



Category:  
Financial  
Student Affairs

Responsible Office:  
[Enrollment Management](#)

**Policy Title:**  
Residency, Establishment of for Tuition Purposes

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This policy item applies to:  
State-Operated Campuses

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## Summary

This policy summarizes and clarifies the State University of New York's (University) definition of residency for purposes of determining eligibility for in-state tuition at University campuses.

An emancipated U.S. citizen or permanent resident whose domicile has been in the State of New York for a period of at least one year immediately preceding the time of registration for any period of attendance shall be considered a New York State resident for the purpose of determining the tuition rate payable for such period. Generally, an unemancipated student's state of residency is considered the same as that of his or her custodial parent(s) or legal guardian(s). All other persons shall be presumed to be out-of-state residents for such purpose, unless domiciliary status is demonstrated in accordance with guidelines adopted by the University and in 8 NYCRR §302 (Tuition and Fees). Certain non-residents and holders of non-immigrant visas may qualify for in-state tuition, as discussed in section V below.

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## Policy

### I. In General

#### A. Standard

Students enrolled at University campuses are considered New York State residents if they have established their domicile in New York State. A domicile is a fixed, permanent home to which an individual intends to return whenever absent. Determination of a student's domicile will be based on the factors set forth in section III.

#### B. Classifications

1. Persons domiciled in New York State for twelve months or more:

Emancipated individuals who have maintained their domicile in New York State for a period of at least twelve months

prior to registration shall be considered New York State residents. Persons who have been physically present in New York State for at least twelve months but have maintained a fixed, permanent and principal residence outside of New York State shall not be considered New York State residents.

2. Persons domiciled in New York State for less than twelve months:

Emancipated individuals who have maintained their domicile in New York State for a period of less than twelve months prior to registration shall be presumed to be out-of-state residents. These individuals may challenge this presumption by presenting sufficient evidence to prove that they have made New York State their fixed, permanent and principal home. (See section III.B, below)

## **II. Implementation**

### **A. Applying for New York State Residency**

Students who have not established a New York State domicile for a period of at least one year immediately preceding the time of registration and who wish to be considered eligible for in-state tuition must submit to the campus a standard Application for New York State Resident Status for Tuition Billing Purposes . The campus may require that the application be notarized. Additionally, in situations where the campus seeks to verify a student's claim of residency, campus officials may request that the student complete this (or a similar) form. Any student who fails to complete the residency application, including the submission of all supporting documentation, after being requested to do so by a campus official, will be charged out-of-state tuition.

### **B. Initial Determination of Residency**

The initial determination of residency status should be based on the information provided by the student during the admissions process. For this reason, the [University Common Application Services Center's](#) ("ASC") undergraduate application for admission includes a description of residence as follows: "If your principal or permanent home has not been in New York State for a 12-month period immediately prior to the date you intend to enroll, you will be considered an out-of-state student for tuition purposes. Please note that if you are financially dependent and your custodial parent lives in a state other than New York State, you will be considered a resident of that state." To promote consistency, all other application forms (graduate, professional, or any other non-ASC) should be revised to include this definition. In addition, all application forms should solicit information relative to a student's principal or permanent home for the previous twelve-month period.

### **C. Submission of Residency Applications**

Completed residency applications should be submitted to campus officials prior to registration for the semester in which tuition is due. The term "registration" shall mean the "last date" for registration at each campus.

### **D. Determination**

A written residency determination and any supporting documentation shall be placed in the student's permanent file.

### **E. Appeals**

Each campus shall establish an on-campus procedure for the appeal of residency determinations. At least one copy of the appeals process must be filed with the campus admissions office for student accessibility purposes. Other copies may be filed with the campus office responsible for administering the residency policy. All decisions rendered by the campus appeals officer or board shall be final.

## **III. Guidelines for Determining Residence/Eligibility for Resident Tuition**

### **A. Domicile**

In order to determine residency status, the campus must ascertain whether the student or the student's parent has established a New York State domicile. The following principles govern the determination of a student's domicile:

1. A domicile is a fixed, permanent home to which a person intends to return following an absence.
2. A person may have multiple residences but only one domicile.

3. A person retains a domicile until it is abandoned and another domicile is established.
4. A person does not acquire a New York State domicile only by being physically present in New York for the sole purpose of attending a New York State campus.
5. A person does not acquire a New York State domicile solely by being physically present in New York State for a period of twelve months.
6. An unemancipated student's domicile is that of his or her custodial parents or other legal guardian. (Factors to be used in determining emancipation are discussed in subsection D below.)
7. An unemancipated student of divorced or legally separated parents will acquire a New York State domicile if:
  - a. The custodial parent is a New York State resident; or
  - b. The student resides with a non-custodial parent who is a New York State resident and the student intends to continue to reside with that parent throughout his or her attendance at the University.

