

New Mexico
Task 3.4 State Survey

TASK 3.4: STATE SURVEY

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**STATUTORY AND REGULATORY
MATERIALS**

**ADMISSION /
TUITION STANDARD**

CWest's New Mexico Statutes Annotated Currentness

☐ Chapter 21. State and Private Education Institutions

☐ Article 1. General Provisions Relating to State Educational Institutions (Refs & Annos)→ § 21-1-4.6. **Nondiscrimination policy for admission to any public post-secondary educational institution; nondiscrimination in eligibility for education benefits**

A. A public post-secondary educational institution shall not deny admission to a student on account of the student's immigration status.

B. Any tuition rate or state-funded financial aid that is granted to residents of New Mexico shall also be granted on the same terms to all persons, regardless of immigration status, who have attended a secondary educational institution in New Mexico for at least one year and who have either graduated from a New Mexico high school or received a general educational development certificate in New Mexico.

CREDIT(S)

Added by L. 2005, Ch. 348, § 1, eff. June 17, 2005.

NMSA 1978, § 21-1-4.6, NM ST § 21-1-4.6

Current through laws effective February 6, 2009 of the First Regular Session of the 49th Legislature (2009)

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END OF DOCUMENT

5.7.18 NMAC

CODE OF NEW MEXICO RULES
TITLE 5. POST-SECONDARY EDUCATION
CHAPTER 7. TUITION AND FINANCIAL AID
PART 18. RESIDENCY FOR TUITION PURPOSES

All new rules, amendments, and repeals effective prior to January 1, 2009.

5.7.18. RESIDENCY FOR TUITION PURPOSES

5.7.18.1 ISSUING AGENCY: State of New Mexico Higher Education Department

[5.7.18.1 NMAC - Rp, 5.7.18.1 NMAC, 8/30/2007]

5.7.18.2 SCOPE: Provisions of 5.7.18 NMAC apply to all state public postsecondary institutions in the state of New Mexico.

[5.7.18.2 NMAC - Rp, 5.7.18.2 NMAC, 8/30/2007]

5.7.18.3 STATUTORY AUTHORITY: Section 21-1-4G NMSA 1978

[5.7.18.3 NMAC - Rp, 5.7.18.3 NMAC, 8/30/2007]

5.7.18.4 DURATION: Permanent.

[5.7.18.4 NMAC - Rp, 5.7.18.4 NMAC, 8/30/2007]

5.7.18.5 EFFECTIVE DATE: August 30, 2007, unless a later date is cited at the end of a section.

[5.7.18.5 NMAC - Rp, 5.7.8.5 NMAC, 8/30/2007]

5.7.18.6 OBJECTIVE: The objective of 5.7.18 NMAC is to establish a policy for the purpose of determining resident and nonresident tuition classifications for students enrolling at public postsecondary institutions in New Mexico.

[5.7.18.6 NMAC - Rp, 5.7.8.6 NMAC, 8/30/2007]

5.7.18.7 DEFINITIONS:

A. 'Armed forces' means the United States army, navy, air force, marine corps or coast guard.

B. 'Department' means state of New Mexico higher education department.

C. 'Dependent minor' means a person determined to be financially dependent upon a parent or guardian and who has not reached the age of majority (eighteen years of age) or is not an emancipated minor. The legal residence of a dependent minor is that of their parent(s) or custodial parents; or, if both parents are dead, of their legally appointed guardian(s) or of the adult person with whom he or she lives with for more than one-half of the preceding consecutive twelve months. In the event a non-custodial parent is a legal resident of New Mexico as determined in

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5.7.18.9 NMAC the dependent minor shall be accorded resident status.

