VIII-2.70—POLICY ON STUDENT CLASSIFICATION FOR ADMISSION AND TUITION PURPOSES

(Approved by the Board of Regents August 28, 1990; Amended July 10, 1998; Amended November 27, 2000; Amended April 11, 2003; Amended June 23, 2006; Amended February 15, 2008; Amended October 24, 2014; Amended April 10, 2015; Amended February 17, 2017; Amended June 16, 2017; Amended April 19, 2019; Amended June 17, 2021; Amended June 17, 2022; Amended June 16, 2023; Amended June 14, 2024; Amended June 13, 2025; Amended June 12, 2026).

I. POLICY

A. Purpose

To extend the benefits of its system of higher education while encouraging the economical use of the State's resources,[1] it is the policy of the Board of Regents of the University System of Maryland (USM) to recognize the categories of in-state and out-of-state residency for the purpose of admission and assessing tuition at USM institutions.

B. Qualification for In-State Status

Generally, to qualify for in-state status, prospective, returning, or current students must demonstrate that they are permanent Maryland residents. Under certain circumstances, as set forth in this Policy, some students who are not permanent Maryland residents and do not meet the criteria for in-state residency status in Section III.B of this Policy may qualify temporarily for in-state status if they qualify for an exemption under Section V of this Policy. Students who do not qualify for in-state status under this Policy shall be assigned out-of-state status for admission and tuition purposes.

C. Standard of Proof

Students seeking in-state status shall have the burden of proving by clear and convincing evidence that they satisfy the requirements and standards set forth in this Policy. Assignment of in-state or out-of-state status will be made by each USM institution upon a review of the totality of facts known by the institution or presented to it by the student.

II. OVERVIEW OF STUDENT CLASSIFICATION PROCESS

To implement this Policy, each USM institution applies its own procedures, a copy of which must be filed with the Office of the Chancellor.

A. Initial Determination

The student classification process begins with an initial determination of residency status. The institution's procedures will provide for an initial submission of residency information, usually in the application for admission or readmission. The institution may also request documentation or additional information during this initial step. All information and documentation submitted will be evaluated against the criteria for In-state status set forth in Section III.B of this Policy. In certain

[1] Md. Code Ann., Educ. § 12-101.

circumstances, a student who does not meet the criteria for in-state status may qualify for in-state status by exemption under Section V of this Policy.

At the conclusion of the initial determination, the student will be notified, usually in the offer of admission, if they have been classified as in-state or out-of-state.

B. Petition for Change in Classification

A student who wishes to request a change in their classification may submit a Petition in accordance with the institution's procedures. In some circumstances, students whose eligibility cannot be determined from the information submitted in their initial application may be required to submit additional evidence through the Petition process. All Petitions will be evaluated under the same criteria used for the initial determination of in-state status (in Section III.B of this Policy), but the institution may require additional information and documentation during the Petition process. Petitions may not be initiated for a semester or term that has already been completed.

C. Appeal

A student may appeal a decision on their Petition for Change in Classification in accordance with the institution's procedures.

D. Request for Waiver

The president of an institution or a president's designee may waive any requirement of this Policy if the president or designee determines that a waiver is required to avoid an unjust result. Staff or students may request a waiver, but students may be required to exhaust other procedures prior to doing so.

E. Change in Circumstances Altering In-State Status

A student must notify the USM institution in writing within fifteen (15) calendar days of any change in circumstances that may alter in-state status. Failure to do so may result in retroactive charges for the period affected.

F. Incomplete, Untimely, False, or Misleading Information

If complete information necessary to the determination is not provided by the institution's deadline, the institution may, at its discretion, deny or revoke in-state status. In the event incomplete, false, or misleading information is presented, the institution may, at its discretion, revoke in-state status and take disciplinary action provided for by the institution's policies. Such action may include suspension or expulsion. In such cases, the institution reserves the right to retroactively assess all out-of-state charges for the period affected.

III. DETERMINATION OF RESIDENCY STATUS

A. Initial Determination of Residency Status

An initial determination of a student's residency status will be made at the time of admission (and readmission, if any) based upon information provided by the student with the signed application

certifying that the information provided is complete and correct. Additional information may be requested by the institution to clarify facts presented in the initial application.

