



Residency Determination Service (RDS)

Guidebook

*A policy guide on State Residency Classification for Tuition Purposes
and State Financial Aid*

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I. Introduction

A. Purpose of the RDS Guidebook

Under the authority of the North Carolina State Education Assistance Authority (SEAA), the Residency Determination Service (RDS) is charged with implementing the laws governing the classification of residence for tuition and state financial aid eligibility. The purpose of this *Guidebook* is to outline the laws and policies necessary to render residence classification decisions accurately and effectively.

This *Guidebook* may also be used by students and their families to assist in understanding the legal and procedural requirements of resident classification for tuition,¹ and eligibility for State financial aid at North Carolina's institutions of higher education.

B. Administrative Authority

The standards for determining resident status for tuition are set forth in North Carolina General Statute (NCGS) section 116-143.1. Session Law 2015-241 authorized the SEAA to perform all functions necessary to apply the criteria in NCGS §116-143.1 using a coordinated, centralized process. Session Law 2015-241 also directed the University of North Carolina System (UNCS) and the North Carolina Community College System (NCCCS) to take the actions necessary to facilitate an orderly transition from the previous campus-based residency classification system to the current coordinated and centralized process. Subsequently, Session Law 2016-57 codified SEAA's authority to administer RDS under NCGS §116-143.1(d) and NCGS §116-204(12).

C. Overview of Residence for Tuition and State Grants Eligibility

Three broad points may be helpful in understanding and implementing state law governing the determination of residency for tuition at institutions of higher education:

- establishment of domicile in NC,
- duration of domicile in NC, and
- use of parent information as *prima facie*, or primary, evidence of domicile.

First, when determining residency for tuition and state grant purposes, there is a difference between residence and domicile. Residence is a place of abode and may be either permanent or temporary. By contrast, domicile is never temporary; rather, it is one's permanent and primary established home. To be domiciled in a place, one must intend to remain there for an indefinite duration (permanently), and it is the place where one intends to return if absent. A person may have many residences but may only have one domicile at a given time.

¹ NCGS §116-143.1

For purposes of this *Guidebook*, "domicile" is synonymous with "legal residence." Domicile maybe established by:

- *Birth*: In this case, a child has the domicile of his or her parents; or
- *Law*: In these instances, domicile is defined by law, as in the case of a minor whose domicile is presumed to be that of his or her parents or legal guardians; or
- *Choice*: Upon reaching the age of adulthood (age 18 in North Carolina), a person of capacity may independently establish a domicile in the state of his or her choice.

Evidence of North Carolina domicile for tuition purposes includes *actions that would normally be characteristic and expected of any permanent resident*. A variety of evidence is considered when evaluating requests for in-state tuition status; however, no single factor or combination of factors may be considered conclusive evidence of domicile. Below is an illustrative list of the kinds of information and conduct that may be considered as evidence in determining domicile; it should **not** be considered a checklist for establishing residency. Each residency determination request is considered on its own, and even those who meet each element below still may not qualify for in-state tuition:

- Living or not living in the home of one's parents
- Voter registration and voting
- Registering, licensing, and maintaining a motor vehicle
- Driver's license or state ID card
- Location of permanent employment
- Filing of a North Carolina state income tax return
- Places where one resides during periods between academic sessions
- Location of personal property
- Property tax assessment
- Ownership of residential real property that is one's primary residence (including maintenance and payment of expenses associated with the property)
- Place from which one graduated from high school
- Place of residence prior to enrollment in an institution of higher education
- Sources of one's financial support
- Citizenship or immigration status

Second, state law mandates that only those who can demonstrate at least 12 months of uninterrupted domicile in North Carolina are eligible for in-state tuition and state financial aid. State law also places on applicants the burden of establishing, by a *preponderance of evidence*, that they are domiciled, rather than merely residing, in North Carolina. The 12-month (365 days) qualifying period begins at the time that a *cluster of domiciliary acts* is established as confirmed by valid evidence.

To be eligible to be determined as a resident for tuition and state financial aid (in-state tuition and state grants), a person must establish that his or her presence in the State currently is, and during the requisite 12-month qualifying period was, for purposes of maintaining a bona fide domicile rather than of maintaining a mere temporary residence such as to enroll in an institution of higher education.²

In short, a 12-month presence in North Carolina, even when coupled with a declaration of intent to remain permanently, does not, in and of itself, entitle an applicant to in-state tuition. RDS still must evaluate evidence of domiciliary acts and make an independent determination of whether a bona fide domicile has been established.

Third, state law also makes the legal residence of an individual's living parent(s) or legal guardian *prima facie evidence* of the individual's legal residence.³ This means that, at first view, without further investigation or presentation of evidence, the legal residence of the applicant is the same as that of his or her living parent(s) or legal guardian. This evidence may be rebutted or reinforced by other evidence relative to the applicant's age and general circumstances. For an applicant with non-resident parents, the older the applicant and more independent the applicant is from his or her parents, the more likely it is for the applicant to be able to demonstrate domicile in North Carolina.

The language of residency classifications includes many legal terms as well as certain lay terms which have a specialized meaning in the context of this *Guidebook*. North Carolina law clearly distinguishes "legal resident" from "resident for tuition purposes."⁴ A person may be a legal resident of North Carolina for certain purposes, such as voting, but might not meet all the requirements under North Carolina law to be a resident for tuition or state financial aid. To be a resident for tuition and state financial aid, the person must meet the specific legal requirements under North Carolina laws which are described in this *Guidebook*. This is the basis upon which the classification of residency for in-state tuition and state financial aid eligibility is made.

II. Laws Governing Classification Determinations

A. Fundamental Principles of the Law of Domicile

Since the benefit of in-state tuition and state financial aid is generally provided only to legal residents of North Carolina, understanding the legal principles of domicile is fundamental to a correct interpretation and application of North Carolina laws that regulate residency decisions. The primary North Carolina statute requiring domicile for in-state tuition is NCGS §116-143.1. Primary rules and policies requiring domicile for the eligibility of state-funded financial aid

² [NCGS §116-143.1](#)

³ [NCGS §116-141.1\(e\)](#)

⁴ [NCGS §116-143.1](#)

programs are found within each program policy.⁵ This Section outlines the fundamental principles of the law of domicile.

1. The Concept of Domicile

Domicile and its duration are the bases for determining resident status for tuition and state financial aid eligibility under North Carolina law. Residency status contains two basic elements: a person's residential presence in a state *and* that person's *intent* related to that presence.

Under North Carolina law⁶, residence and domicile are not the same. A person may have a residence in one location and his or her domicile in another. While residence is simply the actual location where the person is living at any time, domicile is the person's permanent, established home. If a person's actual residence and domicile are in different locations, the domicile is the location to which the person intends to return and remain either permanently or for an indefinite period. A domicile is not only a place where a person lives (a residence), but also the place that the person intends to make his or her home.

A person may have many residences but may only have one domicile. Once a person has established a residence as his or her domicile, it remains that person's domicile until they establish a new domicile. The burden of proof in proving a change in domicile falls on the person claiming that there has been a change in domicile. To establish a new domicile, it must be shown that the person abandoned the first domicile with the intention of not returning to it *and* established a new domicile with the intention of making the new residence a permanent home.

2. The Beginning Point of Inquiry in Determining Domicile

Generally speaking, state law mandates that only those who can demonstrate 12 months of uninterrupted domicile in North Carolina are eligible for in-state tuition.⁷ This law applies regardless of the age of the student seeking residence classification. Under North Carolina law, the domicile of the student's living parent(s) or legal guardian is *prima facie* evidence of the student's domicile.⁸ The student's domicile is therefore presumed to be that of his or her living parent(s) or legal guardian. In these cases, the student can either rebut (argue against) or reinforce (argue for) this legal presumption by the information he or she supplies to the RDS.

If a student has no living parents or legal guardian, there is no *prima facie* presumption of the student's domicile one way or the other to serve as the beginning point of inquiry in determining residency. In these cases, domicile is determined based on the information supplied by the student with no statutory presumption in favor of any piece of evidence.

⁵ [North Carolina State Education Assistance Authority Program Statutes and Rules](#)

⁶ [Hall v. Board of Elections](#), 280 N.C. 600, at 600-608 (1972). The *Hall* case is a voting rights case; while subsequent court decisions have modified the law of domicile as it relates to voting rights, the *Hall* decision can still be relied on for purposes of residence for tuition determinations. See, [Norman v. Cameron](#), 127 N.C. App. 44; 488 S.E.2d 297 (1997).

⁷ [NCGS §116-143.1\(b\)](#)

⁸ [NCGS §116-143.1\(e\)](#)

With few exceptions, students under age 18 are presumed to have the domicile of their parents or legal guardians. Students who are age 18 or older have the legal capacity, whether they choose to exercise it or not, to establish their own domicile. These students must, however, take affirmative steps to establish their own domicile rather than the domicile of their parents showing as primary.⁹

3. The Nature of Domiciliary Evidence

Several factors are considered when determining whether a student has established a domicile in North Carolina, as opposed to a mere temporary or secondary residence. First, the student must have the capacity to establish residency. Second, intent to establish residency is considered and measured by objectively verifiable conduct of the student. The conduct of the student, taken in total, must demonstrate an intention to make North Carolina his or her permanent dwelling place. Third, the determination of domicile does not depend on one fact or a required combination of certain circumstances. The determination is made based on all the facts and circumstances taken together and viewed as a whole by showing by a preponderance of evidence (more likely than not) that some particular location is the student's domicile. Often this evidence will include personal statements provided by the student regarding his or her intent to make a residence his or her domicile. While such statements are appropriate evidence to consider, there is no requirement that they be accepted at face value.¹⁰ The student's conduct and actions taken toward establishing a domicile are generally of greater evidentiary value than personal statements, especially when the student's conduct and actions are inconsistent or in conflict with the student's statements of intent. Statements of a student's intent to take actions towards establishing domicile at some time in the future generally are not considered to be sufficient.

4. Weighing and Balancing Domiciliary Evidence; the Burden of Proof

For a student to be classified as a resident for tuition purposes, the balancing of all the evidence must show that there is a *preponderance of evidence* supporting the student's claim of domicile. To satisfy this requirement, more of the evidence than not must consist of a cluster, focus or accumulation of favorable information that the student established a domicile in North Carolina at a point in time at least 12 months (365 days) prior to the date of submission of the residency determination request.

As described above, under North Carolina law, documentation that the student's living parents, or legal guardians, are legal residents of North Carolina as defined in this *Guidebook* is *prima facie* evidence that the student is also a legal resident of North Carolina. As *prima facie* evidence, it is a favorable factor to be weighed along with all other information presented in reaching a conclusion. This presumption can be rebutted by other evidence to the contrary, such as in the case of a student who is an independent adult who has never been domiciled in North Carolina even if the student's parents have now established domicile in North Carolina.

The law requires examination not only of *what* actions a student took to establish domicile, but also *why* the student performed those actions. If the student has shown by express statements

⁹ [Hall, at 608.](#)

¹⁰ [Norman v. Cameron, 127 N.C. App. 44, 50, 488 S.E.2d 297, 301 \(1997\)](#)

or other actions appearing in the record that his or her entry into the State was motivated, for example, by academic enrollment, and that the stay in North Carolina is not for the purpose of making North Carolina his or her permanent home, then the student's intent behind the domiciliary actions must be taken as other than bona fide (good faith and genuine) domiciliary intent, and the request for residency determination for in-state status must be denied.¹¹

B. Special Rules under the Law of Domicile

In addition to the fundamental legal principles of domicile discussed in Section A, above, the determination of domicile and residence status for tuition purposes is also affected by special rules set out in the North Carolina statutes. For some (but not all) of these rules, eligible out-of-state students remain classified as nonresidents but might be eligible to be charged the in-state tuition rate. These special rules are discussed in this Section and Section III, below.