D. 'Emancipated minor' means any person sixteen years of age or older shall be regarded as an adult for the purposes of determining residency status for tuition charges, provided they:

- (1) have entered into a valid marriage, whether or not such marriage was terminated by dissolution; or
- (2) are on active duty with any of the armed forces of the United States of America; or
- (3) are willingly living separate and apart from their parents, guardian or custodian, are managing their own financial affairs and the court finds it in the minors best interest to grant a declaration of emancipation pursuant to Section 32A-21-7 NMSA 1978. Mere absence from parental residence does not prove emancipation.

E. 'Enrollment' means the first day of the term or semester for the student.

F. 'Financially dependent' means that dependency will be determined according to Section 152 of the 1954 Internal Revenue Code. This includes any person for whom the parent, guardian, or spouse provides at least one-half of their support.

G. 'General fees' means a fixed sum charged to students for items not covered by tuition and required of such a proportion of all students that the student who does not pay the charge is an exception. General fees include fees for matriculation, library services, student activities, student union services, student health services, debt service and athletics. An institution may charge fees in addition to general fees that are course-specific or that pertain to a smaller proportion of students.

H. 'New Mexico resident for tuition purposes' means a person who is a United States citizen or has established permanent residence in the United States and has satisfied the requirement(s) and regulations of 5.7.18.9 NMAC.

I. 'Nonresident' means a student who enters and remains in this state principally to enroll in postsecondary education, is presumed to continue to reside outside this state, and such presumption continues in effect until rebutted by clear and convincing evidence of bona fide residence.

J. 'Tuition' means the amount of money charged to students for instructional services, which may be charged per term, per course or per credit.

K. 'Tuition reciprocity participants' mean any nonresident, undergraduate student participating in a tuition reciprocity agreement. Pursuant to Section 21-1-6 NMSA 1978, these participants are ineligible for residency. Furthermore, students may not begin to establish residency (i.e., 12-month durational requirement) until discontinuing from such a program. Refer to department negotiated reciprocity agreements for additional detail.

[5.7.18.7 NMAC - Rp, 5.7.18.7 NMAC, 8/30/2007; A, 5/30/2008]

5.7.18.8 DETERMINATION OF RESIDENCY STATUS:

A. At time of first admission. A person's residency classification for tuition purposes shall be determined at time of admission and must be completed by the census date of that first enrollment in a given public postsecondary educational institution. A person not meeting the residency requirements shall be classified as a nonresident for purposes of tuition charges. The student's classification at time of admission remains in effect unless the individual is re-admitted to the institution or until the individual petitions to become a New Mexico resident.

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B. Petition for resident tuition classification. Once determined a nonresident at the time of census date, a student can petition to be classified as a New Mexico resident by completing the 'petition for resident tuition classification' form (see Paragraph (3) of Section B of 5.7.18.12 NMAC, procedure to petition for resident tuition classification).

[5.7.18.8 NMAC - Rp, 5.7.18.10 NMAC, 8/30/2007]

5.7.18.9 REQUIREMENTS TO ESTABLISH NEW MEXICO RESIDENCY: To become a legal resident of New Mexico for tuition purposes each of the following requirements must be satisfied.

A. Twelve month durational requirement. A person must physically reside in New Mexico for the twelve consecutive months immediately preceding the term for which the resident classification is requested.

B. Financial independence requirement. Only persons who are financially independent may establish residency apart from parents or guardians. A student cannot be approved for residency who is financially dependent upon his or her parents or legal guardians who are nonresidents of New Mexico. Dependency will be determined according to the 1954 Internal Revenue Service Code, Section 152 and is always based on the previous tax year for residency purposes. If under the age of 23 at the time the student applies for residency, a copy of his/her parents' or guardians' 1040 or 1040A U.S. income tax form for the previous tax year is required. If the student is shown to be a dependent on this tax form, he/she will not be considered financially independent or eligible for residency during the current year.

C. Written declaration of intent requirement. The student or person must sign a written declaration of intent to relinquish residency in any other state and to establish it in New Mexico.