B. Criteria for In-State Status

To qualify for in-state status, the student must demonstrate that for at least 12 consecutive months immediately prior to and including the last date available to register for courses for the semester/term for which the student seeks in-state status (the Applicable Period), the student had the continuous intent to reside in Maryland indefinitely and for a primary purpose other than that of attending an educational institution in Maryland. The student will demonstrate the required continuous intent by establishing that they satisfied all the following requirements during the Applicable Period:

1) The student has continuously maintained primary living quarters in Maryland and has substantially all personal property, such as household effects, furniture, and pets, in Maryland.
    a. A student who is attending school or living outside Maryland at the time of application for admission to a USM institution, may submit evidence (as outlined in Section III.C, below) in order to prove, by clear and convincing evidence, that the student has the continuous intent to reside in Maryland indefinitely and for a primary purpose other than that of attending an educational institution in Maryland.
    b. The USM institution reviewing an application of a student described under paragraph 1.a may permit the student to submit evidence at the initial determination stage or may require a student to submit evidence through Petition for Change in Classification under Section IV.

2) The student has paid Maryland income tax on all taxable income, including all taxable income earned outside Maryland. If the student has earned any taxable income during the Applicable Period, the student must have filed a Maryland Resident Tax Return. If the student is Financially Dependent (as defined in this Policy), then the person on whom the student is Financially Dependent shall meet the tax filing and payment requirements in this paragraph.
    a. A student who is Financially Dependent on a person who is not a resident of Maryland may submit additional evidence (as outlined in Section III.C, below) in order to prove, by clear and convincing evidence, that the student had the continuous intent to reside in Maryland indefinitely and for a primary purpose other than that of attending an educational institution in Maryland.
    b. The USM institution reviewing an application of a student described under paragraph 2.a may permit the student to submit additional evidence at the initial determination stage or may require a student to submit such evidence through Petition for Change in Classification under Section IV.
    c. If a student is not Financially Dependent and is not required to file a Maryland income tax return, the student may be asked by the institution reviewing the initial application, petition, or appeal, for additional information (e.g., a W-2 or 1099 form or other relevant documents).

3) If the student possesses a driver's license, it must be issued by Maryland. If the student was previously licensed in another state they must have held a Maryland driver's license for the past 12 consecutive months, or the student must show evidence that their driver's license was issued in Maryland within 60 days after moving to the state in accordance with Maryland Motor Vehicle Administration requirements.

4) If the student owns or leases a motor vehicle, it must be registered in Maryland. If the vehicle was previously registered in another state, it must have been registered for the past 12 consecutive months in Maryland, or the student must show evidence that the vehicle was registered in Maryland within 60 days after moving to the state in accordance with Maryland Motor Vehicle Administration requirements.

5) The student receives no public assistance from a state other than the State of Maryland or from a city, county, or municipal agency other than one in Maryland.

6) The student has the legal ability to live permanently and without interruption in the United States.

C. Additional Evidence

Additional evidence may be required during the Initial Determination pursuant to Sections B.1 and B.2, above, or when submitting a Petition for Change in Classification under Section IV.

Additional evidence must establish, by clear and convincing evidence, the student's intent to reside in Maryland indefinitely and for a primary purpose other than that of attending an educational institution in Maryland . All information submitted will be evaluated not only by how completely the criteria for in-state status are addressed, but also based upon the reliability, authenticity, credibility and relevance of the evidence and the totality of facts known to the institution.

Evidence that does not document a period of at least twelve (12) consecutive months immediately prior to and including the last date available to register for courses in the semester/term for which the student seeks in-state tuition status (the Applicable Period) is unlikely to establish the required intent under this Policy. The absence of objective, relevant evidence is generally considered to weigh against finding in-state status. A student's statement of intent to remain in Maryland in the future is generally not considered to be objective evidence under this Policy.

Students are not required to submit every item in the list below, but the evidence submitted must establish the student's intent to reside in Maryland indefinitely and for a primary purpose other than that of attending an educational institution. Evidence provided by a student may include, for example:

1) Evidence showing source of financial support:
    a. Maryland employment and earnings history through sources beyond those related to enrollment as a student in an educational institution (e.g., beyond support provided by work study, scholarships, grants, stipends, aid, student loans, etc.)