1. Minors

Determining the domicile of a student who is a minor starts with the following basic common law principles:

- A person under 18 years of age is a minor under North Carolina law and deemed, under common law, dependent on his or her parents for domicile.
- The minor's domicile is that of the biological or adoptive parent(s).
- If one parent is deceased, the minor's domicile is that of the surviving parent.
- If a minor is an orphan and has no legal guardian, the minor's domicile is that of the person with whom he or she lives. Otherwise, the minor's domicile remains at the place where he or she last acquired a domicile through a parent or legal guardian.

While these basic common law principles should be considered in determining the domicile of a minor, the specific requirements of the North Carolina General Statutes must be followed.¹² The primary North Carolina statute governing determinations of domicile in cases involving a minor is NCGS §116-143.1. This statute includes the general presumption (*prima facie* evidence) that the domicile of a minor is the same as that of the minor's living parent(s) or legal guardian(s).¹³ NCGS §116-143.1 also addresses some specific circumstances involving minors:

a. Divorced or Separated Parents

If the minor's parents are divorced, legally separated, or otherwise living apart from each other, the minor's domicile is that of the parent who is legally entitled to claim, and in fact does claim, the minor as a dependent child for North Carolina individual income tax

¹¹ *Id.*, at 50

¹² *Fain v. State Residence Committee*, 117 N.C. App. 541, 544; 451 S.E.2d 663, 665 (1995); see also, *Biddix v. Henredon Furniture Industries*, 76 N.C. App. 30, 331 S.E.2d 717 (1985).

¹³ NCGS §116-143.1(e); This presumption, which is rebuttable, is not limited to minors, but is applicable to persons of any age if the person is living with his or her parent(s) or legal guardian.

purposes^{14,15} To qualify under this provision, the parent claiming the minor as a dependent must also be a legal resident of North Carolina. The length of time the minor is deemed to be domiciled in North Carolina under this provision is the period in which the parent claimed the minor as a dependent. For example, if the North Carolina resident parent claimed the minor as a dependent for three years, the minor is deemed to have been domiciled in North Carolina for three years.

Many minors who are deemed legal residents under the circumstances described in the paragraph above become adults (reach age 18) during their senior year in high school or in the summer between high school completion and enrollment in college. Practically speaking, most students in this situation are not in a position to establish a new domicile. Therefore, to preserve the domicile status conferred on a minor under the circumstances described above, the student retains his or her domicile status upon turning age 18 if that student then acts like a North Carolina resident as much as possible, and if the person enrolls at a North Carolina institution of higher education not later than the fall term after completion of education requirement for admission (usually high school graduation).

Under this provision, a person might accrue the 12-month period of North Carolina domicile necessary for resident tuition status in several ways, because periods of dependency on a resident parent, emancipated residence in North Carolina, and resident adulthood in North Carolina all may be pieced together to total the necessary 12 months (365 days).

Students living full time with a custodial biological parent in North Carolina may be domiciled in North Carolina (subject to meeting the requirements of NCGS §116-143.1) even if the student is not claimed by that parent as a tax dependent.

b. Emancipated Minors

Under certain circumstances, a person who has not achieved the chronological age required by law for adulthood (in North Carolina, age 18) may be treated as an adult for legal purposes. Such a person, called an “emancipated minor,” is legally capable of establishing a domicile independent of that of his or her parents, although he or she must still demonstrate that a separate domicile in fact has been established when seeking in-state status for tuition.

In North Carolina, a minor becomes emancipated (in other words, a legal adult even if the minor is not yet age 18) in one of two ways: by a *decree of emancipation* issued by a District Court Judge in the minor’s county of residence, or by becoming *legally married*. A minor under the age of 16 cannot become emancipated.¹⁶

In other states, emancipation might be achieved by other means, and as long as the minor is able to produce a court order, decree of emancipation, or other evidence of emancipation that is legally valid in that state, that minor shall have capacity to apply for in-state tuition with independent status.

¹⁴ [NCGS §116-143.1\(j\)](#)

¹⁵ [The Tax Simplification and Reduction Act \(House Bill 998\)](#) was signed into law on July 23, 2013, and made significant changes to the individual income tax law for tax years beginning on or after January 1, 2014; RDS will use Federal Tax forms to validate a parent legally claiming a student on tax forms when needed.

¹⁶ [NCGS Chapter 7B, Article 35](#)

A student asserting emancipation as part of a claim of domicile in North Carolina for tuition must be able to present not only legally valid evidence of his or her emancipated status, but also all other information related to a claim of domicile as discussed elsewhere in this *Guidebook*.

2. The “Five-Year Rule” Exception

There are provisions and statutory language in tuition law for residents living in North Carolina for more than five years. However, there are no automatic assumptions or benefits for tuition or State-funded aid without a complete review.

If the student has lived uninterrupted in North Carolina for five consecutive years immediately prior to enrolling or reregistering at an institution of higher education, the domicile of the student’s parent(s) is not presumed to be the student’s domicile. The parent(s)’s domicile may be considered as part of the overall evidence of the student’s domicile, but it cannot be considered as *prima facie* evidence of the student’s domicile even if the student is a minor.¹⁷ In these cases, as with those of students who have no living parents or legal guardians, domicile is determined based on all the information supplied by the student. However, the student must still meet the 12-month duration requirement. Generally, the capacity to establish duration does not begin until the student reaches the age of majority (18 years).

There is a specific statutory provision relating to minors who have lived in North Carolina for at least five consecutive years with an *adult relative other than their parents*.¹⁸ This exception is commonly referred to as the “five-year rule.” Under this provision, the benefit of resident status for tuition (not legal residence or domicile), is given to minors who, immediately prior to the beginning of the academic term in which they are enrolled and for which resident status is sought, have lived five or more consecutive years in North Carolina in the home of an *adult relative, other than a parent*, who is domiciled in this State; and for whom the adult relative has functioned during those years as a de facto guardian and has exercised day-to-day care, supervision, and control of the minor.

It is important to note that, under this provision, it is the actual care of the minor, not necessarily financial support of the minor, that is the determining factor (as opposed to the case of divorced or separated parents discussed above, where financial support as evidenced by a claim of dependent status for income tax purposes is the determining factor).

Under this provision, a minor may satisfy the five-year requirement by living with different relatives (if all are domiciled in North Carolina) for shorter, but consecutive, periods of time that total or exceed the required five-year period. For example, the minor could live for two consecutive years with a grandmother and then the next three consecutive years with an uncle and satisfy the five-year requirement (assuming both the grandmother and the uncle were residents of North Carolina and acted as the de facto guardian of the minor during these periods). When calculating eligibility under this provision, the time credited towards the five

¹⁷ [Fain v. State Residence Committee, 117 N.C. App. 541, 451 S.E.2d 663 \(1995\)](#)

¹⁸ [NCGS §116-143.1\(k\)](#)

years while the student was a minor must meet the statutory requirements as outlined above. They must be living with an adult relative, other than a parent, who is domiciled in North Carolina.

This provision also addresses what happens when a minor who qualifies as a resident for tuition under these circumstances becomes an adult. If a minor qualifies for, or is awarded, resident status for tuition under this provision immediately prior to the minor's 18th birthday, the minor is deemed to be a legal resident of North Carolina when the minor turns age 18. A student who achieves legal resident status in this manner is deemed to have legal residency in North Carolina of at least 12 months' duration unless the student abandons his or her legal residence in North Carolina. Thus, achieving majority (turning age 18), whether before or after initial enrollment, does not, of itself, remove the benefit of in-state status under this provision. Only by abandoning his or her North Carolina domicile does the student lose the benefit of in-state status. (Note that the individual might not lose his or her resident status even if the 12-month grace period discussed in Section III applies).

3. Qualifying Federal Service Members: Armed Forces and Foreign Service Personnel & Their Spouses & Dependents

There are provisions in Federal and State Law¹⁹ that allow for an in-state tuition exception for eligible non-resident Federal Service Members assigned to duty in North Carolina:

- a. A member of the Armed Forces who is on active duty for a period of more than 30 days, as defined in 10 USC § 101²⁰.
- b. A member of the Foreign Service, as defined in 22 USC § 3903²¹, who is on active duty for a period of more than 30 days.

An active-duty member of the Armed Forces²² or an active member of the US Foreign Service (and their eligible spouse and their eligible dependents) who qualifies for admission to an institution of higher education in the State may qualify for in-state tuition in two ways:

- Being a domiciliary of the State of North Carolina, as attested by the state indicated on the member's Leave and Earning Statement (LES) for the most recent 12 months, or other documentation; or
- Under a special provision of North Carolina and Federal law requiring that a nonresident active-duty military personnel or a Foreign Service member currently assigned to a permanent duty station in North Carolina, and their eligible spouse and dependents be charged in-state tuition.²³

¹⁹ NCGS §116-143.3; NC Session Law 2023-134

²⁰ 10 USC § 101

²¹ 22 USC § 3903, effective August 1, 2024.

²² Under federal law, "active-duty" is defined as a "member of the armed forces who is on active-duty for a period of more than 30 days." [20 USC 1015d, Sec. 135\(d\)](#)

²³ [NCGS §116-143.3](#); [20 USC 1015d, Sec. 135\(a\)](#)

Under the special in-state tuition provisions, Federal Service members and their eligible spouse and dependents, if a non-resident of North Carolina, but the Federal Service member is currently *stationed in North Carolina* because of his or her duty assignment, then the member as well as his or her spouse, and eligible dependents, who are *living with the member* shall be charged the in-state tuition rate along with any applicable mandatory fees. IRS rules and official government forms are used to determine who qualifies as a spouse or dependent of a member of the Federal Service.

A person charged less than the out-of-state tuition rate solely by reason of this special provision, *will still be considered as non-residents* and shall not, during the period of receiving the reduced tuition benefit, qualify for or be the basis of conferring the certain benefits outlined in NCGS §116-143.1(g), (h), (i), (j), (k), or (l).

A student who is an active-duty service member, or Foreign Service member, including their spouse or eligible dependents, who is neither domiciled nor stationed on active-duty in North Carolina, is not automatically eligible for in-state tuition under this statute. There are limited provisions in the Veterans Choice Act for these individuals if they are currently awarded and using a military educational benefit (*see Section 4 – Veterans below*). Such tuition exceptions are handled by the campus upon verification.

Active-duty members of the armed services include those serving in the United States Air Force (including members of the Space Force²⁴), Army, Coast Guard, Marine Corps, and Navy; the North Carolina National Guard; and any *activated* Reserve members of these military units may also be eligible for a tuition exception.

Non-domiciled military reservists (other than those of the North Carolina National Guard) must be assigned to active-duty to a permanent duty station in North Carolina to qualify for the in-state tuition benefit exception.

Unlike other military personnel, any member of the North Carolina National Guard, regardless of whether the person is a legal resident of North Carolina, is eligible for in-state tuition rate during the Guard member's period of service whether in a reserve or active status.²⁵ However, the in-state tuition benefit exception *does not apply* to the spouse or dependents of non-resident Guard members unless the Guard member is currently serving in North Carolina on active-duty.²⁶ Non-domiciled spouses or dependents of non-resident Guard members can become eligible for an in-state tuition exception when (and only when) the member is activated for National Guard duty in North Carolina.