D. Overt acts requirement.

(1) Overt acts are required to evidence support of the written declaration of intent to establish permanent residency in New Mexico. Any act considered inconsistent with being a New Mexico resident, such as having a valid driver's license from another state, will cause the request for resident classification to be denied. The required overt acts are evidence of any two of the following:

(a) if the applicant is financially dependent, a copy of the parent or guardians' previous year income tax showing the applicant as a dependent and the parent address as New Mexico; or

(b) a New Mexico high school transcript issued in the past year confirming attendance at a New Mexico public or private high school within the past twelve (12) months; or

(c) a transcript from an online high school showing a New Mexico address confirming attendance within the past twelve (12) months; or

(d) a New Mexico driver's license or ID card with an original date of issue or a renewal date issued prior to the first day of the term or semester; or

(e) proof of payment of New Mexico state income tax for the previous year; or

(f) evidence of employment within the state of New Mexico; or

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- (g) New Mexico vehicle registration; or
- (h) voter registration in New Mexico; or
- (i) proof of residential property ownership in New Mexico; or
- (j) a rental agreement within New Mexico; or
- (k) utility bills showing the applicant name and a New Mexico address; or
- (l) other evidence which would reasonably support the individual's intent to establish and maintain New Mexico residency.

(2) The department recognizes that there may be circumstances in which a student would not be able to fulfill the requirements of an overt act as listed in this section, such as: 1) individual is physically disabled and does not have a driver's license, or 2) individual is a convicted felon and therefore cannot vote, etc. In instances such as these, the institution will afford the student an opportunity to provide other documentary evidence or reasonable explanation which demonstrates that permanent residency in New Mexico has been established by the student.

E. Exceptions to the twelve (12) month requirement. If a student has met the requirements of one of the following exceptions, and is granted residency status, the student shall continue to be classified and reported as a resident for subsequent, continuing enrollment.

(1) An individual married to a legal resident of New Mexico and providing appropriate evidence shall not be required to complete the 12-month durational requirement but must satisfy all other requirements listed in Subsections B, C, and D of 5.7.18.9 NMAC.

(2) Any person, their spouse and dependents who move to New Mexico or who now live in New Mexico and who provide appropriate evidence that they work in a permanent full-time position or practice a profession or conduct a business full-time in New Mexico, shall not be required to complete the 12-month durational requirement but must satisfy all other requirements listed in Subsections B, C, and D of 5.7.18.9 NMAC.

(3) Any person entering the active service of the United States while a resident of New Mexico and who enters a state institution of postsecondary education in New Mexico after separation from such service may be classified as having been a legal resident in New Mexico during the time spent in the service provided they:

- (a) have not while in the service done anything (such as voting in another state) to show abandonment of their New Mexico residency;
- (b) have not established residence in some other state subsequent to being separated from service;
- (c) return to New Mexico within one year after separation from service with the intention of maintaining this state as their legal residence;
- (d) are not a dependent minor with parent(s) or guardian(s) whose place of residence classifies him or her as a nonresident of New Mexico.

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(4) Any person, their spouse and dependents, who move to New Mexico for retirement purposes, and who provide appropriate evidence of retirement shall not be required to complete the 12-month durational requirement. They must, however, satisfy the other requirements listed in Subsections B, C, and D of 5.7.18.9 NMAC.

[5.7.18.9 NMAC - Rp, 5.7.18.11 & 12 NMAC, 8/30/2007; A, 5/30/2008]

5.7.18.10 WAIVERS: If a student has met the requirement of one of the following waivers, the student shall continue to be considered a non-resident for reporting purposes but will receive the benefit of the in-state tuition rates. In receiving such a waiver, the student does not become eligible for state funded student financial aid, unless the regulations for a particular aid program allow for such eligibility.

