

Murray State University
Classification of Residency for Fee Assessment Purposes

I. Rationale for Residency Regulation

The Council on Post-Secondary Education (CPE) has promulgated an administrative regulation - "Determination of Residency Status for Admission and Tuition Assessment Purposes" - to be followed by all public institutions of higher education in the Commonwealth. (Following these MSU guidelines is a copy of that policy.) The CPE requires each institution to establish procedures for administering the residency regulation.

II. Institutional Administration

A. Initial Classification of Residence

The initial classification of residency is determined by Admissions Services and is based upon the facts in existence when the credentials for admission for a specific academic term have been received and during the period of review; information derived from admission materials; and other information available from any source. In cases where the application for admission does not provide sufficient information for an initial classification, Admissions Services may request additional information necessary for a classification decision. Upon receipt and review of any additional information, a residence classification is determined, and the student is notified by letter. Changes in the initial residence classification may be made by Admissions Services prior to the beginning of the term if the student furnishes sufficient evidence of Kentucky residency. Any appeal from the decision of the Admissions Office must be filed in writing with the Registrar within fourteen (14) calendar days of notice to the student of the decision, but in no event more than thirty (30) calendar days after the first day of classes of the academic term for which the reclassification is sought.

B. Appeals of Residency Classification

1. Right to Appeal

(a) New students who wish to appeal the residency decision of Admissions Services or enrolled students who wish for a reconsideration of their initial determination of residency status based upon change of circumstances are guaranteed the right of appeal.

(b) At all times the burden will be on the student to demonstrate Kentucky residency by a preponderance of the evidence. Although strict rules of evidence need not necessarily be observed, all proceedings will be governed by the principle of fundamental fairness to all concerned.

(c) It is the responsibility of the student to make certain that all documentation required during any appeals is forwarded to the appropriate decision maker. The Registrar may, if requested, assist the student and/or parents in compiling the appropriate information.

(d) A student will not be entitled to appeal any determination of residency status if the determination is because a student has failed to meet deadlines for the submission of information. A student may request a review of a determination of residency status in a subsequent academic term.

(e) Any fees due prior to the final disposition of an appeal will be paid at the in-state rate, with the student to be held responsible for the out-of-state portion if the appeal does not result in Kentucky residency. If an appeal results in a change of classification, the change will not be effective earlier than the term during which the appeal is filed.

2. Initial Appeals and the Role of the Registrar

(a) The Registrar is the institutional officer designated for coordination of administration of the residency regulation. Instructions for filing appeals and copies of the residency regulation are available from the Office of the Registrar.

(b) Appeals from Initial Residency Determination

- (i) All appeals from the initial residency determination will initially be taken to the Registrar. An appeal to the Registrar will be initiated by providing written notice of the desire to appeal to the Registrar within fourteen (14) calendar days of notice to the student of the decision to be appealed.
- (ii) The student will be required, if not done previously, to submit the residency affidavit to the Registrar. The student may also submit other documentation. The Registrar will render a decision within fourteen (14) calendar days of the date of the student's appeal. The student will be notified in writing of the decision.
- (iii) If the student is dissatisfied with the decision of the Registrar, an appeal may be taken to the Residency Review Committee by advising the Registrar in writing within fourteen (14) calendar days of the student's receipt of the notice of the decision.

(c) Reconsideration of Residency Classification by Enrolled Students Due to Changed Circumstances

Enrolled students who have reason to request a change of residency due to changed circumstances may obtain the affidavit for resident classification, copy of the residency regulation, and filing instructions from the Office of the Registrar. In no case will a residency status be changed without the completion of the official affidavit and supporting documentation. A request for reclassification of residency must be submitted to the Registrar not more than thirty (30) calendar days after the first day of classes of the academic term for which the reclassification is sought. A decision will be issued by the Registrar within fourteen (14) calendar days of submission of the affidavit and documentation to the Office of the Registrar. A request to appeal the Registrar's decision to the Residency Review Committee must be submitted to the Office of the Registrar within fourteen (14) calendar days of the student's receipt of notification of denial.

3. Residency Review Committee

a. Committee Membership

The Residency Review Committee is composed of one (1) student, three (3) faculty representatives, and two (2) staff members as appointed by the Provost. The Bursar serves as chair and is the seventh member of the Committee.

b. Meetings

Meetings are called by the Bursar upon receipt of an appeal. Appellants are notified in writing of the meeting date, time, and place.

c. Procedures

- (1) Quorum - Attendance by four (4) members of the Committee constitutes a quorum necessary for official action of the Committee.
- (2) Affidavit and Documentation - The Office of the Registrar provides to members of the Committee copies of the student's residency file. Additional information provided to the Registrar or Committee members may be introduced as relevant information in determining the appropriate residency status.
- (3) Voting - A record will be maintained regarding the rationale for changing any residence classification or for upholding the original classification. The record will be available to the Appellant for inspection, if requested.
- (4) Personal Appearances - The Committee is a non-adversarial group which welcomes personal appearances by Appellants where the personal appearance might serve to clarify circumstances of the appeal. The Appellant may be accompanied by an advisor; however, in no case will the advisor address the Committee unless requested by the Committee.
- (5) Notification of Decision - All decisions of the Committee are communicated to the Appellant by official written correspondence from the Committee Chair. Any denial letter will include a citation of the appropriate guideline(s) referenced in making the decision. The Residency Review Committee will make a determination of student residency status and notify the student in writing within forty-five (45) calendar days after receipt of the student appeal.

