

PROPOSED:
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HIGHER EDUCATION

COMMISSION ON HIGHER EDUCATION

Residency Requirements for Tuition Purposes at Public Colleges and Universities

Proposed Readoption: N.J.A.C. 9A:5

Authorized By: Commission on Higher Education, Kevin J. Collins, Chair.

Authority: N.J.S.A. 18A:62-4.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2006- 214 .

Submit written comments by September 1, 2006 to:

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The agency proposal follows:

Summary

The Commission on Higher Education is responsible for rules governing residency requirements for tuition purposes (N.J.A.C. 9A:5). Executive Order No. 66 (1978), the State's "sunset" provision, requires periodic review of rules to determine continued need and desirable changes. First adopted in 2001, the current rules elaborate on and clarify the basic statutory provisions (N.J.S.A. 18A:62-4), including the requirement of domicile and the right to challenge a presumption of nondomicile, and specify means of demonstrating and verifying residency. The current rules expire on January 12, 2007, pursuant to N.J.S.A. 52:14B-5.1c, and the required "sunset" review was conducted. Commission staff studied the regulatory language, sought input from institutional representatives, and concluded that the current regulations continue to serve their intended purpose. The Commission, therefore, proposes readoption of N.J.A.C. 9A:5 without change. A summary of the rule sections follows.

N.J.A.C. 9A:5-1.1 reiterates and expands on statutory requirements regarding domicile as the fundamental eligibility criterion for in-state tuition. N.J.A.C. 9A:5-1.2 concerns the documentation of domicile, and N.J.A.C. 9A:5-1.3 provides for reconsideration of an initial denial of in-state tuition; both sections specify institutional responsibilities. N.J.A.C. 9A:5-2.1 presents eligibility criteria for county resident tuition.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Commission's rules implement and clarify State law regarding domicile in New Jersey for purposes of paying resident tuition at public colleges and universities. The rules clarify that in-State domicile determines eligibility for resident tuition rates, both generally and with respect specifically to dependent students. Elaboration on student rights to challenge presumed nondomicile in New Jersey emphasizes that a 12-month residency is not an absolute requirement to qualify for resident tuition. The rules benefit both students and their parents.

Economic Impact

The rules proposed for readoption implement State law regarding domicile in New Jersey for purposes of paying resident tuition at public colleges and universities, both senior institutions and community colleges. Average tuition for New Jersey resident undergraduates at Rutgers University in the 2005-06 academic year is slightly less than half that for out-of-State students (\$236.50, compared with \$484.05 per credit). At the State colleges/universities, in-State students benefit from a tuition differential that ranges from \$87.75 to \$262.00 per credit below the out-of-State rate. Tuition for county residents at community colleges is between \$0.00 and \$92.25 per credit below that for out-of-county students. At most community colleges, the non-New Jersey rate is significantly higher than the out-of-county rate, although 7 schools charge out-of-State and out-of-county students the same tuition.

Federal Standards Statement

The rules proposed for readoption are not subject to a Federal standards analysis under Executive Order No. 27 (1994)/N.J.S.A. 52:14B-2.3 because the Commission on Higher Education's regulation of residency for tuition purposes is not subject to any Federal requirements or standards. The rules pertain strictly to the 31 public colleges and universities in New Jersey.

Jobs Impact

The rules proposed for readoption will not result in the generation or loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption do not impose requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules pertain strictly to the 31 public colleges and universities in New Jersey, none of which qualify as a small business because each is a public entity.

Smart Growth Impact

The rules proposed for readoption will have no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 9A:5. For copies, contact the New Jersey Office of Administrative Law or the Commission's Administrative Practice Officer, Dr. Jeanne Oswald.