A. American Indian nations, tribes and pueblos. All out of state members of an American Indian nation, tribe and pueblo, located wholly or partially in New Mexico, regardless of the residence of the member prior to acceptance at a post-secondary educational institution shall be eligible to pay the in-state tuition rate. These include members of the following tribes or pueblos: Navajo Nation, Jicarilla Apache, Mescalero Apache, Taos pueblo, Picuris pueblo, Ohkay Owingeh, Santa Clara pueblo, Nambe pueblo, San Ildefonso pueblo, Pojoaque pueblo, Tesuque pueblo, Cochiti pueblo, Jemez pueblo, Santo Domingo pueblo, San Felipe pueblo, Zia pueblo, Santa Ana pueblo, Sandia pueblo, Isleta pueblo, Laguna pueblo, Acoma pueblo, Zuni pueblo, and the Ute Mountain tribe.

B. Armed forces. Any person, their spouse or dependent child, not otherwise entitled to claim residence, who is a member of the armed forces of the United States or armed forces of a foreign country assigned to active duty in the state of New Mexico, will be assessed in-state tuition rates.

(1) Assignment to active duty within New Mexico must be certified by the military person's commanding officer upon the student's initial enrollment. Such students may continue paying resident rates for as long as they attend consecutive semesters at the same institution.

(2) Pursuant to Section 21-1-4.5 NMSA 1978, a spouse or child of an active member of the armed forces who dies or is killed becomes a resident of New Mexico within sixty (60) days of the date of death.

(3) Pursuant to Section 21-1-4.5 NMSA 1978, if an active member of the armed forces is stationed outside New Mexico following assignment to duty in New Mexico, and the member's spouse or child established residence in New Mexico and registers a letter of intent to establish and continue residing in New Mexico, the spouse or child shall be assessed in-state tuition rates.

C. National guard. Pursuant to Section 20-4-14, NMSA 1978, an active member of the national guard and the member's spouse and children shall be deemed in-state residents for purposes of determining tuition and fees at all state institutions of higher learning.

D. Part-time students. During regular academic year semesters, nonresident tuition may be waived, according to the institution's tuition policy, for students (U.S. citizens and foreign nationals) enrolling for no more than six semester hours during a regular term.

E. Summer session. During summer sessions, nonresident tuition may be waived according to the institution's tuition policy.

F. Certain Texas residents. Pursuant to Section 21-1-3D, NMSA 1978, for the purposes of tuition payment and budget and revenue calculations, the board of regents of any post-secondary, state educational institution, as defined in Article 12, Section 11 of the constitution of New Mexico (specifically, NMHU, ENMU, NMSU, or

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WNMU), may determine that any Texas resident who resides within a (one hundred thirty-five) 135 mile radius of that institution may qualify for in-state tuition rates.

G. Colorado and Arizona reciprocity. Tuition reciprocity participants from Colorado and Arizona shall be selected by eligible institutions to pay in-state tuition rates based on criteria set by forth by each eligible institution. The department will notify each eligible institution of the maximum waivers allocated on an annual basis.

H. Athletic scholarship recipients. Pursuant to Section 21-1-3E, NMSA 1978, for the purposes of tuition payment and budget and revenue calculations, any student (U.S. citizens and foreign nationals) receiving an athletic scholarship from a post-secondary educational institution set forth in Article 12, Section 11 of the Constitution of New Mexico (specifically, UNM, NMSU, NMHU, ENMU, [or] WNMU, or NNMC) may qualify for in-state tuition rates.

I. Competitive scholarship recipients. Any student participating in this program shall be recognized as a competitive scholar and reported as such, unless the student petitions for and is granted residency status.

J. Graduate assistants, including research and teaching assistants, employed at least one-fourth time (10 hours weekly), will be assessed in-state tuition rates. To be eligible, students (U.S. citizens and foreign nationals) must be enrolled full-time, as defined in the graduate catalogue of the public postsecondary institution, during regular terms.

K. Nondiscrimination principle. Any tuition or state-funded financial aid that is granted to residents of New Mexico shall also be granted on the same terms to all persons, regardless of immigration status, who have attended a secondary educational institution in New Mexico for at least one year and who have either graduated from a New Mexico high school or received a general educational development certificate in New Mexico. State-funded financial aid programs with an employment component may require U.S. citizenship or eligible non-citizen status.