If a non-domiciled, active-duty member of the armed services or Foreign Service member or eligible family member qualifies for the in-state tuition rate and fees and his or her duty status changes, the following rules apply:

²⁴ [10 USC §9081](#)

²⁵ [NCGS §116-143.1\(h1\)](#)

²⁶ [NCGS §116-143.3\(b\)](#)

a. Reassignment

If the active-duty member or US Foreign Service member is reassigned, meaning the member receives Permanent Change in Station orders to a duty station outside of North Carolina, the service member and his or her spouse and dependent relatives would continue to be eligible for the in-state tuition rate, *if they enrolled prior to the service member's reassignment*. In this case, if the service member, spouse, or dependent remains continuously enrolled in the same degree or other program in which they were enrolled at the time of reassignment, they can continue to keep the same tuition exception. The service member's dependent must continue to be dependent to qualify for the benefit.

There is, however, a special provision for a student who, as a high school senior, was eligible for the active-duty military or Foreign Service member tuition rate exception as outlined above and received a letter of admission to a North Carolina college or university. In this case if the service member is transferred outside of North Carolina *prior to* the student's actual enrollment at the college or university, the student would be eligible to use the benefit so long as they enroll in the designated college or university by the *next fall term after acceptance*. In this case, they will be eligible to keep the tuition exception if they maintain continuous enrollment in the same program.²⁷

b. Retirement

If the active-duty military member or Foreign Service member retires, the service member and his or her spouse and dependents will continue to be eligible for the in-state tuition rate exception as long as they remain continuously enrolled in the degree or other program in which they were enrolled at the time of retirement. The service member's dependent must continue to be a dependent to qualify for the benefit. The student can return to RDS for review once they have met the full criteria for residency rather than merely a tuition exception.

c. Honorable Discharge

If the active-duty member receives an Honorable Discharge (no other type of discharge will qualify), the service member is eligible to keep the in-state rate tuition exception if he or she begins to establish legal residency in North Carolina within *30 days* of discharge *and* is continuously enrolled in the degree or other program in which he or she was enrolled at the time of Honorable Discharge. The student can return to RDS for review once they have met the full criteria for residency rather than merely a tuition exception.

A spouse or eligible dependent of an honorably discharged service member must begin to establish legal residency within *30 days* after the discharge, remain continuously enrolled in the degree or other program in which the dependent was enrolled at the time of discharge, and remain a dependent of the service member who is honorably discharged to continue to

²⁷ [NC Session Law 2021-9](#) ; [NCGS §143-116.143.3\(c1\)](#)

be eligible for the tuition exception for the in-state rate. The student can return to RDS for review once they have met the full criteria for residency rather than merely a tuition exception.

A North Carolina resident does not lose in-state status simply by joining the Armed Services or becoming a US Foreign Service member or by being assigned outside North Carolina as part of their duties.²⁸ To determine whether a military or Foreign Service member is a legal resident, consider the usual residency factors discussed elsewhere in this *Guidebook*. The domiciled member who is assigned outside of North Carolina has the burden of proving that North Carolina residency has been maintained by providing documentation in support of that claim.

Federal law allows the spouses of military personnel to retain legal residency (domicile) in the spouse's home state for voting and tax purposes after relocating from that state to accompany the military member when the military member is transferred to another state in compliance with the military member's military orders. Being able to retain legal residency for voting and tax purposes may make it easier for the spouse to retain domicile status in his or her home state.²⁹

An individual's eligibility to receive these military-related tuition benefits continues only so long as the requirements described in this Section, and any other applicable provisions of state and federal law, continue to be met. An individual's continued eligibility may be confirmed at regular intervals as determined by the educational institution. The definition of "continuous enrollment" discussed elsewhere in this *Guidebook* does not apply to active-duty military and Foreign Service member tuition exception.

4. Veterans

Under NCGS §116-143.3A³⁰ certain veterans of the armed services and other individuals who do not meet criteria to be considered a resident of North Carolina for tuition purposes and who are entitled to federal education benefits under 38 USC Chapter 30, 31, 33, or 35³¹ may be eligible under federal law to be granted a tuition exception to be charged the in-state tuition rate and applicable mandatory fees for enrollment without satisfying the 12-month residency requirement under NCGS §116-143.1.

A veteran, under this provision, is a person who served active duty for not less than 90 days in the Armed Forces, the Commissioned Corps of the US Public Health Service, or the National

²⁸ [NCGS §116-143.1\(h\)](#)

²⁹ [Military Spouses Residency Relief Act \(MSRRA\) \(Public Law 111-97\)](#)

³⁰ [NCGS §116-143.3A](#)

³¹ [US Senate Bill 1095 \(2021-2022\) was signed into law amending Section 3679\(c\) of title 38, United States Code to allow benefits awarded under Chapter 35 to be eligible effective for academic terms beginning on or after August 1, 2022.](#)

Oceanic and Atmospheric Administration (NOAA)³² and who was discharged or released from such service under conditions other than dishonorable.

A veteran may qualify for a tuition exception if he or she meets **all** the following criteria:

- The veteran lives in North Carolina and applies for admission to a North Carolina institution of higher education.
- Enrolls *after* the veteran's discharge or release from the Armed Forces, the Commissioned Corps of the US Public Health Service, or the National Oceanic and Atmospheric Administration.
- The veteran, or eligible covered individual, qualifies for, and uses, educational benefits pursuant to 38 USC Chapters 30, 31, 33, or 35.^{33, 34}
- The veteran provides the institution of higher education at which the veteran intends to enroll a letter of intent to establish residence in North Carolina.

A covered individual under this provision is defined as:

- A Veteran who lives in the state in which the Institution of Higher Learning (IHL) is located (regardless of formal state of residence) following discharge from a period of active-duty service of 90 days or more.
- A spouse or dependent child of a Veteran using transferred benefits who lives in the state in which the IHL is located (regardless of his/her formal state of residence) and enrolls in the school after the transferor's discharge from a period of active-duty service of 90 days or more.
- *A spouse or child of active-duty member* using transferred benefits who lives in the state in which the IHL is located (regardless of his/her formal state of residence).
- A spouse or child using benefits under the Fry Scholarship who lives in the state in which the IHL is located (regardless of his/her formal state of residence) and the person qualifies for admission to the institution of higher education as defined in NCGS §116-143.1(a)(3) and enrolls in the institution of higher education.
- The person is the recipient of transferred federal educational benefits pursuant to 38 USC Chapters 30, 31, 33, or 35³⁵.
- The person's abode is in North Carolina.
- The person provides the institution of higher education at which the person intends to enroll a letter of intent to establish residence in North Carolina.

³² There are no automatic statutory residency provisions or tuition exceptions for active members of the US Public Health Service or the NOAA, however those who are veterans of these services many qualify for a tuition exception when using an eligible benefit.

³³ <https://www.govregs.com/uscode/38/3679>

³⁴ Chapter 35 VA benefits eligible for academic terms beginning on or after August 1, 2022.

³⁵ Chapter 35 VA benefits eligible for academic terms beginning on or after August 1, 2022.

The provisions for such students are governed by federal law, including the Veterans Choice Act.³⁶ Verification of eligibility and awarding of a tuition exception is handled by the college or university. If the student meets the provisions for being awarded, and using, a military educational benefit based on verification with the VA, *the college or university* will adjust their tuition billing to the in-state rate for students who do not meet the regular criteria to be considered a North Carolina resident. Note that a previous stipulation that eligibly was limited to 3-years after the servicemember's discharge has been eliminated by revisions to the Choice Act as of August 1, 2021. Provisions under the Choice Act are adopted under North Carolina Law.^{37,38}

5. Other Non-Military Federal Personnel, Volunteers, Missionaries, and Expatriates

The domiciles of other non-military or US Foreign Service personnel employed by the federal government, volunteers with organizations that may require volunteers to work in locations outside of their home state, and missionaries and expatriates (individuals employed and living outside North Carolina) are not necessarily affected by assignment in or reassignment out of North Carolina.

Federal employees, volunteers, missionaries, and expatriates may establish domicile for themselves and their dependents by the usual requirements of residential acts plus intent. There is not, however, a specific statutory provision under law that grants residence status or tuition exceptions for Federal personnel, other than active-duty military and Foreign Service personnel and their families as discussed in the previous section above. Individuals employed by federal agencies such as the State Department and volunteers with government agencies such as the Peace Corps or expatriates transferred by an employer outside of the United States must establish and maintain domicile for tuition under the general rules of domicile provided in this *Guidebook*.

Similarly, individuals who participate in programs such as Teach for America, or who are missionaries affiliated with religious organizations, may establish domicile in this state and maintain that domicile during their absence. There are no statutory provisions granting special status or tuition exceptions for these individuals. They must establish and maintain domicile under the general rules of domicile provided in this *Guidebook*.

³⁶ [Veterans Choice Act of 2014 PL 113-146](#) and subsequent revisions to [38 USC § 3679](#).

³⁷ [NCGS §116-143.3A](#)

³⁸ [NC Session Law 2021-111](#)

6. Non-US Citizens

Persons who are not US citizens but who have certain visa and immigration statuses that grant them the legal ability to establish and maintain a bona fide *domicile* in this country are subject to the same considerations as US citizens in determining residence status for tuition. If it is later discovered that the person's visa or immigration status was obtained fraudulently, the institution shall have the right to seek and collect payment of full, out-of-state tuition, along with fees and costs associated with such collection.³⁹

If a person possesses one of the types of documentation listed below, that person has capacity (is legally able) to establish legal residence for tuition purposes; however, that person must still take the actions and have the intent necessary to establish legal residence as discussed elsewhere in this *Guidebook*. **A student must hold a current, approved, eligible immigration status for at least 12 months to meet the capacity requirements defined in this Guidebook.** A change from one RDS eligible status to another is permissible so long as there is no gap between them in the past twelve months.

The following types of documentation enable a non-US citizen who is legally present in this state to have the capacity to establish domicile; students must present evidence of eligibility in one of the following categories:

a. Permanent Resident

Present evidence of a current approved status as a Lawful Permanent Resident (LPR), including conditional approval, through one of the following:

- A copy of a Permanent Resident Card ("Green Card" Form I-551 or alternate documentation of Form I-551; **or**
- Approval of an Immigration Petition to Adjust Status to LPR documented as follows:
 - Form I-797 showing *approval* of one of the following petitions: Form I-129F, I-130, I-140, I-360,⁴⁰ or I-526; **and**
 - Form I-797 showing *receipt* of a Form I-485 in the student's name.

b. Refugee or Asylee

Present evidence of a current *approved* status as a Refugee or Asylee through the following:

- A valid Employment Authorization Document (EAD card) with a category code of A-03 (Refugee status), or A-05 (Asylee status) **or**
- An official US Immigration document notifying the student of the approved status.

³⁹ See Section IV.C.1 below for further information about providing fraudulent information related to residence for tuition provided by any individual regardless of citizenship status.

⁴⁰ Students with an *approved* I-360 petition under the Violence Against Women Act (VAWA) should contact RDS for assistance if needed regarding their documentation for the Form I-485.

c. Eligible non-immigrant visa:

Present a valid, approved visa and/or a Form I-797 in the student's name showing visa type and issuance and expiration dates for one of the following visa types:

A-1,A-2, A-3, E-1, E1S, E-2, E2S, E-3, G-1, G-2, G-3, G-4, G-5, H-1B, H-4, I, K-1, K-2, K-3, K-4, L-1, L-1A, L-1B,L-2, L2S, N, O-1, O-3, R-1, R-2, T-1, T-2, T-3, T-4, T-5, U-1, U-2, U-3, U-4, U-5, V-1, V-2, V-3, or NATO-6.