4. Formal Institutional Hearing

A student who appeals a determination of residency by the Residency Review Committee shall be granted a formal institutional hearing in accordance with Section 14 of the state residency regulation (13 KAR 2:045).

A. Student Rights and Responsibilities

- (1) The Appellant shall submit a written request for a formal institutional hearing to the Office of the Provost. A request shall be made within fourteen (14) calendar days of receipt by the student of notification of the residency decision by the Residency Review Committee.
- (2) The Appellant has the right:
 - a. To be represented by legal counsel;
 - b. To present information and give testimony and information in support of a claim of Kentucky residency.

- (3) The student is responsible for any expenses incurred for legal representation in support of the student's claim of residency.

B. Institutional Rights and Responsibilities

- (1) The formal institutional hearing shall be administered through the Office of the Provost. The Provost shall appoint a hearing officer who shall be a person:
 - a. who is not involved in determinations of residency except for formal hearings at Murray State University, and
 - b. who is not an employee in the same organizational unit as the Registrar.
- (2) Murray State University may be represented at the hearing by the institution's General Counsel.
- (3) A hearing shall be scheduled within forty-five (45) calendar days following receipt of the student's written request.
- (4) The Office of the Provost will forward the following items to the hearing officer no fewer than ten (10) calendar days prior to the scheduled hearing:
 - a. Student's written request for a formal institutional hearing;
 - b. Copy of the student's residency file including the residency affidavit and supporting documentation.
- (5) The institution shall bear all institutional expenses of the hearing, not to include any expenses incurred by the Appellant.
- (6) New information and documentation provided by the student that was not available during any prior consideration shall result in a recommendation by the hearing officer to remand the case to the Residency Review Committee for further action. A remand shall require the Residency Review Committee to reconsider the determination of residency status in light of the new information.

C. Notification of the Administrative Hearing

- (1) Notice of the hearing shall be made by registered mail, return receipt requested, to the Appellant no fewer than twenty (20) calendar days prior to the hearing. An effort will be made to schedule the hearing on a date that is convenient to the parties involved.
- (2) The notice shall include:
 - (a) A statement of the date, time, place, and nature of the hearing;
 - (b) The name, official title, and mailing address of the hearing officer;
 - (c) The names, official titles, mailing addresses, and telephone numbers of all parties to the hearing, including the counsel representing the University;

- (d) A statement of the issues involved, along with a reference to any pertinent statute or regulation, so as to give the parties reasonable opportunity to prepare evidence and argument;
- (e) A statement of the procedures to be followed during the hearing;
- (f) A statement advising Appellant of his/her right to retain legal counsel;
- (g) A statement of the right of the parties to examine, prior to the hearing, any documentary evidence to be used at the hearing and to be advised of witnesses to be present;
- (h) A statement advising that any party who fails to attend or participate as required at any stage of the administrative hearing process may be held in default;
- (i) The Office of the Provost and/or the hearing officer may include additional requirements in the Notice consistent with this Operational Policy.

D. Conduct of the Hearing

- (1) The hearing shall be conducted at a time and place determined by the Office of the Provost.
- (2) The hearing officer shall preside over the conduct of the hearing and shall regulate the course of the proceedings in a manner which will promote the orderly and prompt conduct of the hearing.
- (3) The hearing officer shall afford all parties the opportunity to respond, present evidence, conduct cross-examination, and submit rebuttal evidence.
- (4) If a party fails to attend or participate in the hearing or other stage of the administrative hearing process, or fails to comply with the orders of a hearing officer, the hearing officer may adjourn the proceedings and issue a recommendation to the Provost for default order granting or denying residency as appropriate, or may conduct the proceedings without the participation of the defaulting party, having due regard for the interest of justice and the orderly and prompt conduct of the proceeding.
- (5) A hearing officer may conduct an administrative hearing by telephone or video conference if each party to the hearing agrees.
- (6) All testimony shall be made under oath or affirmation.
- (7) All testimony, motions, and objections shall be accurately and completely recorded.

E. Final Disposition

- (1) The hearing officer shall render a written recommendation to the Office of the Provost within fourteen (14) calendar days after the hearing is concluded. The written recommendation shall state the reason(s) for the recommendation.
- (2) Within fourteen (14) calendar days of receipt of the hearing officer's recommendation, the Office of the Provost shall render a final written decision. Notice of the decision and the hearing officer's recommendation shall be made to the Appellant by registered mail, return receipt requested.

III. Effective Date

These procedures will be deemed effective upon approval by the Murray State University Board of Regents, but such effective date will not be earlier than July 1, 2001.

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