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POSTSECONDARY RESIDENCY REQUIREMENTS:
EMPOWERING STATUTES AND GOVERNING TYPES

Monograph 85-2

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University of Houston Law Center/Institute for Higher Education Law and Governance (IHELG)

The University of Houston Institute for Higher Education Law and Governance (IHELG) provides a unique service to colleges and universities worldwide. It has as its primary aim providing information and publications to colleges and universities related to the field of higher education law, and also has a broader mission to be a focal point for discussion and thoughtful analysis of higher education legal issues. IHELG provides information, research, and analysis for those involved in managing the higher education enterprise internationally through publications, conferences, and the maintenance of a database of individuals and institutions. IHELG is especially concerned with creating dialogue and cooperation among academic institutions in the United States, and also has interests in higher education in industrialized nations and those in the developing countries of the Third World.

The UHLC/IHELG works in a series of concentric circles. At the core of the enterprise is the analytic study of postsecondary institutions--with special emphasis on the legal issues that affect colleges and universities. The next ring of the circle is made up of affiliated scholars whose research is in law and higher education as a field of study. Many scholars from all over the world have either spent time in residence, or have participated in Institute activities. Finally, many others from governmental agencies and legislative staff concerned with higher education participate in the activities of the Center. All IHELG monographs are available to a wide audience, at low cost.

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Higher Education Law Library

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Publication series

Study opportunities

Conferences

Bibliographical and document service

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These data summarize the various state requirements to qualify for residency status, and list the empowering statutes. The data fall into five types:

- I The state legislature determines residency policies (20 states)
- II The state legislature explicitly gives this power to a state agency or coordinating board (7 states)
- III The state legislature explicitly gives this power to a state institution (1 state)
- IV The state code is silent on this power, and a state agency has assumed the power (7 states)
- V The state code is silent on this power, and state institutions have assumed the power (16 states)

As the footnotes indicate, the five types are not always "pure types." States sometimes do not behave according to their own codes, or the locus of authority is shared at several levels.

If a state has a durational requirement, it is designated as residency, with the requisite time period listed as it appears in the statute, regulation, or institutional catalog. If there is a requirement that students intend to make the state their permanent abode, the requirement is listed as domicile, with any duration period also required. While a person may hold several residences, a person can only have one domicile. In truth, however, several states equate the two, or have policies that equate the two concepts. States also incorrectly require one or the other and mislabel the practice. In Type III or V states,

where an institution determines its own policies, an institutional example is given, in parentheses, along with its residency or domicile requirement. For the instances of Type II and IV states, where a state agency determines policy, the state code or regulatory provision is noted in brackets, as is the title of any agency manual.

Finally, several states have different provisions for financial aid eligibility. In several of these states, a student may gain residency status more easily than financial aid eligibility. These provisions are noted in the final column.

N.B. These data are part of a larger national study being conducted by The Institute for Higher Education Law and Governance, University of Houston. For additional studies or information, contact the Institute.

Summary of Requirements to Qualify
As Resident for Tuition Purposes
And Listing of Empowering Statutes

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Alabama	V	ALA. CODE Title 16 § 16-5-10	domicile, 12 months (University of Alabama)	ALA. CODE Title 16 § 16-33A-1(2) domicile, 12 months
Alaska	V	ALA. STAT. § 14.40.170a(6)	residence, 12 months (University of Alaska)	ALA. STAT. § 14.40.806(4) domicile, 24 months
Arizona	I	ARIZ. REV. STAT. § 15-1802A	domicile, 12 months	
Arkansas	V	ARK. STAT. ANN. § 80-3301	domicile, 12 months (University of Arkansas)	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
California	I	CAL. EDUC. CODE Part 41, § 68000, et. seq.	domicile, 12 months	
Colorado	I	COL. REV. STAT. § 23-7-102(5)	domicile, 12 months	
Connecticut	I	CONN. GEN. STAT. § 10-329f	domicile, 6 months	
Delaware	V	DEL. CODE Title 14 § 5106	domicile, 12 months (University of Delaware)	

State	Type	Citation	Requirement (Instutional example) [State Agency]	Financial Aid
District of Columbia	V	D.C. Law 1-36 § 31-1711	domicile, 90 days <u>1/</u> (University of District of Columbia)	
Florida	II	FLA. STAT. § 240.203	domicile, 12 months (State Board of Education Rule 6C-7.05)	State tuition voucher: residence, 24 months § 240.401 Scholarship: domicile, 24 months § 240.402 State student assistance grant: domicile, 24 months § 240.409 Student Financial Aid Scholarship Fund Loan: residence 36 months § 240.415 Student Loan Trust Fund Loan: domicile, 12 months § 240.439, § 240.445
Georgia	II	GA. CODE ANN. § 32-169	domicile, 12 months (Board of Regents of the University System of GA. [<u>Manual for Interpreting Residence Status</u>])	
Hawaii	I	HA. REV. STAT. 304-4	residence, 12 months	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Idaho	I	IDAHO CODE § 33-3717	domicile, 12 months	
Illinois	V	ILL. ANN. STAT. Chapter 144 § 190	residence, 6 months (Governors State University)	
Indiana	V	IND. CODE ANN. § 20-12-1-1	residence, 12 months (Indiana University)	residence, 6 months § 20-12-21.5-7
Iowa	IV	IOWA CODE § 262(9)3	domicile, 12 months [Iowa State Board of Regents. Iowa Administrative Code 720-1.4(1)]	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Kansas	I	KAN. STAT. § 76-729	residence, 12 months	
Kentucky	V ^{2/}	KY. REV. STAT. § 164.030		
Louisiana	V	LA. REV. STAT. ANN. § 17.3351	residence, 12 months (Southern University)	

footnote

2/ IV practice is followed in Kentucky; domicile, 12 months KAN. STAT. § 164.020 (3)