Eligibility for in-state tuition under these visa statuses lasts only as long as the timeframe of the authorized stay is active and not in an expired status.

d. Eligible Temporary Protected Status (TPS)

Students who have been designated as holding a current eligible TPS status must present approval documentation by either a copy of an Employment Authorization Document (EAD card) with the category code A-12 or C-19; **or** Form I-797 or other immigration document showing approval of TPS.

Eligibility for in-state tuition under TPS lasts only as long as the timeframe of the authorized stay is active and not in an expired status.

e. Citizens of the Republic of the Marshall Islands (RMI), the Federated States of Micronesia (FSM), and The Republic of Palau (Palau)

Students must present a valid, unexpired RMI, FSM or Palauan passport, respectively. Federal Law does not require a visa for these individuals⁴¹.

A non-US citizen possessing an eligible document(s) identified above is not deemed to have any special residential advantage. They are considered only to have the capacity and opportunity to claim and seek to prove eligibility for in-state tuition status under the same residential criteria and burden of proof that is required of US citizens.

In making domiciliary determinations of non-US citizens, RDS will consider the precise basis for any entry into the United States and its documentation as part of the residential information upon which to assess the non-US citizen's claim of residence for tuition. With respect to the 12-month (365 days) durational requirement of NCGS §116-143.1(b), claims to domicile of non-US citizens possessing documents identified in any of the eligible classes set forth above should be assessed relative to a timeframe *beginning* not earlier than the effective date of the pertinent documents. Eligibility is calculated based on the date of submission of a request to RDS. The 12-month (365 days) durational requirement must be met prior to the first day of the academic term for which the in-state tuition rate is requested.

⁴¹Compact of Free Association (COFA) Acts of 1985 (Public Law 99-239); and 1986 (Public Law 99-658); and as amended [by COFA Amendments Act of 2003 \(Public Law 108-188\)](#).

An Employment Authorization Document (EAD) is a document that provides non-US citizens with an authorization to work in this country. An EAD, in and of itself, does not confer any immigrant or non-immigrant status and does not give the EAD holder the legal capacity to establish residency for tuition purposes in this state. A student may submit an EAD to RDS for consideration, but additional information and verification of the specific immigration status held is required.

f. Ineligible immigration status or designation:

Non-US citizens present in the United States under certain visa statuses such as tourists, temporary visitors on business, and temporary foreign/international students do not have the legal capacity to establish a bona fide domicile in this country, and thus, not in North Carolina. The United States Citizenship and Immigration Services (USCIS) designates these immigration statuses.

Some examples of non-eligible visa statuses are the following visa types: B, C, D, F, H1B1, J, M, NATO visas (except NATO-6) P, Q, S, TN, and TD visas. Students documenting one of these visa types, or others not on the eligible list above, *cannot establish domicile with these documents*, unless there is a change to an eligible immigration status permitting the ability to begin to establish a permanent residence.

Deferred Action for Childhood Arrivals (DACA) students are not eligible for consideration as residents for tuition purposes. Under Federal law, 8 USC § 1621, individuals with DACA status are not eligible to receive the benefit of in-state tuition unless a state statute specifically provides for a tuition exception.⁴² North Carolina law does not provide for in-state tuition for these students.

Students admitted to the United States under a Humanitarian Parole, or another type of parole designation, and those with a pending application for an immigration status but hold no eligible current active immigrant or non-immigrant status, are not eligible to be considered as domiciled in North Carolina.

There are additional special tuition exception provisions under North Carolina law for certain non-US citizens attending a North Carolina Community college which do not apply to UNC institutions or private institutions that are described below in Section III. *These exceptions are handled at a campus level.*

⁴² [8 USC § 1621\(d\)](#)

7. Married Persons

Under North Carolina law, married persons are neither favored nor disadvantaged by being married when determining domicile and classification for tuition.⁴³ The domicile of married persons is determined by the same basic procedure as for all other persons - on the merits of all collected relevant domiciliary information. The statute also makes clear, however, that the fact of marriage is relevant evidence to consider in a domicile determination. A person is not precluded from establishing domicile in North Carolina solely because the person's spouse is not a legal resident of North Carolina, nor is a nonresident automatically domiciled in this state simply by marrying a North Carolina resident. The fact that an individual is married, and the domicile of the person's spouse are relevant in determining that individual's domicile.

Although a nonresident cannot automatically achieve resident status simply by marrying a person domiciled in North Carolina, a nonresident person who marries a North Carolina legal resident may benefit from the length of time that the person's spouse has been domiciled in this state. If the nonresident spouse *becomes domiciled* in North Carolina, the nonresident spouse may count the *length of time* the resident spouse has been domiciled in North Carolina for purposes of satisfying the 12-month duration requirement for in-state tuition⁴⁴. The qualifying event establishing domicile must have occurred prior to the request for residency classification. Qualification for this benefit is determined by information provided by the applicant including evidence of their actions to establish domicile in North Carolina, and the North Carolina resident spouse's residency information and legally valid marriage documentation.

North Carolina law grants certain tuition benefits to the spouses of some categories of individuals, namely members of the military (see Section II.B.3) and deceased or disabled Law Enforcement/Emergency Workers (see Section III).

8. Independent Students

Upon reaching the age of majority (18 in North Carolina), a student who is either a US Citizen or holds an eligible immigration status as defined in this *Guidebook*, has the capacity to *begin* to establish a domicile independent of their parents subject to the provisions outlined in this *Guidebook*. An independent student is a person who is legally entitled to claim, and in fact does claim, himself or herself on income tax returns, is not claimed by another person as a dependent on that person's income tax return and *possesses sufficient funds to live and pay tuition and fees at the person's current residence classification without outside financial assistance*. Demonstrating that a student has sufficient funds for the purposes of establishing independence requires meeting the following conditions:

- Generate sufficient funds on one's own, through employment or financial aid that does not involve a co-signor, to support yourself.
- Other individuals, including your parents, do not contribute to more than half of your financial support.
- Be at least 19 years of age.

⁴³ [NCGS §116-143.1\(f\)](#)

⁴⁴ [NCGS §116-143.1\(g\)](#)

If a student qualifies as “independent” for financial aid purposes, that student’s financial aid is not considered “outside financial assistance” for purposes of this *Guidebook*.

Generally, a student cannot be approved as a resident for tuition if that student is financially dependent upon his or her parent(s) or legal guardian(s) who are not legal residents of North Carolina. Parent-financed, parent-guaranteed, or co-signed loans are considered indicators of financial dependence by the student on the parents.

It is important to note that a person may not be financially independent for purposes of determining domicile even if his or her parents do not claim the person as a dependent for income tax purposes. Failure to claim a person as a dependent does not, in and of itself, establish that the person is in fact financially independent. Financial independence must be established through detailed inquiry by the RDS as part of the residence classification process. Factors relevant to the determination of financial independence include, but are not limited to, the following:

- Employment on a full- or part-time basis within North Carolina
- Current and prior year(s) income
- Sources and extent of financial support from parents or legal guardians or others
- Sources and extent of other income, including funds in the student’s name but not earned by the student (such as educational funds, 529 accounts, and trust funds in established the student’s name as beneficiary). *In general, this income is not considered earned for the purposes of proving independence.*
- Parents’ federal and state income tax forms which do not claim the student as a dependent for tax purposes.
- Student’s status as financially independent for purposes of federal and/or state financial assistance
- Independent filing by the student of federal or state income tax return
- Student’s assets and liabilities
- Scholarships and grants awarded to the student.
- Information provided by the student on the Free Application for Federal Student Aid (FAFSA) and all related documents.

9. Dependent Students

A dependent is a person defined as a “qualifying child” or “qualifying relative” for income tax purposes by the Internal Revenue Code.⁴⁵ Because the definition of “dependent” is very specifically defined by the Internal Revenue Service, IRS regulations should be consulted (See the current versions of IRS Publication 501 and IRS Publication 17). Under current law, to claim someone as a dependent for federal and state income tax purposes, the dependent must be a US citizen, US resident alien, non-resident alien, US national, or resident of Canada or Mexico for some part of the year (there is an exception for certain adopted children). A person’s spouse

⁴⁵ [26 USC §152 \(IRC\)](#)

is never considered that person's dependent for income tax purposes. To be a dependent for income tax purposes, the following factors must be satisfied:

- a. *Relationship*: The dependent must be the taxpayer's son, daughter, stepchild, foster child, brother, sister, half-brother, half-sister, stepbrother, stepsister, or a descendant of any of these.
- b. *Age*: The dependent must be:
 - i. under the age of 19 at the end of the tax year and younger than the taxpayer (or the taxpayer's spouse if filing jointly); or
 - ii. under the age of 24 at the end of the tax year, a full-time student, and younger than the taxpayer (or the taxpayer's spouse if filing jointly); or
 - iii. any age if permanently and totally disabled at any time during the year.

For purposes of this definition, a *full-time student* is one who is enrolled for the number of hours or courses that the enrolling institution considered to be full-time attendance. The student must be enrolled at the institution during some part of each of any 5 calendar months of the tax year (the 5 months do not have to be consecutive).

- c. *Residence*: The dependent must have had the same principal residence as the taxpayer for more than half the tax year (certain exceptions apply, including cases of temporary absences, children of divorced or separated parents, parents who live apart, and kidnapped children).
- d. *Support*: The dependent did not provide more than one-half of his or her own support for the year.
- e. *Tax Filing Status*: The dependent is not filing a joint income tax return for the year (unless only to claim a refund); if the parents of a child can claim that child but choose not to do so, no one else can claim the child (including the child himself or herself) unless that person's adjusted gross income (AGI) is higher than that of the child's parents.

The description of the factors outlined above provides the general requirements of dependency. IRS regulations should be consulted for more specific details and definitions.

It is important to note that a person may still be financially dependent on his or her parents for purposes of determining domicile even if his or her parents do not claim the person as a dependent for income tax purposes. Failure to claim a qualifying child or qualifying relative as a dependent does not, in and of itself, establish that the child or relative is in fact financially independent. Financial independence must be established through detailed inquiry by RDS as part of the residency determination process.

10. Legal Guardian

A legal guardian is a person who is *court-appointed* to act in the place of an individual's parent(s) (usually referred to as a "guardian of the person" or "general guardian"). A legal guardian may be appointed in cases where the minor's parents are deceased or have had their parental rights terminated. A legal guardian may also be appointed in cases involving juvenile abuse, neglect, or dependency, or where a juvenile has been determined to be

undisciplined or delinquent. These cases do not require the death or termination of the parental rights of the juvenile's parents for a legal guardian to be appointed by the court. A guardianship ends when the person reaches age 18 or is otherwise emancipated.

Documents such as a power of attorney, executed by a parent or legal guardian, authorizing someone to care for the minor, do not meet the criteria in this case to be considered a court-appointed legal guardian.

For the purposes of this *Guidebook*, there are other arrangements relating to the care of a minor that do not have the same legal status as guardianship. A person other than a parent who claims the individual as a dependent for income tax purposes may not necessarily be the individual's legal guardian. Adoptive parent(s) are considered the individual's parent(s), not legal guardian(s). Persons other than the minor's natural parents who are awarded custody of the minor are "custodians," not legal guardians – custody may be awarded by a court for a variety of reasons, but legal guardianship is only awarded in cases of juvenile abuse, neglect, dependency, undisciplined, delinquency, or where the natural parents are deceased or have had their parental rights terminated.