**B. Proof of Domicile**

Proof of a New York State domicile is demonstrated by documents that support an applicant's contention that his or her permanent home is located in New York State. For unemancipated students, the campus shall review documents pertaining to at least three of the following factors relevant to the determination of a New York State domicile by the parent or legal guardian, including but not limited to:

1. duration of the student's physical presence in New York State;
2. state of residency of the student's family (i.e., parents, spouse or children);
3. New York State voter registration;
4. New York State driver's license or non-driver identification card;
5. New York State motor vehicle registration;
6. proof of ownership of New York State real property;
7. residential lease for property in New York State;
8. New York State income tax returns; and

9. New York State bank accounts.

An applicant need not submit all of the above documentation in order to demonstrate a New York State domicile; however, the campus should examine the totality of the circumstances in each individual case.

### **C. Exceptions to the Domicile Rule**

1. Members of the U. S. Armed Forces who provide documentation showing that they are on full-time active duty and stationed in New York State shall be charged in-state tuition regardless of the actual location of their domicile. Spouses and dependents of full-time active duty personnel stationed in New York State shall also be deemed New York State residents for tuition purposes. (Refer to NYS Education Law §355 (Regulation of Tuition Generally) and 8 NYCRR §302 (Tuition and Fees).
2. Dependents of a parent or legal guardian who is a full-time active member of the U.S. Armed Forces stationed out-of-state will qualify for in-state tuition provided that the parent or legal guardian submits proof of a New York State residency, referred to as a "Home of Record." Such records are on file at the person's military base. Civilian employees of the military and their dependents are not eligible for exceptions 1 and 2 above.
3. Certain non-resident students may be eligible for the resident tuition rate if they meet the following requirements:
  - a. are not non-immigrant aliens within the meaning of 8 USC §1101(a)(15)(See Other Related Information below), and
  - b. attended an approved New York State high school for two or more years, graduated from an approved New York State high school and applied for admission to the University within five years of receiving a New York State high school diploma; or
  - c. attended an approved New York State program for a General Equivalency Diploma (GED) exam preparation, received a GED and applied for admission to the University within five years of receiving the GED; and
  - d. if the student is without lawful immigration status, the student submits to the campus a notarized affidavit stating that the student has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so. (See NYS Education Law §355(h) (8)).

### **D. Emancipation of a Student**

A student whose parents or legal guardian reside out-of-state may claim to be emancipated in order to qualify for in-state tuition. A student claiming emancipation must present evidence of both emancipation and a New York State domicile in order to be designated a New York State resident for tuition purposes. Proof of emancipation must include documentation demonstrating the student's financial independence. Emancipation does not occur automatically when a student reaches 18 years of age. Students under the age of 21 must provide evidence of one year of independent living in order to be considered emancipated.

Factors relevant to the determination of financial independence include, but are not limited to, the following:

1. employment on a full- or part-time basis within New York State;
2. sources and extent of financial support from parents or guardians;
3. sources and extent of other income;

4. parents' federal and state income tax forms which do not claim the student as a dependent (if the student continues to receive financial support, the student shall not be considered emancipated);
5. student's place of residence during the summer or other academic term recess;
6. student's status as financially independent for purposes of federal and/or state financial assistance;
7. independent filing by the student of federal or state income tax return; and
8. student's assets and liabilities.

Emancipated students are totally responsible for paying all of their educational costs. The amount of income claimed by the student must equal or exceed educational expenses, including those expenses associated with living in non-University housing. The term income includes any financial aid received as an independent student. The students should not have any joint or custodial accounts with their parents or legal guardians and any income claimed must be accompanied by source documentation (tax returns, Form 1099, Form W-2, bank statements, trust documents, etc.).

#### **IV. Immigrant Aliens**

Immigrant aliens may lawfully reside in the United States on a permanent basis. Students claiming to be immigrant aliens must present proof of their status by providing the campus with a valid Alien Registration Receipt Card (commonly known as a "green card") prior to registration. Once a student's immigrant status has been verified, the student may then establish New York State residency by meeting the criteria set forth in section III. A student may also provide a valid application for permanent residency status and upon verification that the application is pending; the student may apply for New York State residency status. Proper documentation indicating that a valid application for permanent residency is pending is a receipt for

[USCIS Form I-485 \(Adjust Status\)](#), which must include the petitioner's name. (The receipt for Form I-485 may also appear on Form I-797 or I-797c, Notice of Action, and must include the petitioner's name.) In cases where a dependent student's parents have established immigrant status but subsequently abandon their New York State domicile, the student also loses New York State residency status and the in-state tuition benefit.

Refugees and asylees may also reside permanently in the United States. Students submitting proof of refugee or asylee status should be treated as immigrant aliens and permitted to provide evidence of a New York State domicile (See Related Information for [Acceptable Documentation](#)).