State	Type	Citation	Requirement (Institutional Example) [State Agency]	Financial Aid
Maine	V	MAINE REV. STAT. ANN. <u>3/</u> 20-A § 10902.2.A., 1983	domicile, 12 months (University of Maine)	
Maryland	V	MD. EDUC. CODE ANN. <u>4/</u> § 13-104(b)(i)	domicile, 6 months (University of Maryland)	
Massachusetts	V	MASS. GEN. LAWS ANN. <u>5/</u> Chapter 75 § 1	domicile, 12 months (University of Massachusetts)	

footnotes

3/ See Black and Gildard v. Sullivan (61 F. Supp 1050, 1983) regarding domicile. Universtiy of Maine is the only Public Senior institution in the State.

4/ See Toll v. Moreno (102 S. Ct. 2977, 1982)

5/ Board of Regents newly authorized, not yet reorganized

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Michigan	V	MICH. COMP. LAWS ANN. § 390.3	domicile, 12 months (University of Michigan)	
Minnesota	II	MINN. STAT. § 136.11	domicile, 12 months [State University Board (<u>Common Policy</u>)]	
Mississippi	I	MISS. CODE ANN. § 37-103 et. seq.	domicile, 12 months	
Missouri	II	MO. REV. STAT. Appendix B 6-2 (1978)	residence, 12 months [Coordinating Board for Higher Education (<u>Residency Determina- tion Procedure, 6 CSR 10-3.010, 1981</u>)]	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Montana	I	MON. REV. CODE ANN. § 20-25-501	domicile, 12 months	
Nebraska	I	NEB. REV. STAT. § 85-501	domicile, 180 days	
Nevada	I	NEV. REV. STAT. § 396-540	residence, 6 months	
New Hampshire	III	N.H. REV. STAT. ANN. § 187:29(II)	domicile, 12 months ^{6/} (University of New Hampshire System)	

footnote

^{6/} Only public senior institution in the state

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
New Jersey	I	N.J. STAT. ANN. § 18A:62-4	domicile, 12 months	
New Mexico	II	N.M. STAT. ANN. § 21-1-4	domicile, 12 months, [Board of Educational Finance (<u>Finance Policy on Residence Status</u>)]	
New York	I	N.Y. EDUC. LAW § 302.1 (SUNY) § 6301.4 (4 year colleges)	domicile, no time specified (SUNY) residence, 12 months (4 year colleges)	domicile, 1 term § 302.1(6)(b)
North Carolina	I	N.C. GEN. STAT. § 116-143.1	domicile, 12 months	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
North Dakota	I	N.D. CENT. CODE § 15-10-19	domicile, 12 months	
Ohio	IV	OHIO REV. CODE § 3333.04 (0)	domicile, 12 months [Ohio Board of Regents (OBR 333-1-10)]	
Oklahoma	IV	OKLA. STAT. Title 70 § 3206 (m)	domicile, 12 months [Oklahoma State Regents for Higher Education (<u>Residence Status of Enrolled Students in the Oklahoma State System of Higher Education Sec. 8</u>)]	
Oregon	IV	OR. REV. STAT. § 351.070	domicile, 6 months [Board of Higher Education, (OAR 580-10)]	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Pennsylvania	IV	PA. STAT. ANN. Title 24 § 20-2003.2(8)	domicile, 12 months [PA. Board of State College and University Directors] 22 § 153.1	domicile, 12 months 24 § 5154
Rhode Island	IV	22 § 46.5 (Commonwealth ^{7/} Institutions) R.I. GEN. LAWS § 16-31-5	domicile, 12 months (Commonwealth Institutions ex: University of Pittsburgh)	
South Carolina	I	S.C. CODE § 59-112-20	domicile, 12 months [Board of Governors for Higher Education (<u>Regulations on determination of Residency</u>)]	

footnotes

^{7/} According to 22 § 46.5, regulations in practice are to be promulgated by State Auditor General. However, Commonwealth institutions determine their own residency requirements

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
South Dakota	II	S.D. COMP. LAWS ANN. § 13-49-1	domicile, 12 months [State Board of Regents (Resident and non-resident tuition, 1.2.2.)]	
Tennessee	V	TENN. CODE ANN. § 49-3342	domicile, no time specified (University of Tennessee)	
Texas	I	TEX. EDUC. CODE Title 3 § 54.052	domicile, 12 months	
Utah	I	UTAH CODE ANN. § 53-34-2.2	domicile, 12 months	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Vermont	V	VT. STAT. CODE § 2282	domicile, 12 months (Vermont State College)	domicile, 12 months § 2822
Virginia	I	VA. CODE § 23-7	domicile, 12 months	
Washington	I	WASH. REV. CODE § 28B.15	domicile, 12 months	
West Virginia	IV	W. VA. CODE § 18-26-8	domicile, 12 months [West Virginia Board of Regents (<u>Policy Bulletin</u> <u>No. 34</u>)]	

State	Type	Citation	Requirement (Institutional example) [State Agency]	Financial Aid
Wisconsin	II	WIS. STAT. § 36.27	domicile, 12 months [Board of Regents of University of Wisconsin System (Wis. Adm. Code U.W.S. 20)]	
Wyoming	V	WYO. STAT. § 27-17-204	domicile, 12 months (University of Wyoming) <u>8/</u>	

footnote

8/ The only public senior institution in the state