11. Prisoners/Inmates

A person neither establishes nor loses legal residence in a state solely by reason of being incarcerated. While a prisoner is not absolutely precluded from proving that he or she has changed legal residence, a person's domicile generally is not changed by involuntary confinement in a penitentiary or other prison, and in such cases, the former domicile remains. As a practical matter, it is extremely difficult for a prisoner to demonstrate a change in legal residence since a prisoner cannot perform most of the actions indicating domiciliary intent and since any declarations of intent must be weighed against the fact that the prisoner is confined against his or her will. Residency of inmates in North Carolina institutions will be based on their legal residence at the time of their incarceration, subject to verification by RDS.

Individuals in Federal institutions will be evaluated by RDS to determine their state of permanent residence at the time of incarceration.

Once released, the individual will be presumed to have maintained the same permanent residence unless they take steps to change or abandon it.

III. Tuition Exceptions, Tuition Waivers, High School Students and Grace Period

Other than the Qualifying Federal Service Benefit (Active-duty military and US Foreign Service workers) and the North Carolina National Guard provisions, which are provided in North Carolina General Statutes as mentioned above, **other exceptions and tuition waivers are handled at the campus level.** Generally, the role of RDS is to determine whether a student is a resident or non-resident; the RDS role is NOT to determine the eligibility the student may or may not have for a campus-based exception or tuition waiver. The information in this section

(Section III) is provided purely for informational purposes. If a student believes that they may qualify for a campus-based exception, waiver, or grace period, the student should contact their campus for more information.

A. Exceptions

Multiple specific legislative exceptions are available to students with respect to in-state tuition eligibility. These exceptions permit campuses to override students' tuition status and charge in-state tuition to students classified as non-residents. Because some exceptions are available based upon campus-specific conditions, such as enrollment, RDS cannot provide final answers with respect to eligibility since RDS does not have insight into those campus-specific factors. To assist campuses in identifying students who *may* be eligible for an exception, RDS poses questions regarding some exceptions based on the information a student provides during the online interview; however, **RDS does not determine if the student is eligible for these tuition exceptions. It is a campus responsibility to determine eligibility for the tuition exceptions below.**

1. Veterans Choice Act (applicable at all institutions of higher education in North Carolina)

The General Assembly has enacted laws consistent with eligibility as outlined in Federal law for certain veterans and other individuals entitled to federal education benefits under eligible 38 USC Chapters 30, 31, 33, or 35,⁴⁶ to be billed at the in-state tuition rate. A full description of this benefit is found above on pages 14-16.^{47,48}

2. University of North Carolina (UNC) System Specific Exceptions

The General Assembly has enacted laws that grant in-state tuition status for certain categories of students attending UNC institutions.

- Eligible Full-Scholarship Students.^{49,50} (*this exception valid only for UNC campuses*).
- Eligible permanent, full-time UNC employees, UNC Hospital employees and their families⁵¹ (*this exception valid at UNC campuses and at NC Community Colleges*).

3. North Carolina Community College Specific Exceptions

The General Assembly has enacted laws that grant in-state tuition to certain categories of students attending community college programs. These special tuition rules do not apply to students attending constituent institutions of The University of North Carolina.

⁴⁶ [US Senate Bill 1095 \(2021-2022\) was signed into law amending Section 3679\(c\) of title 38, United States Code to allow benefits awarded under Chapter 35 to be eligible effective for academic terms beginning on or after August 1, 2022.](#)

⁴⁷ [NCGS §116-143.3A](#)

⁴⁸ [Veterans Choice Act of 2014 PL 113-146](#) and subsequent revisions; [38 USC § 3679](#)

⁴⁹ [NCGS §116-143.6](#)

⁵⁰ [Session Law 2021-180 amended NCGS §116-143.6 to remove the exclusion of full athletic scholarships.](#)

⁵¹ [NCGS §116-143.1\(m\)](#)

- Business-Sponsored Students⁵²
- Business- and Military-Transferred Families⁵³
- Students Sponsored by a Non-Profit Entity⁵⁴
- Certain Non-US Citizen North Carolina Public High School Graduates⁵⁵
- Refugees⁵⁶
- Certain Nonresidents of the United States Petitioning for Immigrant Status⁵⁷
- Federal Law Enforcement Officers⁵⁸
- Certain US Citizen North Carolina Public High School Graduates⁵⁹
- Certain Georgia residents attending Tri-County Community College (Pilot)⁶⁰

B. Tuition Waivers

Some categories of students are entitled to a waiver of tuition charges for attendance at public institutions.⁶¹ In these cases, eligible students must still be domiciled in North Carolina to be considered for the tuition waiver. The role of RDS is to determine whether a student is a resident or non-resident; the RDS role is NOT to determine the eligibility of the student for a tuition waiver. *All tuition waiver eligibility reviews are handled on the campus.* The following are examples of categories of persons who may be eligible for tuition waivers:

- Survivors of Deceased Law Enforcement/Emergency Workers
- Families of Disabled Law Enforcement/Emergency Workers
- Wards of the State of North Carolina
- University of North Carolina Employees
- High School Students (Career and College Promise; Apprenticeship NC)
- Other eligible Community College Tuition Waiver Programs⁶²

C. High School Students

Operating under the authority of SEAA, RDS is tasked with making residency eligibility determinations for tuition and state aid purposes for students attending *colleges and*

⁵² [NCGS §115D-39\(a\)](#)

⁵³ [NCGS §115D-39\(a\)](#)

⁵⁴ [NCGS §115D-39\(c\)](#)

⁵⁵ [NCGS §115D-39\(b\)](#)

⁵⁶ [NCGS §115D-39\(a\)](#)

⁵⁷ [NCGS §115D-39\(a\)](#)

⁵⁸ [NCGS §115D-39\(a1\)](#)

⁵⁹ [SB 421 / Session Law 2021-133 amended NCGS §115D-39](#)

⁶⁰ [HB297/Session Law 2023-134 created a pilot program effective for the 2023-2024 academic year through the 2026-2027 academic year for residents of Fannin, Towns, Rabun and Union Counties \(GA\) attending Tri-County Community College in NC. Students should contact the college for further information.](#)

⁶¹ [NCGS §115B](#)

⁶² [NCGS §115D-5](#)

universities in North Carolina.⁶³ Since high school students do not incur college or university tuition as part of their regular high school enrollment, there is no requirement for a student to obtain a RDS determination for purposes of attending a North Carolina high school. However, High School students who are dually enrolled at a college or university might require a RDS determination as discussed below.

Some high school students may seek dual enrollment in courses at a college or university. Depending on several factors, these students might need a RDS determination prior to enrolling in a college or university course. High school students seeking to become dually enrolled in courses at a college or university should work with their respective institutions to determine if they need to complete RDS in their particular situation.

Students who are sponsored by their high school and are concurrently enrolled in high school courses and courses at a North Carolina Community College as part of the Career and College Promise (CCP) or Apprenticeship NC program are *not required* to obtain a RDS determination. Tuition waivers are handled at the campus level.

High School students who are concurrently enrolled in high school courses and courses at a UNC institution *are generally required* by the university to obtain a RDS determination. The campus will handle a tuition waiver, if applicable.

High school students applying to take courses at a college or university following their high school graduation *are all required* to obtain an RDS determination, even if they were previously exempt while in high school.

There are two high school institutions that are members of the University of North Carolina System. While not required to have their students request a RDS determination, these institutions may elect to do so to inform their decision about their specific residency requirements for *admission* purposes. These institutions, however, retain final authority in terms of their admissions criteria and decisions.

- North Carolina School of Science and Mathematics
- University of North Carolina School of the Arts

⁶³ [NCGS §116-143.1](#)

D. Grace Period⁶⁴

If a person has been properly classified as a resident for tuition purposes and enjoyed that status while enrolled at an institution of higher education in this state, a change in that person's state of residence does not result in an immediate, automatic loss of entitlement to the in-state tuition rate. Students in this situation are allowed a statutory "grace period" for tuition during which the in-state rate will still be applicable even though the student is no longer a legal resident of North Carolina. If eligible, the grace period of 12 months is calculated as beginning when the change in circumstances occurred. The grace period can apply under certain circumstances to both currently enrolled students as well as to students who are no longer enrolled or who have graduated. The grace period does not apply to state funded financial aid. *Grace periods are handled at the campus level and coordinated with RDS.* This grace period does not apply to non-resident students who qualified for a tuition exception. However, state law may otherwise provide for the continuation of classification as a resident for tuition purposes under specific circumstances discussed elsewhere in this *Guidebook*.

IV. RDS Residency Procedures

It is the role and responsibility of RDS to classify each student as resident or non-resident for purposes of tuition and eligibility for state financial aid.

Students are provided four opportunities to have their classifications reviewed:

- Initial Consideration
- Reconsideration
- RDS Appeal (Level 1)
- SEAA Appeal (Level 2)

All students seeking in-state tuition or state grant eligibility must go through RDS. Many campuses also elect to use the RDS determination for admission purposes. Students with specific questions about residency and the admissions process will need to reach out directly to the school to which they are applying.

It is the student's responsibility to provide the information and documentation necessary to support his or her claims for residency in accordance with the applicable deadlines outlined in this document. Supporting documents should show evidence of the student's physical

⁶⁴ [NCGS §116-143.1 \(i\) \(l\)](#)

presence in North Carolina for the requisite amount of time and creation of his or her domicile in North Carolina. *The burden of proof is on the student.*

A. Validation

As part of the residency determination process, RDS validates the accuracy of the information provided in the RDS online interview with federal and North Carolina state agencies. All students are required to provide a unique identification number such as Social Security Number (SSN), Individual Taxpayer Identification Number (ITIN), Alien Registration Number (ARN/A-number), or US Citizenship and Immigration Service number (USCIS) to complete a residency determination. Identification numbers may also be required for parents and/or spouses, dependent upon the information provided during the online interview.

If a student is unwilling or unable to provide one of these identification numbers, RDS is unable to validate the information with federal and state agencies and the student will be classified as a non-resident for tuition and state financial aid eligibility. RDS conducts electronic validation with the following entities:

- North Carolina Department of Commerce, Division of Employment Security
- North Carolina Department of Health and Human Services
- North Carolina Department of Public Instruction
- North Carolina Department of Revenue
- North Carolina Department of Transportation
- North Carolina Grant System
- North Carolina State Board of Elections
- United States Department of Defense
- United States Department of Education
- United States Department of Homeland Security
- Third party data aggregators under contract with RDS
- National Student Clearinghouse
- United States Citizenship and Immigration Services

All students may appeal a nonresident decision and can provide additional information in lieu of identification numbers to support their North Carolina residency through the reconsideration or appeal process described in the *RDS Guidebook*.

B. Communication

RDS utilizes email address information provided by an applicant as the primary means of communication with a student. When an RDS application has been submitted, RDS sends the applicant an email to confirm that an online application has been received. The applicant also has an option to request text messages from RDS as an additional form of communication. The confirmation will summarize the application status and list any additional actions or documentation that is required of the applicant. It is an applicant's responsibility to:

- Maintain accurate and up-to-date contact information.
- Print a copy of the student summary for personal recordkeeping!

- Check for email and text communications. Proactively stay informed of the application status until it has been validated.
- **It is a student's responsibility to make the campus aware of any changes in determination.**
- Meet deadlines for requested documentation. RDS sends several automated reminders as a courtesy when there are submission deadlines that have not been met.

C. Residency Certification Number (RCN), Expiration, and Gap in Continuous Enrollment

Students receive a Residency Certification Number (RCN) upon completing the RDS residency determination process. The RCN is unique to the student and provides confirmation that the student has completed the RDS residency determination process.

