



# Notice to Nonresidents of the State of Oregon

## Oregon Board of Higher Education Administrative Rules

These are the residency rules of the Board of Higher Education currently in effect.

### 580-010-0029

#### Definitions

For the purpose of OAR 580-010-0030 through 580-010-0045, the following words and phrases mean:

- (1) "Domicile" is a person's true, fixed, and permanent home and place of habitation. It is the place where a person intends to remain and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere. In order to establish a domicile in Oregon, a person must maintain a predominant physical presence in Oregon for 12 consecutive months after moving to the state.
- (2) A "financially independent person" is a person who, at the time of application for residency status:
  - (a) declares himself or herself to be financially independent;
  - (b) has not been claimed as a dependent during the immediately preceding tax year, and will not be claimed as a dependent during the current tax year, on the federal or state income tax returns of any other person; and
  - (c) has not received in the immediately preceding calendar year, and will not receive during the current calendar year, one-half or more of his or her support, in cash or in kind, from another person or persons, except for support received from his or her spouse.
- (3) A "financially dependent person" is a person who, at the time of application for residency status:
  - (a) declares himself or herself to be financially dependent; and
  - (b) has been claimed as a dependent on the federal and state income tax returns of another person during the immediately preceding tax year.

### 580-010-0030

#### Determination of Residence

- (1) For purposes of admission and instruction fee assessment, OUS institutions shall classify a student as Oregon resident or nonresident. In determining resident or nonresident classification, the primary issue is a person's intent in coming to Oregon. Intent is inferred from a person's conduct and history as they relate to the requirements of these residency rules. If a person is in Oregon primarily

for the purpose of obtaining an education, that person will be considered a nonresident. It is possible for an individual to qualify as a resident of Oregon for purposes of voting or obtaining an Oregon driver's license and not meet the residency requirements established by these rules.

- (2) An Oregon resident is a financially independent person who, prior to the term for which Oregon resident classification is requested, has both:
  - (a) established and maintained a domicile in Oregon as provided under OAR 580-010-0029(1) for 12 consecutive months; and
  - (b) during that period, has been primarily engaged in activities other than those of being a college student.
- (3) A student may be considered primarily engaged in educational activities regardless of the number of hours for which the student is enrolled. However, a student who is enrolled for more than 8 hours in any semester or quarter during the 12-month period referred to in section (2) of this rule shall be presumed to be in Oregon for primarily educational purposes. Such period of enrollment shall not be counted toward the establishment of a bona fide domicile of 12 consecutive months in this state unless the student proves, in fact, establishment of a bona fide domicile in this state primarily for purposes other than educational.
- (4) An Oregon resident is also a financially dependent person who is claimed as a dependent by another person who has both:
  - (a) established and maintained an Oregon domicile as provided under OAR 580-010-0029(1) for 12 consecutive months; and
  - (b) during that period, has been primarily engaged in activities other than those of being a college student.
- (5) A financially dependent person who is claimed as a dependent by another person who has not established and maintained an Oregon domicile shall be presumed to be a non-resident. This presumption may be overcome by evidence of the student's long-standing presence in Oregon and demonstration of other factors under OAR 580-010-0031.
- (6) The criteria for determining Oregon resident classification shall also be used to determine whether a person who has moved from Oregon has established a non-Oregon residence.
- (7) If institution records show that the residence of a student or the person upon whom the student is dependent is outside of Oregon, the student shall continue to be classified as a nonresident until entitlement to resident classification is shown. The

burden of showing that the residence classification should be changed is on the student requesting the change.

- (8) Notwithstanding section (4) of this rule, a student who is financially dependent on a non-Oregon resident may nonetheless be considered an Oregon resident if the student resides in Oregon for at least 12 consecutive months with a parent or legal guardian who has both:
  - (a) established and maintained an Oregon domicile under OAR 580-010-0029(1) for 12 consecutive months; and
  - (b) during that period, has been primarily engaged in activities other than those of being a college student.

#### **580-010-0031**

##### **Residency Consideration Factors**

- (1) The following factors, although not necessarily conclusive or exclusive, have probative value in support of a claim for Oregon resident classification:
  - (a) Reside in Oregon for 12 consecutive months prior to the beginning of the term for which resident classification is sought and during that period be primarily engaged in activities other than those of a college student;
  - (b) Reliance upon Oregon resources for financial support;
  - (c) Domicile in Oregon of persons legally responsible for the student;
  - (d) Acceptance of an offer of permanent employment in Oregon; and
  - (e) Ownership by the person of his or her living quarters in Oregon.
- (2) The following factors, standing alone, do not constitute sufficient evidence to effect classification as an Oregon resident:
  - (a) Voting or registration to vote;
  - (b) Employment in any position normally filled by a student;
  - (c) The lease of living quarters;
  - (d) Admission to a licensed practicing profession in Oregon;
  - (e) Automobile registration;
  - (f) Public records, for example, birth and marriage records, Oregon driver's license;
  - (g) Continuous presence in Oregon during periods when not enrolled in school;
  - (h) Ownership of property in Oregon or the payment of Oregon income or other Oregon taxes; or
  - (i) Domicile in Oregon of the student's spouse.
- (3) Reliance upon non-Oregon resources for financial support is an inference of residency in another state.