[5.7.18.10 NMAC - Rp, 5.7.18.12 NMAC, 8/30/2007; A, 5/30/2008]

5.7.18.11 STUDENT EXCHANGE PROGRAMS: programs established under the auspices of the western interstate commission on higher education (WICHE). Participating students may not begin to establish residency (i.e., 12-month durational requirement) until discontinuing from such a program.

A. Western undergraduate exchange (WUE). Institutions must apply to the WICHE to participate in the WUE program where students in western states may enroll in many two-year and four-year college programs at a reduced tuition level, which is 150 percent of the institution's regular resident tuition

B. Western regional graduate program (WRGP). Residents of Alaska, Arizona, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming are eligible to enroll in available graduate programs outside of their home state at resident tuition rates. Students need not meet financial aid criteria. To be included in WRGP, programs must meet the criteria of distinctiveness and quality. Programs are nominated by their institutions, peer reviewed by other graduate institutions in the west, and approved biannually by the student exchange program advisory council, a policy body that represents all participating states.

[5.7.18.11 NMAC - N, 8/30/2007]

5.7.18.12 ADMINISTRATION OF POLICY:

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A. The higher education department shall:

- (1) publish, disseminate, and distribute pamphlets on residency determination; the department assumes responsibility for the publishing, printing, distribution of the residency pamphlets, and other related printed matter;
- (2) develop a standard 'petition for change in residency classification,' this standardization petition form for residency for tuition purposes shall be utilized by all postsecondary institutions; similarly, all applications for admission shall require standardized information for the initial residency determination;
- (3) convene an annual meeting to review residency issues; classification officers shall meet at least annually to review and discuss residency cases in order to assure uniformity and fairness in residency determination;
- (4) conduct audits to ascertain compliance with policy; at least a random audit of each postsecondary institution's residency decisions shall take place on an annual basis by members of the department staff;
- (5) annually prepare and disseminate a report of the number and type of exceptions granted, by institution; the report shall include exceptions granted to both U.S. citizens and foreign nationals.

B. Institution of postsecondary education shall:

- (1) designate a classification officer. An officer designated by each state postsecondary educational institution shall be responsible for determining the residence status of students for tuition purposes under the terms of this policy.
 - (a) Such administrators or residency classification officers shall strive for uniformity in applying this policy. A common brochure, 'establishing New Mexico residency for in-state tuition classification,' shall be utilized by all postsecondary educational institutions.
 - (b) Nothing contained herein precludes a student from contesting the postsecondary institution's decision in the courts.
 - (c) Classification officers may require copies of appropriate legal, personal, business, or family documents in order to make an informed decision on residency. Such documents are considered confidential and are to be utilized for the residency determination alone.
- (2) develop procedures for determining residency; the burden of proving a change of status from nonresident to resident shall be on the applicant in every case by submitting satisfactory evidence thereof to the designated official of the postsecondary educational institution; such evidence shall include:
 - (a) information demonstrating that the applicant, or their parent or guardian if the applicant is a minor, has been physically present in this state for a period of at least twelve consecutive months immediately preceding the enrollment date on which the change of status is to take effect;
 - (b) for purposes of determining financial dependency, a signed copy of page 1 of the 1040 or 1040A United States internal revenue service income tax form for the previous year for the applicant's parent(s) or guardian(s) is required (if under age of 23). Such dependency will be determined according to Section 152 of the 1954 Internal Revenue Code;

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(3) develop procedure to petition for resident tuition classification; a nonresident student must obtain a 'petition for resident tuition classification' from the appropriate postsecondary institutional residency classification officer and file the petition with this officer; all petitions must be filed before the third Friday after the beginning of classes for that term or the institution's census date if different;

(4) develop procedure for appeal; each postsecondary institution shall organize an appeals board for students who feel the residency classification officer has made a wrongful determination; the appeals board shall be the student's last recourse prior to the courts.