RDS uses the date that the student submits a request to determine eligibility and passes this date on to the campus as the effective date. It is the campus policy that determines the effective term for billing purposes if a determination is presented to the campus after the start of term.

A student's RCN never changes; even if a student requests a reconsideration or appeal and the classification is changed from nonresident to resident, the RCN remains the same. Residency classifications are generally valid for 15 months (455 days), and only need to be completed once if the student maintains continuous enrollment in the same academic program.⁶⁵ A student must begin classes on or before the expiration date of the RDS determination, otherwise they must return to RDS for a new determination. If the student's approval is based on a time-limited qualification, such as the expiration of a visa, the expiration date may be amended to reflect the end of their eligibility period.

Continuous enrollment, for purposes of RDS, means a student who is enrolled in consecutive fall and spring semesters. The course in which a student is enrolled must be creditable toward a degree, diploma, or certificate for which tuition is charged. A gap in continuous enrollment for RDS occurs when a student is not enrolled in two consecutive semesters (i.e., fall and spring or spring and fall). After a gap in continuous enrollment students are required to request a residency classification again. Students are not required to be enrolled during the summer term(s) to maintain continuous enrollment for purposes of RDS.

When possible, RDS will verify with the National Student Clearinghouse that a student has been enrolled at a North Carolina college or university and automatically extend their RDS determination expiration date. Students with time-limited immigration statuses, or other exceptions, such as for non-resident active-duty military, will not be automatically extended.

⁶⁵ Some immigration statuses might expire before 15-months, so the expiration date might differ in these cases.

D. Initial Consideration

The initial consideration is the first step in the residency process. Every applicant is initially classified as either a resident or nonresident.⁶⁶ Applicants for admission to a state-supported college or university and students seeking to establish their eligibility for state grants may complete the initial residency consideration process before, during, or after submitting an application for admission depending on the institution(s) to which they are applying. Most students will complete only this first step in the residency determination process and will be finished with RDS after initial consideration.

Once the initial consideration is made, this classification is not changed unless a student fails validation, or the classification is reversed through the reconsideration or appeal process.

The initial consideration by the RDS (as well as any RDS determination) is binding on all institutions of higher education in North Carolina. A student who is initially classified as a nonresident and believes he or she meets the requirements of NCGS §116-143.1 or any other applicable laws may request a reconsideration or an appeal to RDS following the deadlines and procedures outlined in this Section.

1. Initial Consideration Procedures

The following information provides the general process for completing an initial consideration residency determination request.

- a. Students can access RDS to request an initial consideration in one of three ways:
 - Directly from the homepage of the RDS website:
www.ncresidency.org
 - From their College Foundation of North Carolina (CFNC) account - students must be logged in and using the CFNC Applications Hub
 - Directly from their admissions application through links provided by the campus to which they are applying.
- b. To begin the initial consideration, a student will be requested to login using their CFNC account information and confirm their profile. If the student does not have a CFNC account, the student may complete an “express” CFNC profile on the RDS website. Once the student has set-up an express profile or logged in and confirmed their information, the student will be directed to review the RDS Consent and Authorization and will then begin the initial consideration. Students will be asked a series of questions regarding physical address, time living in NC, and other domiciliary acts.
- c. Students have **25 calendar days** to complete the online residency interview in full and can start, stop, and come back to the online interview as needed. If the completed interview is not submitted within **25 calendar days**, the request will be cancelled, and the student will be required to begin another initial consideration request when the student returns.

⁶⁶ A small number of applicants with unique situations may not receive an immediate provisional classification.

- d. Most students will receive a provisional residency classification of “resident” or “non-resident” and a tuition classification of “in-state” or “out-of-state” immediately following their initial consideration request. These provisional classifications, subject to final validation, will appear on the screen and be mailed to the student’s email account listed in the profile. Students can print or save the classification information. Some students may be identified as non-resident but still be classified for in-state tuition based on their specific circumstances (such as Active-Duty Military).
- e. If the student receives a “non-resident” classification, the student has the option to complete a reconsideration or appeal request. Information on reconsiderations and appeals can be found below in this Section.
- f. If the student receives a provisional “resident” classification, the classification is contingent upon passing validation and the submission of any required documentation. Students may upload, fax, or mail document(s).
 - o Validation: RDS will validate information provided by the student. This validation confirms the accuracy of information provided in the RDS online interview both electronically and manually through any required documentation. If the student fails validation, the student’s residency classification will change from “resident” to “non-resident” and the student will be notified. It is the student’s responsibility to make the campus aware of any changes in determination.
 - o Required documentation: If a student is required to submit documentation to support the RDS classification, a listing of required documents will appear on the student’s determination screen at the end of the interview. Not all students will be required to submit documentation. The student has **25 calendar days** from the date of their initial consideration for documentation to be RECEIVED by RDS. If the documentation is not submitted and received by RDS within **25 calendar days**, the student’s residency classification will change from “resident” to “non-resident.” No extensions are permitted with documentation deadlines.
 - Uploading documents is the fastest and easiest way to submit documentation. If students choose to fax or mail documentation to RDS, the student should log back in to RDS and verify the documentation faxed or mailed is attached to their account. RDS is not responsible for missing faxed or mailed documents.
 - Students choosing to fax, or mail documents must use the cover sheet provided on the student’s home screen. This cover sheet ties the student’s documentation to the student’s account when received by RDS.
 - The **25-calendar day** deadline INCLUDES time for receiving and processing faxes or mailed documentation. Allow at least three days for RDS to receive and process email and faxes and at least **7-10 calendar days** for RDS to receive and process mail.
 - Do not mail original documents. Paper documents will not be returned and RDS is not responsible for missing mail.

- g. Campuses will ask students to provide the RCN they receive as part of the RDS process. Campuses use the RCN to download students' residency status data. If a student requests a reconsideration or appeal, **the student needs to notify their campus that their determination has been changed or updated.** It is the responsibility of the student to provide the RCN to the campus and to make the campus aware of any changes in determination. If the student does not provide an RCN or does not notify the campus of a change in determination, the campus will bill the student as a non-resident.

2. Special Circumstances

A. Fraudulent residence requests

A residency determination request is fraudulent if the student falsifies information concerning legal residence and/or knowingly withholds correct residential information. RDS will re-examine a residency determination request suspected of being fraudulent, make a residency redetermination, and change the residency classification of the student, if warranted, retroactively to the effective date in which the fraudulent residency request was originally made. If a retroactive change is made the campus will be notified and the student shall be responsible for the tuition differential (the difference between the in-state and out-of-state tuition rate) for the enrolled term(s) intervening between the fraudulent claim of residency and its discovery. Providing false information regarding any response made to any RDS request for information may subject the individual to disciplinary action, up to and including dismissal from the institution.

B. A change in facts relative to a student's in-state residence classification (Also see Grace Period in Section III above)

After a student is classified initially as a resident for tuition, there may be changes in facts or circumstances that would affect this classification. **It is the student's responsibility to notify RDS and the institution of these changed facts or circumstances.** Enrolled students initially classified as a resident for tuition and eligible for state financial aid may be granted a 12-month grace period beginning with the date of the residency event causing reconsideration. If the 12-month period ends during a semester or academic term, the grace period extends to the end of that semester or academic term. The grace period is for tuition only, state aid is not available during the grace period.

E. Reconsideration

The RDS reconsideration process is for students who:

- need to correct mistakes in the information submitted during the RDS online interview,
- have had a personal change since completing their current determination.
- did not submit the required documentation within the deadlines, or
- were asked by their campus to complete a reconsideration.

Students who request reconsideration will be required to complete the online interview again. Submitting a reconsideration does not guarantee the residency classification will change. Students are limited to three reconsideration requests every 90 days.

Students requesting reconsideration may be required to submit documentation identified during the interview to submit the reconsideration request. As with any other RDS request, students have **25 calendar days** to complete the submission process. If the reconsideration request and required documentation is not submitted within the time allotted, the student's request will be cancelled, and their status will remain non-resident. As with the initial consideration, RDS will validate the answers provided in reconsideration with state and federal agencies. Students may be emailed requesting additional documentation upon review of the reconsideration request. RDS will review requests in the order they are received.

1. Reconsideration Procedures

The following information provides the general process for completing a reconsideration request.

- A. The student logs in to RDS (accessed via CFNC, a campus admissions application, or on the RDS website) with their RDS username and password.
- B. On the student's primary RCN screen, click the "Reconsideration/Appeal" button.
- C. Select the Reconsideration option
- D. Indicate the specific reason for requesting reconsideration by selecting at least one of the approved reasons from the list provided. If the student has experienced multiple changes, the student may select more than one.
- E. The student completes the RDS online interview based upon the current situation.
- F. Once initiated, students have **25 calendar days** to complete the reconsideration request completely or the student may start, stop, and come back to the online interview as needed. If the request is not submitted within **25 calendar days**, the request will automatically be cancelled, and the student's status will remain unchanged. Note that a request for reconsideration cannot be processed until all required documentation is provided. Students should account for this in planning their submission.

Required documentation: If a student is required to submit documentation to support the RDS classification, a listing of required documents will appear on the student's RCN screen. Not all students will be required to submit documentation. The student has **25 calendar days** from the date of their Reconsideration for

documentation to be RECEIVED by RDS. If the documentation is not submitted and received by RDS within **25 calendar days**, the student's residency classification will default to "nonresident." No extensions are permitted with documentation deadlines.

- *Uploading documents is the fastest and easiest way to submit documentation.* If students choose to fax or mail documentation to RDS, the student should log back in to RDS and verify the documentation faxed or mailed is attached to their account. RDS is not responsible for missing faxed or mailed documents.
 - Students choosing to fax or mail documents must use the cover sheet provided on the student's home screen. This cover sheet ties the student's documentation to the student's account when received by RDS.
 - The **25-calendar day** deadline INCLUDES time for receiving and processing faxes or mailed documentation. Allow at least 3 days for RDS to receive and process faxes and 7-10 days for RDS to receive and process mail.
 - Do not mail original documents. Paper documents will not be returned and RDS is not responsible for missing mail.
- G. Once the reconsideration request is submitted, RDS will validate the information provided with state and federal agencies, review the request along with any documentation, and make a determination. The status of the RDS review will be available on the student's home RCN page in the RDS system. The student will be notified of the reconsideration decision via email and online in the student's RDS account.
- H. **It is the student's responsibility to notify their campus of any change in classifications.** Once the campus is notified, the campus will have access to any change in classification and the effective date and the campus is to download this data. This effective date is the exact date the student submits a completed reconsideration request. This date is critical for the school and student to determine which academic term a residency change (and any resulting change in tuition rate) should be applied. RDS does NOT set the campus deadline for determining the date or term in which a change in residency status applies; RDS only provides the date in which the reconsideration request was submitted in full. *It is a campus responsibility to assign the academic term of a residency change in accordance with their campus policy.*

Should the student receive the same classification through the RDS reconsideration process and disagree with the reconsideration classification, then the student has the option to request a RDS Appeal.

F. RDS Appeal – Level 1 Appeal

The RDS Appeal process is for students whose circumstances have not changed but who believe their residency classification is incorrect. Students can provide additional information and documentation relating to their appeal request and can participate in an appeal meeting with RDS.

Students have **10 calendar days** from the date of the determination they are appealing, or a status change due to a failed validation, to submit a Notification of Appeal through the RDS online system. Requests for appeals are not accepted after the deadline and the student's classification will remain non-resident. In order to submit a Notification of Appeal, students are required to complete the following:

- Read an overview of the appeal process;
- Read the *RDS Guidebook*;
- Read the North Carolina state laws specific to residency for tuition purposes; and
- Indicate review of required information prior to submitting the Notification of Appeal and Appeal request.