#### **580-010-0033**

##### **Evidence of Financial Dependency**

- (1) In determining whether a student is financially dependent, a student must provide:
  - (a) Evidence of established domicile as provided under OAR 580-010-0029(1) of the person claiming the student as a dependent; and
  - (b) The identification of the student as a dependent on the federal and state income tax returns of the person claiming the student as a dependent. Additional documentation to substantiate dependency during the current calendar year may be required at a later time if deemed necessary by the institution.
- (2) A student who provides evidence that he or she is a financially dependent person under these rules shall not be required to establish a 12-month domicile prior to classification of resident status, provided such a student may not be classified as a resident while receiving financial assistance from another state or state agency for educational purposes.

#### **580-010-0035**

##### **Residence Classification of Armed Forces Personnel**

- (1) For purposes of this rule, members of the armed forces means officers and enlisted personnel of:
  - (a) The Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States;
  - (b) Reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States;
  - (c) The National Guard of the United States and the Oregon National Guard.
- (2) Notwithstanding OAR 580-010-0030, active - members of the armed forces and their spouses and dependent children shall be considered residents for purposes of the instructional fee if the members:
  - (a) Reside in this state while assigned to duty at any base, station, shore establishment, or other facility in this state;
  - (b) Reside in this state while serving as members of the crew of a ship that has an Oregon port of shore establishment as its home port or permanent station; or
  - (c) Reside in another state or a foreign country and file Oregon state income taxes no later than 12 months before leaving active duty.
- (3) An Oregon resident entering the armed forces retains Oregon residence classification until it is voluntarily relinquished.
- (4) An Oregon resident who has been in the armed forces and assigned on duty outside of Oregon, including a person who establishes residency under section (2)(c) of this rule, must, within a reasonable time, demonstrate an intent to retain classification as an Oregon resident. Such intent may be shown by

returning to Oregon within six months after completing service in the armed forces.

- (5) A person who continues to reside in Oregon after separation from the armed forces may count the time spent in the state while in the armed forces to support a claim for classification as an Oregon resident.
- (6) The dependent child and spouse of a person who is a resident under section (2) of this rule shall be considered an Oregon resident. "Dependent child" includes any child of a member of the armed forces who:
  - (a) Is under 18 years of age and not married, otherwise emancipated or self-supporting; or
  - (b) Is under 23 years of age, unmarried, enrolled in a full-time course of study in an institution of higher learning, and dependent on the member for over one-half of his/her support.

#### **580-010-0037**

#### **Residence Classification of Members of Oregon Tribes**

- (1) Students who are enrolled members of federally recognized tribes of Oregon or who are enrolled members of a Native American tribe which had traditional and customary tribal boundaries that included parts of the state of Oregon or which had ceded or reserved lands within the state of Oregon shall be assessed resident tuition regardless of their state of residence.
- (2) For purposes of this rule, the federally recognized tribes of Oregon are:
  - (a) Burns Paiute Tribe;
  - (b) Confederated Tribes of Coos, Lower Umpqua and Siuslaw;
  - (c) Confederated Tribes of Grand Ronde Community of Oregon;
  - (d) Confederated Tribes of Siletz Indians of Oregon;
  - (e) Confederated Tribes of the Umatilla Indian Reservation;
  - (f) Confederated Tribes of the Warm Springs Indian Reservation;
  - (g) Coquille Indian Tribe;
  - (h) Cow Creek Band of Umpqua Indians;
  - (i) Klamath Tribes.
- (3) For purposes of this rule, the Native American tribes which had traditional and customary tribal boundaries that included parts of the state of Oregon or which had ceded or reserved lands within the state of Oregon are:
  - (a) CALIFORNIA:
    - (A) Benton Paiute Tribe;
    - (B) Big Bend Rancheria;
    - (C) Big Lagoon Rancheria;
    - (D) Blue Lake Rancheria;

- (E) Bridgeport Indian Colony;
- (F) Cedarville Rancheria;
- (G) Fort Bidwell Indian Tribe;
- (H) Hoopa Valley Tribe;
- (I) Karuk Tribe of California;
- (J) Likely Rancheria;
- (K) Lookout Rancheria;
- (L) Lytton Rancheria;
- (M) Melochundum Band of Tolowa Indians;
- (N) Montgomery Creek Rancheria;
- (O) Pit River Tribe;
- (P) Quartz Valley Indian Community;
- (Q) Redding Rancheria;
- (R) Roaring Creek Rancheria;
- (S) Smith River Rancheria;
- (T) Susanville Rancheria;
- (U) Tolowa-Tututni Tribe;
- (V) Winnemucca Colony;
- (W) XL Ranch;
- (X) Yurok Tribe.

