



**MONTANA UNIVERSITY SYSTEM**  
OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION

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TO: Board of Regents  
FROM: Helen Thigpen, Associate Legal Counsel  
DATE: January 2, 2019  
RE: Residency Policy Revisions

In November 2018, OCHE legal staff submitted proposed revisions to the Board’s residency policy. The proposed revisions were drafted to clarify existing policy and to address specific issues that have been raised to OCHE related to residency. The proposed revisions also included language pertaining to students in the professional graduate programs of law, pharmacy, and physical therapy, providing that students who are initially admitted as nonresidents cannot obtain in-state status for the duration of their enrollment in one of these programs.

Following the November meeting, OCHE received comments on the proposed revisions from campus residency professionals. OCHE legal staff reviewed each of these comments and adjusted the proposed revisions where necessary. The updated version now aligns more closely to the original policy but clarifies in stronger terms that the 12-month period for establishing residency does not run during any period in which the person maintains legal ties to another state or country. These ties include a driver’s license, vehicle registration, voter registration, or tax liability. Each of these actions are strong indicators that the student is a resident of another state. Although more specific, this language is consistent with the existing policy which currently prohibits in-state residency when the student takes advantage of a right or privilege that is inconsistent with residency; the revised language now specifically clarifies these rights or privileges.

The remainder of the revisions presented to the Board in November are unchanged. The updated version continues to require a student seeking in-state residency to file any required Montana residency tax return. Note that a return is not required if the student does not meet the minimum income threshold for filing taxes in Montana. The updated version also continues to require documentation of financial independence but clarifies that the student must be financially independent from any “nonresident entity or person, including a parent, guardian or spouse.” The previous version did not clarify independence from nonresidents. The revised version more clearly achieves the original purpose of this requirement, which is to ensure that students seeking state-supported tuition are not receiving the majority of their financial support from non-resident individuals who do not directly support state institutions or services through taxes.

As described more fully at the November Board meeting, the proposed revisions also clarify that online credits taken at any institution will be included in the calculation of half-time status.

The purpose of this revision is to ensure that students seeking to demonstrate half-time status for establishing residency are not able to avoid the half-time requirement by taking online credits. Half-time or full-time status is a determinative factor for establishing residency since a full-time student is presumed to be in the state for educational purposes. In this same vein and to allow greater flexibility for undergraduate students, the proposed revisions would increase the number of credits a student may take and still be considered half-time from 6 to 7 credits (8 credits for campuses utilizing block scheduling). This revision also aligns with credit requirements for veteran's housing benefits.

The revisions to the professional student exchange programs do not substantively change any requirement for these programs; rather, the revisions state the requirements more clearly and allow students who lost Montana residency by moving out-of-state to regain Montana residency in 12 months instead of 24 months. The professional student exchange programs require a lengthier waiting period due to the competitiveness of the programs and significant state investment. This revision is intended to benefit a student who previously had Montana residency and would like to come back and enter the WICHE or WWAMI programs.

Finally, the proposed revisions continue to provide that students admitted as nonresidents to the professional graduate programs of law, pharmacy, and physical therapy will remain classified as nonresidents throughout the duration of their enrollment in these programs. These programs are very rigorous and competitive and have specific curricula that prepare students for professional licensing requirements. The residency policy currently presumes that any student taking over six credits is primarily in the state for educational purposes; however students in these programs cannot be part-time students, which makes it difficult to overcome the presumption that the student is not in the state primarily for educational purposes. This revision would remove the presumption regarding credits for these students.