These reviews provide students with basic information about what is relevant to determining residency and help them develop a more complete and accurate appeal. All information a student provides during the online interview, through supporting documentation, and in an appeal meeting is taken into consideration and is used to determine whether at least a preponderance (or greater weight) of the evidence supports the establishment of North Carolina domicile as defined in this *RDS Guidebook* at least 12 months prior to a request for residency.

a. RDS Appeal Procedures

The following information provides the general process for completing an RDS appeal.

i. Completing a Notification of Appeal

1. Log into RDS (accessed via CFNC, a campus admissions application, or on the RDS website). On the Residency Status screen, click the “Reconsideration/Appeal” button.
2. Select the “RDS Appeal” option.
3. Review the appeal information: an overview of the appeal process, the *RDS Guidebook*, and the North Carolina state laws specific to residency for tuition purposes
4. Certify review of the required information and submit the Notification of Appeal.
5. The student has **10 calendar days** from the date of the determination they are appealing, or a status change due to a failed validation, to complete this step of notification of an appeal.

ii. Completing a RDS Appeal Request

1. Following the Notification of Appeal submission, the student is directed to the appeal request. Students can complete the request immediately following the Notification of Appeal submission or may log back into RDS at a later day and time to complete the remainder of the RDS appeal request. Students have **25 calendar days** from the date of the Notification of Appeal submission to complete the appeal request and provide documentation relevant to their appeal. Requests for appeals will not be accepted after **25 calendar days** from the date of the student's Notification of Appeal submission.
2. To complete the RDS Appeal, the student must provide the following information:
 - The reason(s) for an appeal of the determination. Identify the ground(s) for appeal. The sole grounds for appeal to RDS are:
 - RDS disregarded or made a mistake interpreting the requirements of the law or *RDS Guidebook* when making the decision.
 - The *RDS Guidebook* contains no policy that specifically addresses my circumstances, so the RDS decision is unsupported by policy.
 - The policies as currently stated in the *RDS Guidebook* do not reflect the current state of law.
 - The RDS decision is not reasonably supported by the evidence as presented in the record.
 - For each of the grounds for appeal indicated, provide a description of how the ground(s) for appeal specifically applies to the appeal case or situation.
 - Provide any other details about the situation that supports the appeal. Include details of any specific additional documents being provided in support of the appeal.
 - Provide any required documentation listed on the appeal request. Not all appeals will require documentation.
 - Provide the additional documentation specified in your narrative. Do not include documents that have not been explained as part of the appeal request narrative.
 - Submit the appeal request.
 - A request for appeal cannot be submitted until all identified documents (required and optional) are provided and linked to the request. Students may upload the document(s) directly to their request and submit the request immediately.
 - Students choosing to fax or mail documents as part of their appeal must log back into RDS and click submit once documents have been received and processed by RDS. RDS has no way of knowing if a student is providing non-required documentation via fax or mail. Therefore, if a student chooses to

fax or mail documentation the student MUST log back in to RDS, verify the documentation is processed, and submit the appeal request.

- The 25-day deadline for RDS to receive the documentation INCLUDES time for receiving and processing emails, faxes or mailed documentation. Students choosing to fax or mail documents must use the cover sheet provided on the student's RDS home screen. This cover sheet ties the documentation to the student's request when received by RDS. RDS is not responsible for missing faxed or mailed documentation.
- Allow at least **2-3 days** for RDS to receive and process faxes and at least **7-10 days** for RDS to receive and process mailed documents. Do not mail original documents. Paper documents will not be returned and RDS is not responsible for missing mail.

RDS staff will review the appeal request, supporting documentation, original determination information, and validation information.

- RDS staff may contact the student for additional information, to ask questions, or to offer an appeal meeting with a review committee regarding the appeal request. RDS will contact students using the contact information provided in the user profile; students are responsible for updating contact information. RDS is NOT responsible for the inability to contact a student as a result of incorrect contact information.
- Failure to comply with an RDS request for additional documentation or failure to comply with deadlines will forfeit your opportunity to an appeal meeting and RDS will make an informed decision using the information on file. Appeals that do not comply with RDS procedures and deadlines do not have the ability to appeal to the SEAA - Level 2 Appeal.
- The optional RDS – Level 1 appeal meeting provides an opportunity for the student to discuss the information they have provided with the RDS Appeals Committee and answer any additional questions that may impact their case for appeal. The meeting may be conducted in person, by videoconference, or by telephone.
- If the student chooses to schedule an appeal meeting, the classification will be decided by the RDS appeal committee following the appeal meeting. If the student does not choose to schedule an appeal meeting, or does not attend the scheduled meeting, RDS will make a decision on the student's appeal request based on information received.
- Upon final determination of the RDS Appeal, the student is notified of the final decision, and any change of classification is updated in the RDS system. Because the SEAA is exempt from the North Carolina Administrative Procedure Act (except for judicial review), and such entities are not required to give reasons for their decisions, the RDS will not state specific details for its decision.⁶⁷

⁶⁷ [NCGS 150B-1\(f\),\(g\)](#); Accord, [Wilson v. SRC, 92 N.C. App. 355 \(1988\)](#); [Norman v. Cameron, 127 N.C App. 44 \(1997\)](#)

- **It is the student's responsibility to notify their campus of any change in classification.** Once the campus is notified, the campus will have access to any change in classification and the effective date and the campus is to download this data. This effective date is the exact date the student submits a completed reconsideration request. This date is critical for the school and student to determine which academic term a residency change (and any resulting change in tuition rate) should be applied. *RDS does NOT set the campus deadline for determining the date in which a change in residency status applies; RDS only provides the date in which the request was submitted in full. In the case of an appeal request, the effective date is the date of the student's request that is being appealed (i.e., the initial consideration or reconsideration submission date).*

Should the student receive the same classification through the RDS appeal process and disagree with the appeal determination, then the student has the option to appeal to the SEAA Residency Appeal Committee.

G. SEAA Appeal – Level 2 Appeal

The SEAA Appeal process is for students who disagree with the RDS appeal determination. This appeal process is the final step in the residency process⁶⁸. This is the final level of appeal.

1. Functions

The purpose of the SEAA Appeal Committee is:

- A. To review the residency determination information and process experienced by the student.
- B. To decide cases appropriately appealed to it from RDS;
- C. To evaluate the administrative practices and substantive rules associated with the implementation of the State law relating to residency determination for tuition and state financial aid purposes and to make recommendations, respectively, to the SEAA concerning any perceived need for changes in applicable law or administrative policies and procedures associated with the responsibility of classifying students by residence for tuition purposes.

⁶⁸ Students on appeal may be referred to as an appellant in this section.

2. Basis of Review

The SEAA Residency Appeal Committee is an appellate body consisting of at least one executive officer of the SEAA and additional supervisory staff designated to participate in SEAA's administrative oversight of RDS. It reviews the RDS decision based on the facts already presented through information gathered during the RDS decision-making process. The Committee does not conduct its own independent inquiry into the facts of the case by gathering new information not previously received by the RDS. The SEAA Residency Appeal Committee does not accept the introduction of new documentation (e.g., charts, graphs, summaries, or presentations). If the student wishes to submit new or additional information for consideration, they should complete a Reconsideration request to RDS. The Committee reviews all documents that RDS relied on in making all levels of decisions – initial consideration, reconsideration, and RDS appeal as well as residency record statements. The SEAA Residency Appeal Committee will only consider information included as part of the RDS decision-making process.

SEAA is exempt from the North Carolina Administrative Procedure Act and does not give reasons for its decision.

Appeal requests that do not comply with RDS procedures and deadlines are not afforded a SEAA -Level 2 Appeal.

3. Disposition of Cases

The SEAA Residency Appeal Committee renders a final disposition of the appeal by sustaining (upholding) or reversing (overturning) the RDS Appeal decision.

Final disposition of an appeal by the SEAA Residency Appeal Committee shall be deemed to exhaust the administrative remedies of the appellant with respect to the RDS classification. No further appeal is available.

4. SEAA – Level 2 Appeal Procedures

Once the RDS – Level 1 Appeal determination decisions is rendered, the appellant has **10 calendar days** to submit a notification of appeal to the SEAA Residency Appeal Committee. The SEAA Residency Appeal Committee does not accept the introduction of new documentation (e.g., charts, graphs, summaries, or presentations). The following information provides the general process used by a student to complete a SEAA Appeal:

1. Log into RDS.
2. Select the “Reconsideration/Appeal” button.
3. Select the “SEAA Appeal” radio button.
4. Review the Overview of the SEAA Appeal Process.
5. Identify the ground(s) for appeal. The sole grounds for appeal to RDS are:
 - a. RDS disregarded or made a mistake interpreting the requirements of the law or RDS *Guidebook* when making the decision.

- b. The RDS *Guidebook* contains no policy that specifically addresses my circumstances, so the RDS decision is unsupported by policy.
 - c. The policies as currently stated in the RDS *Guidebook* do not reflect the current state of law.
 - d. The RDS decision is not reasonably supported by the evidence as presented in the record.
6. For each of the grounds for appeal indicated, provide a description of how the ground(s) for appeal specifically applies to the appeal case or situation.
7. Submit the Notification of Appeal; students have **10 calendar days** from the date of the RDS Appeal classification to complete this step. Students will not be permitted to submit a notification of appeal after 10 calendar days from the RDS Appeal determination decision.
8. Following the Notification of Appeal submission, review the residency record. This record contains all materials which constituted the basis of the RDS determination, including the student's responses to the RDS online interview, any required documentation, and any additional information or documentation supplied by the student in reference to the determination. If the student believes the record is incomplete or defective (in that it either omits materials which were a part of the RDS determination or that includes written materials which were not a part of the RDS determination), the student may request modification of the residency record by providing a statement on the SEAA Appeal determination request form.
9. Submit the SEAA Appeal request within **25 days** from the date of the Notification of Appeal submission.
10. Once the request is complete, the appeal is forwarded to the SEAA Residency Appeal Committee. All appeals will be considered and resolved based on the residency record. No appearances, in person, through a representative, via technology or from RDS, are permitted.
11. Appellants are usually notified of the SEAA Residency Appeal Committee's decision through the RDS system within **10 days** of the date of the decision.
12. **It is the student's responsibility to notify their campus of any change in classification.**

APPENDIX A – Definition of Terms

Active-duty Military: A current active-duty member of one of the following: United States Air Force (including the Space Force), Army, Coast Guard, Marine Corps, and Navy; any activated reserve component of the foregoing or the North Carolina National Guard⁶⁹.

Bona fide: In good faith with earnest intent. A person must demonstrate that he or she has established a *bona fide*, as opposed to a temporary, domicile when seeking residency classification. A bona fide domicile is one in which the person's relevant conduct and motivation evidences a genuine desire to establish a permanent legal residence in North Carolina as opposed to actions performed for some reason other than to make North Carolina the person's permanent home (such as to become eligible for in-state tuition).

Burden of Proof: The responsibility borne by the applicant to convince, by a preponderance of the evidence, that the student is a bona fide domiciliary for tuition purposes; this may be established by providing tangible evidence to support relevant conduct of legal residence and its duration as may be required by officials of the Residency Determination Service.

Capacity: Legal ability to establish residence unimpeded by other factors such as age or immigration status. For purposes of legal residence for tuition purposes, capacity includes the ability to remain in North Carolina permanently through one's own financial resources (a student's financial resources *may* sometimes include financial aid; see the definition of "Independent" for further information about financial aid). Generally speaking, a minor cannot come and establish residency since capacity resides with a parent; however, a legally emancipated minor may have the capacity to establish residency for tuition purposes.