Tuition costs will be considered as a student expense only to the extent tuition exceeds the amount of any educational scholarships, grants, student loans, etc.;

b. Evidence the student is Financially Dependent, for the previous 12 months, upon a person who is a resident of Maryland; and/or

c. Evidence such as a divorce decree, separation agreement, court order, or other legal document which establishes why a student is Financially Dependent on a person living outside of Maryland. If the student meets the other criteria for residency, the student may be deemed in-state despite being Financially Dependent upon someone living out of state, if such evidence is available.

2) Evidence of substantial participation as a member of a professional, social, community, civic, political, athletic, or religious organization in Maryland, including professionally related school activities that demonstrate a commitment to the student's community or to the State of Maryland.

3) Registration as a Maryland resident with the Selective Service, if applicable.

4) Evidence that the student is married to a Maryland resident.

5) Evidence that the student attended schools in Maryland for grades K-12.

6) Evidence showing the student uses the student's Maryland address as the sole address of record for all purposes, including, for example, on health and auto insurance records, bank accounts, tax records, loan and scholarship records, school records, military records, leases, etc.

7) An affidavit from a person unrelated to the student that provides objective, relevant evidence of the student's conduct demonstrating the student's intent to reside in Maryland primarily for a purpose other than that of attending an educational institution in Maryland.

8) Evidence of life and employment changes that caused the student to relocate to Maryland for reasons other than primarily educational purposes (e.g., marriage to a Maryland resident, divorce, family relocation, taking care of a sick family member, etc.).

9) Voter registration in Maryland; and/or

10) A Maryland MVA-issued identification card

IV. CHANGE IN RESIDENCY CLASSIFICATION FOR TUITION PURPOSES

A. Petition for Change in Classification for Tuition Purposes

After the initial residency determination is made, a student seeking a change to in-state residency status for tuition purposes should consult institution procedures for information on how and when to submit a Petition for Change in Classification for Tuition Purposes that includes all the information the student wishes the institution to consider. All information must be submitted by the institution's deadline for submitting a petition before or during the semester for which the

student seeks reclassification. Only one Petition may be filed per semester or term. Petitions may not be initiated for a semester or term that has already been completed.

B. Criteria for Change in Residency Status

A student seeking reclassification from out-of-state to in-state status must demonstrate, by clear and convincing evidence, that for at least twelve (12) consecutive months immediately prior to and including the last date available to register for courses for the semester/term for which the student seeks in-state residency status (the Applicable Period), the student had the continuous intent to:

1) make Maryland the student's permanent home;
2) abandon residency in the student's former home state;
3) reside in Maryland indefinitely; and
4) reside in Maryland primarily for a purpose other than that of attending an educational institution in Maryland.

A student will demonstrate the requisite intent by establishing (providing appropriate documentation as necessary) that, for the Applicable Period, the student has satisfied all criteria for in-state status in Section III.B of this Policy.

Evidence of intent may include, but is not limited to, evidence described in Section III.C.. Evidence of intent must be clear and convincing and will be evaluated not only by how completely the criteria are addressed, but also based upon the reliability, authenticity, credibility, and relevance of the evidence and the totality of facts known to the institution.

V. CRITERIA FOR IN-STATE STATUS BY EXEMPTION

Students who meet the criteria for the following exemptions shall be eligible for in-state status for the period in which they qualify for the exemption (except as otherwise noted below).[2] Students who seek in-state status through any of the following exemptions must provide clear and convincing evidence through documentation, by the institution's deadline for the semester for which they seek in-state status, showing that they fall within one of the following categories:

A. A full-time or part-time (at least 50 percent) regular employee of USM or a USM institution.

B. The spouse or Financially Dependent child of a full-time or part-time (at least 50 percent) regular employee of USM or a USM institution.

