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**IDAPA 08
TITLE 01
CHAPTER 04**

08.01.04 - RESIDENCY

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 33-3717B, Idaho Code. (5-8-09)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is Residency. (3-29-17)

02. Scope. This chapter governs residency classification for tuition purposes for the four-year institutions and Eastern Idaho Technical College under the governance of the State Board of Education and the Regents of the University of Idaho pursuant to Section 33-3717B, Idaho Code. (3-29-17)

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES.

Written interpretations to these rules in the form of explanatory comments are available from the Office of the State Board of Education, 650 West State Street, Room 307, Boise, Idaho 83720. (1-1-94)

003. ADMINISTRATIVE APPEALS.

Unless otherwise provided for in the rules of the State Board of Education or in the State Board of Education Governing Policies and Procedures, all administrative appeals allowed by law shall be conducted as provided herein. (3-29-17)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. (3-29-17)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the State Board of Education is in Boise, Idaho. (3-29-17)

01. Mailing Address. The mailing address is PO Box 83720, Boise, Idaho 83720-0037. (3-29-17)

02. Street Address. The State Board of Education's street address is 650 West State Street, Room 307, Boise, Idaho 83702. (3-29-17)

03. Office Hours. The office hours are from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. (3-29-17)

006. PUBLIC RECORDS ACT COMPLIANCE.

This rule has been promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and is a public record. (3-29-17)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Accredited Secondary School. An Idaho secondary school accredited by a body recognized by the State Board of Education. (3-29-17)

02. Armed Forces. The United States Army, Navy, Air Force, Marine Corps, Coast Guard, and their reserve forces. It does not include the National Guard or any other reserve force. (3-29-17)

03. Continuously Resided. Physical presence in the state for twelve (12) consecutive months. Absence from the state for normal vacations, family travel, work assignments, short-term military training, and similar occasions during the twelve (12) month qualifying period, in and of itself, will not be regarded as negating the continuous residence of the individual. (3-29-17)

04. Full-time Employment. Employment consisting on average of at least thirty (30) hours of service per week, or one hundred twenty (120) hours of service per month. (3-29-17)

05. Full-time Student. A student taking the number of credits set by the State Board of Education to constitute a full course load. (3-29-17)

06. Support. "Support" means financial support given to the student during the twelve (12) months preceding the opening date of the term for which resident status is requested, but shall not include educational scholarships or grants provided to the student to attend a postsecondary educational institution. Any student who receives less than fifty percent (50%) support may demonstrate this by showing that he is not claimed as a dependent by a parent or guardian for income tax purposes or that a parent or guardian provides less than fifty percent (50%) of the cost of attending an institution according to the financial aid office of that institution or that other similar evidence exists of parental support such as dental bills, medical bills, etc. (5-8-09)

011. -- 099. (RESERVED)

100. RESIDENT CLASSIFICATION BY ALL INSTITUTIONS.

Any student classified as a resident student for purposes of tuition by one of the institutions or Eastern Idaho Technical College shall be considered a resident by all other institutions. (3-29-17)

101. RESIDENCY CLASSIFICATION PROCESS.

All requests for residency reclassification must be submitted by the student to the institution by the 10th day of the term in which reclassification is sought. Each institution shall develop its own procedures to determine the residency status of applicants, disseminate information about the classification process, and determine the documentation required of each applicant to the institution. The institution may require whatever records, documents, or affidavits it deems necessary to classify each applicant correctly. It is the responsibility of the institution to notify the student in a timely manner of the documentation required for the classification process, and it is the responsibility of the student to provide the documentation by the deadline established by the institution. Each student shall be notified in writing of the residency classification decision within fifteen (15) days of such determination being made. (3-29-17)

102. FACTORS FOR DETERMINING DOMICILE.

The following, if supported by documentation, support a claim of domicile in Idaho. (3-29-17)

01. Tax Returns and Employment. Both of the following, if done for at least twelve (12) months before the term in which the student proposes to enroll, proves the establishment and maintenance of domicile in Idaho for purposes other than educational: (3-29-17)

a. Filing of Idaho state income tax returns covering a period of at least twelve (12) months before the term in which the student proposes to enroll as a resident student; and (3-29-17)

b. Full-time employment or the hourly equivalent in Idaho. (3-29-17)

02. Multiple Factors. Five (5) of the following factors, if done for at least twelve (12) months before the term in which the student proposes to enroll, proves the establishment and maintenance of domicile in Idaho for purposes other than educational: (3-29-17)

a. Ownership or leasing of a residence in Idaho. (3-29-17)

b. Registration and payment of Idaho taxes or fees, other than sales or income tax, including registration and payment of Idaho taxes or fees on a motor vehicle, mobile home, travel trailer, or other item of personal property for which state registration and the payment of state tax or fee is required. (3-29-17)

c. Registration to vote for state elected officials in Idaho at a general election. (1-1-94)

d. Holding of an Idaho driver's license or state-issued identification card. (3-29-17)

- e. Evidence of the abandonment of a previous domicile. (1-1-94)
- f. The establishment of accounts with financial institutions in Idaho. (3-29-17)
- g. Other similar factors indicating intent to be domiciled in Idaho and the maintenance of such domicile. Factors may include, but are not limited to, enrollment of dependent children in Idaho elementary or secondary schools, establishment of acceptance of an offer of permanent employment for self in Idaho, documented need to care for a relative in Idaho, utility statements, or employment documentation. Multiple factors under this category may be used. (3-29-17)

04. Idaho Elementary and Secondary Students. If a student meets the requirements set forth under Idaho Code, Section 33-3717B(1)(c), that student shall not be required to meet the twelve (12) month requirement for establishing domicile. (3-29-17)

103. INDEPENDENT STUDENTS AND DOMICILE.

Domicile in the state of Idaho primarily for purposes other than education includes a domicile in Idaho that was established by the student prior to pursuing higher education in Idaho unless the student's Idaho domicile was thereafter interrupted by an intervening change of domicile. (3-29-17)

104. APPEALS PROCEDURE.

Any student who contests the residency classification decision made by the institution may appeal the decision. The student shall be informed of his right to appeal by the institution at the time the student is notified of the residency classification decision. The student must request the appeal in writing and agree to the release of information provided to determine residency to the review body, and comply with deadlines established by the institution for requesting such appeal. (3-29-17)

01. Institution Appeal. The chief executive officer of each institution or his designee shall appoint or cause to be appointed a committee of no less than three (3) no more than five (5) members who represent faculty and administration and who will constitute a residency review committee. Within thirty (30) days following receipt of the student's written request to appeal the residency classification decision, the committee must meet and review the ruling. The student appealing is responsible for presenting such evidence as the committee may request and such other evidence as the student may deem pertinent to his residency status. The individual responsible for the initial residency classification decision may be present, if requested by the committee, to answer questions from the committee. The student must be notified in writing of the committee's decision. The decision of the committee is final unless the student elects to appeal the decision to the State Board of Education. (3-29-17)

02. Board Appeal. Any student who contests the decision of the residency review committee may appeal to the State Board of Education. In such case, the student must advise the chief executive officer of the institution, in writing, of his request to submit an appeal. The chief executive officer will submit the request to the Office of the State Board of Education for review by the Board or the Board's designated representatives. The decision of the State Board of Education is the final determination and is binding on all parties concerned, subject to the student's statutory right to appeal the final determination to district court. (3-29-17)

104. -- 999. (RESERVED)

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