- (b) IDAHO:

- (A) Nez Perce Tribe of Idaho;
- (B) Shoshoni-Bannock Tribes.

- (c) NEVADA:

- (A) Duck Valley Shoshone-Paiute Tribes;
- (B) Fallon Paiute-Shoshone Tribe;
- (C) Fort McDermitt Paiute-Shoshone Tribe;
- (D) Lovelock Paiute Tribe;
- (E) Pyramid Lake Paiute Tribe;
- (F) Reno-Sparks Indian Colony;
- (G) Summit Lake Paiute Tribe;
- (H) Walker River Paiute Tribe;
- (I) Winnemucca Indian Colony;
- (J) Yerington Paiute Tribe.

- (d) OKLAHOMA: Modoc Tribe of Oklahoma.

- (e) WASHINGTON:

- (A) Chehalis Community Council;
- (B) Colville Confederated Tribes;
- (C) Quinault Indian Nation;
- (D) Shoalwater Bay Tribe;
- (E) Yakama Indian Nation.

- (4) A student seeking to be assessed resident tuition under the provisions of this rule shall submit, following procedures prescribed by the OUS institution where the student seeks to enroll, a photocopy of tribal enrollment which documents tribal membership.

#### **580-010-0040**

##### **Residence Classification of Non-Citizens**

A person who is not a citizen of the United States may be considered an Oregon resident if the person qualifies as a resident under OAR 580-010-0030 and is one of the following:

- (1) A lawful permanent resident. The date of approval of lawful permanent residency shall be the earliest date upon which the 12-month residency requirements under OAR 580-010-0030 may begin to accrue.
- (2) An immigrant granted refugee or political asylum in the United States. The date of approval of political asylum or refugee status shall be the earliest date upon which the 12-month residency requirements under OAR 580-010-0030 may begin to accrue.
- (3) A person holding one of the following non-immigrant visa classifications: A, E, G, H-1B, H-1C, the spouse or child of a person holding an H-1B or H-1C visa, I, K, L, NATO, O, R, S, T, TN, U, or V. The date of the issuance of a visa for one of these classifications shall be the earliest date upon which the 12-month residency requirements under OAR 580-010-0030 may begin to accrue. A person possessing a non-immigrant or temporary visa that is not identified under this rule shall not be considered an Oregon resident.

#### **580-010-0041**

##### **Changes in Residence Classification**

- (1) If an Oregon resident student enrolls in an institution outside of Oregon and later seeks to re-enroll in an OUS institution, the residence classification of that student shall be re-examined and determined on the same basis as for any other person.
- (2) A financially dependent student who is dependent on a person who establishes a permanent Oregon residence as defined in OAR 580-010-0030(2) during a term when the dependent student is enrolled at an OUS institution may register as a resident at the beginning of the next term.
- (3) Once established, classification as a resident continues so long as the student remains in continuous academic year enrollment in the classifying institution.
- (4) A person who seeks classification as a resident under these rules shall complete and submit a notarized Residence Information Affidavit. The affidavit and all required supportive documents and materials must be submitted by the last day to register for the term in which resident status is sought.

- (5) No OUS institution is bound by any determination of residency except by duly authorized officials under procedures prescribed by these rules including timely submittal of the notarized affidavit.

#### **580-010-0045**

##### **Review of Residence Classification Decisions by IRC**

- (1) An interinstitutional residency committee (IRC) is established consisting of the officers determining student residence classification at OUS institutions and a member of the Chancellor's staff appointed by the Chancellor. The member of the Chancellor's staff shall serve as chairperson. A majority of the members of the Committee shall constitute a quorum. A majority of a quorum may make decisions.
- (2) Residence cases of unusual complexity, especially where there may be conflict of rules, may be referred by an institution residence classification officer to the IRC for decision.
- (3) Any person who is aggrieved by the institution residence classification may, within ten (10) days of the date of mailing or other service of classification decision, appeal the classification to the IRC. The appeal must be in writing and shall be filed with the institution. An aggrieved person may supply written statements to the IRC for consideration in reviewing the case and may also make an oral presentation to the IRC on a date to be scheduled by the IRC. The decision of the IRC shall be final unless appealed.
- (4) A person dissatisfied with the IRC decision may, within ten days of the date of the mailing or other service of the IRC decision, appeal the IRC decision to the Vice Chancellor for Academic Affairs or designee. An appeal to the vice chancellor shall be in writing only. The vice chancellor's decision shall be final.
- (5) A person granted a meritorious hardship exception to residency under this rule prior to July 1, 1990, shall not lose the exception solely because of the repeal of the exception authorization.

#### **580-010-0047**

##### **Residents Under WICHE**

A certification officer, designated by the Board, shall determine the residence classification of any person seeking certification as an Oregon resident, pursuant to the terms of the WICHE Compact. Any person dissatisfied with the decision of the certification officer may appeal to the IRC. The decision of the IRC shall be final unless further appeal is made to the Vice Chancellor for Academic Affairs pursuant to OAR 580-010-0045(4).