[5.7.18.12 NMAC - Rp, 5.7.18.13 NMAC, 8/30/2007]

HISTORY OF 5.7.18 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

BEF Rule 910, Residency for Tuition Purposes, filed 2/27/85;

CHE Rule 910, Residency for Tuition Purposes, filed 3/8/90;

CHE Rule 910, Residency for Tuition Purposes, filed 6/29/92;

CHE Rule 910, Residency for Tuition Purposes, filed 12/21/94.

History of Repealed Material:

5.7.18 NMAC, Residency for Tuition Purposes, filed 8/1/2000, Repealed 8/30/2007.

<General Materials (GM) - References, Annotations, or Tables>

N.M. Admin. Code 5.7.18, **NM ADC 5.7.18**

NM ADC 5.7.18
END OF DOCUMENT

MISCELLANEOUS

CWest's New Mexico Statutes Annotated [Currentness](#) [Chapter 21](#). State and Private Education Institutions [Article 1](#). General Provisions Relating to State Educational Institutions ([Refs & Annos](#))→ § 21-1-26.3. **Verification function**

The higher education department shall annually conduct special verifications of the institutions of higher education. The verifications shall include enrollments, fund balances, compliance with legislation, comparison of expenditures to budgets and other areas to be determined by the department. Reports on the verifications shall be made annually to the department of finance and administration and the legislative finance committee. The department shall consider the verification findings in making its annual recommendations to the executive and legislature for higher education funding.

CREDIT(S)

L. 1986, Ch. 24, § 3; L. 1999, Ch. 173, § 1; L. 2005, Ch. 289, § 18, eff. April 7, 2005.

NMSA 1978, § 21-1-26.3, NM ST § 21-1-26.3

Current through laws effective February 6, 2009 of the First Regular Session of the 49th Legislature (2009)

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END OF DOCUMENT

5.6.2 NMAC

**CODE OF NEW MEXICO RULES
TITLE 5. POST-SECONDARY EDUCATION
CHAPTER 6. POST-SECONDARY ENROLLMENT AND DATA REPORTING
PART 2. ENROLLMENT REPORTING**

All new rules, amendments, and repeals effective prior to January 1, 2009.

5.6.2. ENROLLMENT REPORTING

5.6.2.1 ISSUING AGENCY: State of New Mexico Higher Education Department

[12/31/98; 5.6.2.1 NMAC - Rn & A, 5 NMAC 6.2.1, 7/31/05]

5.6.2.2 SCOPE: All public post-secondary educational institutions operating within and receiving financial support from the state of New Mexico.

[12/31/98; 5.6.2.2 NMAC - Rn, 5 NMAC 6.2.2, 7/31/05]

5.6.2.3 STATUTORY AUTHORITY: Authority for 5.6.2 NMAC is found in Post-Secondary Educational Planning Act, [Sections 21-2-5](#) and [21-2-7, NMSA 1978](#).

[12/31/98; 5.6.2.3 NMAC - Rn, 5 NMAC 6.2.3, 7/31/05]

5.6.2.4 DURATION: Permanent.

[2/27/85, 12/31/98; 5.6.2.4 NMAC - Rn, 5 NMAC 6.2.4, 7/31/05]

5.6.2.5 EFFECTIVE DATE: December 31, 1998, unless a later date is cited at the end of a section.

[12/31/98; 5.6.2.5 NMAC - Rn & A, 5 NMAC 6.2.5, 7/31/05]

5.6.2.6 OBJECTIVE: The purpose of the enrollment report is to measure the instruction load following the normal drop and add period of the registration process.

