (3) of this section and that are:

19 (a) Approved by the institution's governing board;

20 (b) Made available to all students; and

21 (c) Filed with the council.

22 Section 14. Formal Institutional Hearing. (1) A student who appeals a determination of
23 residency by a residency review committee shall be granted a formal hearing by an institution if

1 the request is made by a student in writing within fourteen (14) calendar days after notification of
2 a determination by a residency review committee.

3 (2) If a request for a formal hearing is received, an institution shall appoint a hearing officer
4 to conduct a formal hearing. The hearing officer:

5 (a) Shall be a person not involved in determinations of residency at an institution except for
6 formal hearings; and

7 (b) Shall not be an employee in the same organizational unit as the residency appeals officer.

8 (3) An institution shall have written procedures for the conduct of a formal hearing that have
9 been adopted by the board of trustees or regents, as appropriate, and that provide for:

10 (a) A hearing officer to make a recommendation on a residency appeal;

11 (b) Guarantees of due process to a student that include:

12 1. The right of a student to be represented by legal counsel; and

13 2. The right of a student to present information and to present testimony and information in
14 support of a claim of Kentucky residency; and

15 (c) A recommendation to be issued by the hearing officer.

16 (4) An institution's formal hearing procedures shall be filed with the Council on
17 Postsecondary Education and shall be available to a student requesting a formal hearing.

18 Section 15. Cost of Formal Hearings. (1) An institution shall pay the cost for all residency
19 determinations including the cost of a formal hearing.

20 (2) A student shall pay for the cost of all legal representation in support of the student's claim
21 of residency.

Date

Paul E. Patton, Chair
Council on Postsecondary Education

APPROVED AS TO FORM:

Date

Dennis L. Taulbee, General Counsel
Council on Postsecondary Education

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation 13 KAR 2:045E. Determination of residency status for admission and tuition assessment purposes.

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- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation sets the criteria for determining whether a student is, or is not, a Kentucky resident for the purpose of admissions to a state-supported institution, or for the purpose of assessing tuition.
 - (b) The necessity of this administrative regulation: This is an emergency administrative regulation promulgated because new federal legislation has expanded the benefits to the military on active duty status, and their spouses and dependents. The expanded benefit is resident tuition, and the effective date for the expanded benefit is July 1, 2009.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation conforms both to the authorizing statute and to new federal legislation.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By conforming to the new federal legislation, the residency officers at the public institutions will be better able to counsel prospective students and the Commonwealth of Kentucky will avoid a potential loss of federal funds.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation: The emergency administrative regulation conforms Section 7 of the current regulation to allow military personnel, their spouses, and dependents to receive in-state tuition if they have a permanent duty station in Kentucky.

- (b) The necessity of the amendment to this administrative regulation: Federal law changed effective July 1, 2009 extending the benefit of in-state tuition to military personnel and requiring states to comply.
 - (c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms exactly to the authorizing statute and brings Kentucky into compliance with federal law.
 - (d) How the amendment will assist in the effective administration of the statutes: By explicitly conforming to the change in the federal law, we avoid confusion and the possible loss of federal funds.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Eight state-supported postsecondary education institutions and the Kentucky Community and Technical College System (KCTCS).
- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The universities will have to increase the amount of tuition waived to accommodate the change.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: No additional cost for implementation is anticipated.
 - (b) On a continuing basis: No additional cost for implementation is anticipated.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not applicable.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional fees or revenue are necessary.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.
- (9) TIERING: Is tiering applied? Tiering is not appropriate in these circumstances.