Continuous Enrollment Gap: A student is continuously enrolled at a North Carolina higher education institution if the student is consecutively enrolled in fall and spring semesters in courses or prerequisites creditable toward a degree, diploma, or certificate for which tuition is charged. Solely for purposes of the Residency Determination Service (RDS), a gap in enrollment of two consecutive semesters (i.e., fall and spring or spring and fall) requires a student to request a residency determination again. Students are not required to be enrolled during the summer term(s) to maintain continuous enrollment for purposes of RDS.

Covered Individual: *Covered individuals* as defined in the Veterans Choice Act includes a veteran, anyone using transferred Post-9/11 GI Bill benefits, a spouse or child using benefits under the Marine Gunnery Sergeant John David Fry Scholarship, or other eligible benefits as defined by the Veterans Administration in accordance with Chapter 38 US Code. [Visit the US Department of Veterans Affairs website for additional information.](#)

Custodian: Persons other than the minor's biological parents who are awarded custody of the minor are "custodians," not legal guardians. Custody may be awarded by a court for a variety of reasons.

⁶⁹ [10 USC § 101](#)

Dependent: A person defined as a “qualifying child” or “qualifying relative” for income tax purposes by the Internal Revenue Code at 26 USC §152 (IRC); CFR §1.152-1. Because the definition of “dependent” is very specifically defined by the Internal Revenue Service, IRS regulations should be consulted ([See IRS Publication 501](#) and [IRS Publication 17](#)). Under current law, to claim someone as a dependent for federal and state income tax purposes, the dependent must be a US citizen, US resident alien, non-resident alien, US national, or resident of Canada or Mexico for some part of the year (there is an exception for certain adopted children). For income tax purposes, a person’s spouse is never considered that person’s dependent.

Domicile: A person’s true, fixed, primary and permanent home and place of habitation of indefinite duration: it is the place where he or she intends and is able to remain permanently and to which, whenever the person is absent, he or she expects to return. For purposes of this Manual, “domicile” is synonymous with “legal residence.”

Domiciliary: A person who is a legal resident of (is domiciled in) North Carolina.

Enrollment: The status of being registered as a part-time or as a full-time student for an academic term that has begun.

Evidence: Documents and other proof verifying conduct that is provided to officials of the Residency Determination Service regarding legal residence and its duration necessary to prove that an applicant is entitled to in-state tuition.

Exceptions: Most exceptions provided for in statute are handled at the campus. Defined exceptions permit campuses to charge in-state tuition to students determined by RDS to be non-residents. Because some exceptions are available based upon campus-specific conditions, such as enrollment, RDS cannot provide final answers with respect to eligibility under an exception, since RDS does not have insight into those campus-specific factors. The exception for active-duty military personnel based upon PCS/PDS, and a provision for a student who is a member of the North Carolina National Guard, are the only exceptions that RDS completes.

Foreign Service Member: A member of the US Foreign Service as defined in 22 USC § 3903.⁷⁰

Independent: An independent person who is legally entitled to claim, and in fact does claim, himself or herself on income tax returns, is not claimed by another person as a dependent on that person’s income tax return and *possesses sufficient funds to live and pay tuition and fees at the person’s current residence classification without outside financial assistance*. Evidence of Independence overrides the *prima facie* consideration of parents’ domicile when determining residency for tuition. RDS assesses students who request to be considered as independent.

Initial Consideration (IC): The first classification of residency assigned to a student for tuition and state grant eligibility. Every applicant is initially classified as either a resident or nonresident.

Institution of Higher Education: Institutions, both public and private, that offer post-secondary instruction including senior institutions (universities and private liberal arts colleges, graduate or professional schools) and two-year institutions (community colleges,

⁷⁰ [22 USC § 3903](#)

junior colleges, technical institutes, and semi-professional schools). NCGS §116-143.1 defines an institution of higher education as any constituent institutions of the University of North Carolina and the community colleges under the jurisdiction of the State Board of Community Colleges (currently, all community colleges in North Carolina are under the jurisdiction of the State Board of Community Colleges). Independent colleges and universities in North Carolina also follow the definitions of residency in this *Guidebook* for purposes of administering State-funded financial aid programs.

Legal Guardian: A person who is *court-appointed* to act in the place of an individual's parent(s) (usually referred to as a "guardian of the person" or "general guardian").

Legal Residence: Domicile (see definition above). For purposes of this *Guidebook*, a legal resident is domiciliary of North Carolina.

Legal Resident: A person who is a domiciliary of (is domiciled in) North Carolina.

Marriage: See the definition of Spouse

Minor: A person under the age of eighteen (18) years. A minor is generally presumed to have the same domicile as that of his or her parents.

Misrepresentation: A false and fraudulent misstatement of fact. If a student, or someone acting on the student's behalf, knowingly makes a misrepresentation in connection with a state residency determination request (initial consideration, reconsideration, RDS Appeal, and/or SEAA Appeal) that misrepresentation could lead to a misdemeanor charge.⁷¹

NCCCS: North Carolina Community College System

NCICU: North Carolina Independent Colleges and Universities

Preponderance of evidence: Preponderance of evidence refers to a cluster of significant events demonstrating domicile (including physical presence and intent) to establish legal residence. The most acceptable meaning to be given to the expression, proof by preponderance, seems to be proof which leads a jury to find that the existence of the contested fact is more probable than its nonexistence.⁷²

Presumption: A legal inference used to place the burden of proof and of producing supporting evidence on one party to a proceeding in order to overcome that presumption.

Prima facie: At first appearance or first view – before investigation. Under North Carolina law, the legal residence of the applicant's parents shall be *prima facie* evidence of the applicant's legal residence.⁷³ This presumption may be rebutted or reinforced by other evidence relative to the age and general circumstances of the applicant.

Reconsideration (RC): Reconsideration is a residency determination available to students after the completion of the initial consideration classification; reconsiderations may be requested up to 3 times within 90 days.

⁷¹ [NCGS §115B-6](#)

⁷² Black's Law Dictionary at 1301 (9th ed. 2009); see also, 2 McCormick, Evidence § 339 at 484-485 (6th ed. 2006)

⁷³ [NCGS §116-143.1 \(e\)\(i\)](#)

Residence: A place of abode, whether permanent or temporary. “Permanent residence” means the legal residence or domicile, whereas “temporary residence” means one’s abode for an undetermined or temporary duration. A person may have many residences but only one permanent, legal residence (domicile).

Residency Certification Number (RCN): The Residency Certification Number (“RCN”) is a unique identifier that connects a student’s residency determination to his or her admissions application and/or eligibility for state financial aid. The RCN provides confirmation that a student has completed the residency determination process.

Residency Determination Service (RDS): The authoritative source for all centralized residency determinations. The Residency Determination Service is administered by the North Carolina State Education Assistance Authority (SEAA).

Resident for Tuition and State Financial Aid Purposes: A person who has established legal residence (domicile) in North Carolina and maintained that legal residence for at least 12 months (365 days) immediately prior to his or her determination as a resident for tuition and state financial aid eligibility.

SEAA: North Carolina State Education Assistance Authority.

Spouse: A person who is legally married to another person.

Tuition: The sum charged to students by an educational institution for credit instruction at the time of registration, regardless of how the instruction is delivered. Tuition does not include any other fees charged by the institution of higher education or the costs of textbooks.

UNCS: The University of North Carolina System

USCIS: United States Citizenship and Immigration Services

Validation: As part of the residency determination process, RDS validates the accuracy of the information provided in the RDS online interview with federal and North Carolina state agencies.

Veteran: A person who served on active-duty for not less than 90 days in the United States Army, Air Force (including Space Force), Coast Guard, Marine Corps, Navy, the Commissioned Corps of the US Public Health Service, or the National Oceanic and Atmospheric Administration and who was discharged or released from such service.

APPENDIX B – History of Residency Law in North Carolina

Following the mandate that North Carolina public institutions of higher education charge non-residents higher tuition than residents, the North Carolina General Assembly enacted a statutory framework to determine the residence status and tuition classification of all students enrolled or reenrolled in those institutions. Prior to 1973, this scheme entailed a fairly simple process to determine residence status for tuition purposes. At that time, state law required that only legal residents of the State who have maintained their domicile in North Carolina for at least 12 months immediately prior to the date of enrollment or re-enrollment were eligible for the resident tuition rate. This law specified that “student status in an institution of higher learning in this State shall not constitute eligibility for residence to qualify said student for in-state tuition.”⁷⁴ Because time enrolled as a student could not count towards the 12-month residency requirement, most students retained the tuition classification they received at the time of their initial enrollment throughout their time in the institution of higher education.

In 1973, in response to a decision by the United States Supreme Court,⁷⁵ the General Assembly amended the applicable law. Nonresident students were no longer precluded from establishing legal residency in the State during the time of their enrollment, and it became possible for students to use time enrolled to meet the 12-month requirement of residency for tuition purposes. The administrative consequences of this change in the law have been substantial. Previously, the law required that each institution of higher education perform only one inquiry into the residence status of most students at the time of their initial enrollment. Now, a second inquiry process was required to investigate the claims of students initially enrolled as nonresidents, but who wished to petition for the resident tuition rate. This reclassification process calls for a two-fold inquiry. First, had the petitioner become domiciled in North Carolina? Second, had the applicant maintained his or her domicile for at least 12 months immediately prior to the term for which in-state status is sought? To answer these questions, the Residency Determination Service must make a detailed inquiry into each student’s initial residency information and any subsequent reconsideration request, as measured by established legal principles regarding the location of one’s place of legal residence.

In the years since the 1973 revision, the General Assembly has refined and expanded the law regarding tuition classification,. In 1974, for example, the General Assembly provided a marriage benefit to some North Carolina residents, and the 1975 revision expressly nullified (for tuition classification purposes) the common law presumption that a wife’s domicile is that of her husband. Over the years, the General Assembly also has addressed specific points of tuition classification for minors, established exceptions for domicile loss and domicile reacquisition, and identified exemptions for special employment circumstances. The first of these occurred in 1984, when NCGS § 116-143.3 made nonresident armed service members on active duty while abiding in the State eligible for the in-state tuition rate. The General Assembly

⁷⁴ NCGS §116-143 (1971).

⁷⁵ [Vlandis v. Kline, 412 US 441, 37 L.Ed2d 163, 93 S.Ct. 2230 \(1973\)](#).

later made special provisions for employees of the University of North Carolina, and for certain veterans and other covered individuals.

In 2013, Session Law 2013-360 directed the University of North Carolina (UNC), the North Carolina Community College System (NCCCS), the North Carolina State Education Assistance Authority (NCSEAA), and the North Carolina Independent Colleges and Universities (NCICU) to create a centralized, uniform process for determining residency for tuition purposes and for administration of state financial aid. Following passage of the law, these partners provided input necessary to create a structure to design and develop the Residency Determination Service (RDS), both to satisfy the mandate and to provide accurate, consistent, timely, and cost-effective residency determination in support of the admissions application process for North Carolina colleges and universities. RDS also supports establishing residency eligibility for NC state grant consideration.

In 2015, Session Law 2015-241 authorized the State Education Assistance Authority to perform all functions necessary to implement the coordinated and centralized process to apply the criteria in NCGS §116-143.1 and directed UNC and the NCCCS to take the necessary actions to facilitate an orderly transition from the campus-based residency classification system to the coordinated and centralized process. Subsequently, Session Law 2016-57 codified SEAA's authority to administer RDS under NCGS §116-143.1(d) and NCGS §116-204(12).