C. An Active Service Member, or the spouse or Financially Dependent child of an Active Service member, who is stationed in Maryland, currently residing in Maryland, or is domiciled in Maryland.[3] Spouses and children who qualify for exemption under this provision will retain

[2] Changes in state or federal laws conferring in-state tuition status may not be reflected in this Policy immediately upon effect. However, students who meet the statutory criteria are eligible for in-state status as of the effective date of the law.
[3] Md. Code Ann., Educ. § 15-106.4.

in- state status for tuition purposes as long as they are continuously enrolled, regardless of whether the Active Service Member's station assignment, residence, or domicile remains in Maryland.[4]

D. Veterans currently living in or domiciled in Maryland who provide documentation that they were honorably discharged.[5]

E. Individuals currently residing in Maryland who are pursuing a course of education with educational assistance under chapter 30, 31, 33, or 35 of Title 38, or chapter 1606 of Title 10, of the United States Code.[6] An individual so described will continue to retain in-state status if they remain continuously enrolled (other than during regularly scheduled breaks between courses, semesters, or terms) at the same school.

F. Anyone who lives in Maryland and

1) Is using transferred Post-9/11 G.I. Bill® benefits (38 U.S.C. § 3319) and enrolls after the transferor's discharge or release from a period of at least 90 days of service in the active military, naval or air service;
2) Is using transferred Post-9/11 G.I. Bill® benefits (38 U.S.C. § 3319) and the transferor is a member of the uniformed services who is serving on active duty;
3) Is the child or spouse of a person who died while serving on duty in the Armed Forces, on or after September 11, 2001 and is entitled to benefits under 38 U.S.C. § 3311(b)(8)-(9).
4) Is using benefits through the Survivors' and Dependents' Educational Assistance Program (DEA) (38 U.S.C. chapter 35); or
5) Is entitled to rehabilitation under 38 U.S.C. § 3102(a).

An individual described in this paragraph will continue to retain in-state status if the individual is using any of the above educational benefits and remains continuously enrolled (other than during regularly scheduled breaks between courses, semesters, or terms) at the same school.

G. A member of the Maryland National Guard, as defined in the Public Safety Article of the Annotated Code of Maryland, who joined or subsequently serves in the Maryland National Guard to: (i) provide a critical military occupational skill; or (ii) be a member of the Air Force Critical Specialty Code as determined by the National Guard. (Maryland National Guard members may also qualify if they meet the criteria in paragraph C above.)[7]

H. For UMGC only, any Active Service Member or their spouse or Financially Dependent child.

I. A graduate assistant appointed through a USM institution for the semester/term of the appointment. Except through prior arrangement, this benefit is available only for enrollment at the institution awarding the assistantship.

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[4] *Id*.
[5] *Id*.
[6] 38 U.S.C. § 3679(c).
[7] *Id*.

J. A full-time public school teacher in the first year of employment by a Maryland local education agency who resides in Maryland and meets the criteria for a residency waiver in § 15-106.2 of the Education Article, Annotated Code of Maryland.

K. The "eligible dependent" of a Maryland public safety employee, under § 18-601 of the Education Article, Annotated Code of Maryland, who is eligible for the Edward T. and Mary A. Conroy and Joan B. Cryor Scholarship.

L. The Spouse or Child of a State or Local Public Safety Employee (as defined in § 18-601 of the Education Article, Annotated Code of Maryland) who died as a result of or in the performance of duties.[8]

M. A person who has completed all service hours in an AmeriCorps Program in Maryland or who has completed a service program under the Maryland Corps Program, pursuant to Title 9, subtitle 28 of the State Government Article, Annotated Code of Maryland, as provided in § 15-106.9 of the Education Article, Annotated Code of Maryland.

N. A person who has been certified by the Director of the Peace Corps as having served satisfactorily as a Peace Corps volunteer and who is domiciled in Maryland, as provided in § 15 -106.11 of the Education Article, Annotated Code of Maryland.

O. Individuals, including undocumented immigrants, who do not meet the definition of nonimmigrant alien within the meaning of 8 U.S.C. § 1101(a)(15) and who meet all the criteria in § 15-106.8 of the Education Article, Annotated Code of Maryland.