#### **V. Non-Immigrant Aliens**

Non-immigrant aliens are those aliens who enter the United States on a temporary basis for a specific purpose. Non-immigrants are grouped in categories depending on the type of visa presented at the port of entry. Non-immigrants admitted to the United States in categories which prohibit them from establishing a United States residence would not be eligible for in-state tuition. Non-immigrants included in categories which permit them to establish a United States residence may be eligible for in-state tuition if they meet the criteria set forth in section III (See Appendix A in Appendices for a list of non-immigrant alien classifications). To seek in-state tuition, persons included in non-immigrant alien categories permitting establishment of U.S. residency must provide documentation of residency in accordance with section III.B, above.

#### **VI. Undocumented Aliens and Others without Lawful Immigration Status**

Pursuant to the Federal Immigration and Nationality Act ([8 U.S.C. §1623](#)), students who are unable to present valid documentation of their alien status are not eligible for in-state tuition rates. Effective July 1, 1998, aliens not lawfully present in the United States are not eligible on the basis of residence within a state for any postsecondary educational benefit unless citizens or nationals of the United States are eligible for the same

benefit without regard to state residency. However, certain undocumented aliens or others without lawful immigration status may be eligible for the resident tuition rate pursuant to section III.C (3) above.

**NOTE:**

The validity of a non-immigrant alien's legal status in the United States is governed by the expiration date on their I-94 Card (Arrival and Departure Card). Certain visa categories will have a specific end date on the I-94 (B-2 is an example). Other visa categories, such as F-1 and J-1, will have "D/S" (Duration of Status) on the I-94, requiring that the most recent I-20 or DS-2019 be examined to know the expiration date of the stay. If the permissible period of stay on a person's I-94 card has passed, that person is without lawful immigration status even if their non-immigrant visa is still unexpired."

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## Definitions

**Domicile** – a fixed, permanent home to which an individual intends to return whenever absent.

**Emancipation** – a student claiming emancipation must present evidence of both financial independence and a New York State domicile. For students under age 21, proof of emancipation must include evidence of one year of independent living.

**Home of Record** – a state of residency from which an individual enters military service.

**Non-Resident** – a person whose domicile is not New York State

[Glossary of Immigration Terms – United States Citizenship and Immigration Services \(“USCIS”\) \(formerly “INS”\)](#)

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## Other Related Information

The following link to FindLaw's [New York State Laws](#) is provided for users' convenience; it is not the official site for the State of New York laws.

[NYS Education Law §6301](#) (Residency definition for tuition at community colleges)

In case of questions, readers are advised to refer to the New York State Legislature site for the menu of [New York State Consolidated](#).

[8 USC §1101\(a\) \(15\)](#) (Definition of term, immigrant)(Shows nonimmigrant categories ineligible for exception in III.C (3))

[8 U.S.C. §1623](#) (Limitations of eligibility of aliens)

[22 CFR §41.12](#) (Classification symbols)

[Summary of Acceptable Documentation](#) (Please note that proper documentation indicating that a valid application for permanent residency is pending is identified in section IV (Immigrant Aliens) of this policy.)

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## Procedures

There are no procedures relevant to this policy.

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## Forms

[Application for Residency Status/Resident Tuition Parts A, B, C](#)

[USCIS Document Verification Request](#)

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## Authority

The following links to FindLaw's [New York State Laws](#) are provided for users' convenience; it is not the official site for the State of New York laws.

[NYS Education Law §355\(2\)\(h\)](#) (Regulation of Tuition Generally)

[NYS Education Law §355\(2\)\(h\)\(3\)](#) (Exception to domiciliary rule for military stationed in NYS)

[NYS Education Law §355\(2\)\(h\)\(8\)](#) (Exception to domiciliary rule for attendance in NYS high school)

In case of questions, readers are advised to refer to the New York State Legislature site for the menu of [New York State Consolidated](#).

[Tuition, Fees and Charges \(8 NYCRR 302\)](#)

State University of New York Board of Trustees Resolution 05-151, adopted September 20, 2005

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## History

Memorandum to presidents from vice chancellor and chief operating officer dated August 16, 2002.

Memorandum to presidents from the office of University counsel and vice chancellor for legal affairs dated October 1, 1991.

Memorandum to vice chancellor for finance and business and associate vice chancellor for marketing and enrollment management from University associate counsel dated June 18, 1998.

Memorandum to presidents from the office of University counsel and vice chancellor for legal affairs and office of the provost dated April 20, 1987.

Memorandum to presidents from the office of vice chancellor for finance and business and the office of University counsel and vice chancellor for legal affairs dated April 30, 1986.

Memorandum to presidents from the office of the chancellor dated April 15, 1983.

Memorandum to presidents from the office of the executive vice chancellor dated December 2, 1982.

Memorandum to presidents from the office of University counsel and vice chancellor for legal affairs dated April 24, 1979.

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## **Appendices**

[Appendix A](#) - List of non-immigrant classifications