P. Members of the U.S. Foreign Service who are on active duty for a period of more than 30 days and whose domicile or permanent duty station is in Maryland, and their spouses and Financial Dependents. Members and their spouses and Financial Dependents who qualify for in-state status will continue to hold in-state status while continuously enrolled at the institution, notwithstanding a subsequent change in the permanent duty station of the member to a location outside Maryland.

Q. Members of the Intelligence Community, as defined in 50 U.S.C. § 3003(4), who have served in that position of employment for a period of more than 30 days and whose domicile or permanent duty station is in Maryland, and their spouses and Financial Dependents. Members and their spouses and Financial Dependents who qualify for in-state status will continue to hold in-state status while continuously enrolled at the institution, notwithstanding a subsequent change in the permanent duty station of the member to a location outside Maryland.

R. Citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, as provided in the Consolidated Appropriations Act, 2024, Pub. L. No. 118-42, Div. G, Title II, § 209(b)(1)(E).

[8] Md. Code Ann., Educ. § 15-106.12.

VI. DEFINITIONS

A. Active Duty means full-time duty in the active service of a uniformed service, and includes full-time training duty, annual training duty, full-time National Guard duty, and attendance, while in the active service, at a school designated as a service school by law or by the Secretary concerned.[9]

B. Active Service Member means an individual who is:
   1) an Active Duty member of the Uniformed Services; or
   2) serving in a Reserve Component of the Uniformed Services on Active Duty orders.[10]

C. Armed Forces means the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.[11]

D. Child: A child is a natural child or a child legally adopted pursuant to a court order recognized under the laws of Maryland.

E. Financially Dependent: For the purposes of this Policy, a financially dependent student is one who has been claimed as a dependent on another person's prior year tax returns and/or receives fifty percent or more in educational and living expenses from another person. A person who is a ward of the State of Maryland is also considered Financially Dependent for purposes of this Policy.

F. Foreign Service means:
   1) Chiefs of mission, appointed under 22 U.S.C. § 3942(a)(1) or § 3982(c).
   2) Ambassadors at large, appointed under 22 U.S.C. § 3942(a)(1).
   3) Members of the Senior Foreign Service, appointed under 22 U.S.C. § 3942(a)(1) or § 3943, who are the corps of leaders and experts for the management of the Service and the performance of its functions.
   4) Foreign Service officers, appointed under 22 U.S.C. § 3942(a)(1), who have general responsibility for carrying out the functions of the Service.
   5) Foreign Service personnel, United States citizens appointed under 22 U.S.C. § 3943, who provide skills and services required for effective performance by the Service.
   6) Foreign national employees, foreign nationals appointed under 22 U.S.C. § 3943, who provide clerical, administrative, technical, fiscal, and other support at Foreign Service posts abroad.
   7) Consular agents, appointed under 22 U.S.C. § 3943 by the Secretary of State, who provide consular and related services as authorized by the Secretary of State at specified locations abroad where no Foreign Service posts are situated.[12]

G. Regular Employee: A regular employee is a person employed by USM or a USM institution who is assigned to a State budget line or who is otherwise eligible to enroll in a State retirement

[9] 37 U.S.C. § 101.
[10] Md. Code Ann., State Gov't § 9-901.
[11] 10 U.S.C. § 101.
[12] 22 U.S.C. § 3903.

system. Examples of categories NOT considered regular employees are graduate students, contingent employees, and independent contractors.

H. Reserve Component means:
   1) the Army National Guard of the United States;
   2) the Army Reserve;
   3) the Navy Reserve;
   4) the Marine Corps Reserve;
   5) the Air National Guard of the United States;
   6) the Air Force Reserve;
   7) the Coast Guard Reserve; or
   8) the Reserve Corps of the Public Health Service.[13]

I. Spouse: A spouse is a partner in a legally contracted marriage.

J. Uniformed Services means the Armed Forces and the Commissioned Corps of the National Oceanic and Atmospheric Administration and of the Public Health Service.[14]

K. Veteran has the meaning stated in 38 U.S.C. § 101, which is a person who served in the active military, naval, air, or space service, and was discharged or released therefrom under conditions other than dishonorable. Under this Policy, "Veteran" shall also include an individual who served on Active Duty in the Uniformed Services and was honorably discharged.

[13] 37 U.S.C. § 101.
[14] *Id*.