[12/31/98; 5.6.2.6 NMAC - Rn, 5 NMAC 6.2.6, 7/31/05]

5.6.2.7 DEFINITIONS: [RESERVED]

5.6.2.8 PRINCIPLES GUIDING ENROLLMENT REPORTING:

A. Fall and spring semesters: Application of the following guidelines will ensure consistency of reporting among institutions:

- (1) The census date will be Friday of the third week of classes.
- (2) Only students representing a load on the instructional function of the institution as of the census date may be

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counted. Course additions prior to the census date should be added. Course drops and withdrawals as of the close of the census date should be subtracted. The date on which course additions and/or subtractions are processed is irrelevant.

(3) All courses taught through auspices of the reporting campus will be included regardless of delivery site or mode. This includes on-line and other distance education delivery methods which originate from the reporting campus. In cases where a main campus university offers courses on the branch campus such enrollments should be reported as main campus courses.

(4) Two-year institutions shall include all lower division credit courses taught within their district. Courses taught outside the district will not be certified for state support and should be reported separately.

(5) Enrollment in courses not taught on the regular calendar should be reported as of the date the course is one-third complete. Enrollment in open-entry/open-exit courses should be based on average daily enrollment.

(6) Full-time equivalence in noncredit vocational-technical courses is determined as follows:

(a) Conversion of noncredit contact hour courses to equivalent semester credit hours:

Contact Hours	Equivalent Semester Credit Hours
10-14	.25
15-21	.50
22-29	.75
30-37	1.00
38-44	1.25
45-52	1.50
53-59	1.75
60-74	2.00
75-89	2.50
90-119	3.00
120-149	4.00
150-179	5.00
180-209	6.00
210-239	7.00
240-269	8.00
270-299	9.00
300-329	10.00
330-359	11.00
360-389	12.00
390-419	13.00
420-449	14.00
450-479	15.00
480-509	16.00
510-539	17.00
540-	18.00

(b) 18 credit hours is the maximum credit that can be earned per semester.

B. Summer session and special sessions:

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(1) The census date for a summer session shall be the last date to register for that session. Enrollment in short courses which occur during the summer session may be included in this report.

(2) Only those classes taught on the main campus will be reported in the first column of the summer enrollment report form. Off-campus courses, programs and residence centers should be reported separately.

(3) Short courses, mini-courses and workshops occurring at other times during the year should be reported along with interim sessions or reported separately.

[12/31/98; 5.6.2.8 NMAC - Rn & A, 5 NMAC 6.2.8, 7/31/05]

5.6.2.9 REPORTING: Reporting forms:

A. Form 610.A: Number of students enrolled for each specified number of hours.

B. Form 610.B: Semester enrollment summary.

[12/31/98; 5.6.2.9 NMAC - Rn, 5 NMAC 6.2.9, 7/31/05]

HISTORY OF 5.6.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

BEF Rule 610, Enrollment Reporting, 2/27/85.

History of Repealed Material: [RESERVED]

<General Materials (GM) - References, Annotations, or Tables>

N.M. Admin. Code 5.6.2, NM ADC 5.6.2

NM ADC 5.6.2
END OF DOCUMENT

**SUPPLEMENTAL DOCUMENTS
AND VERIFICATION FORMS**

The rules and regulations for establishing residency for tuition purposes are defined by the New Mexico Higher Education Department, which is authorized by the Constitution of the State of New Mexico and state statutes (Chapter 235, IE, NMSA 1971 and Section 21-1-4E NMSA 1978) to provide classification for a tuition differential between resident and non-resident students.

An individual must establish legal residency in New Mexico before he or she is entitled to pay in-state tuition rates. The requirements to establish residency for tuition purposes are independent from those of other types of residency such as voting or holding public office. A legal resident for tuition purposes is someone who meets the requirements set forth by this policy and described in this brochure.

These regulations for residency apply to all public post-secondary institutions in the State of New Mexico, including branches and community colleges.

Following are questions and answers that present the essence of the residency regulations and provide the information needed to establish residency for tuition purposes. The full policy is available at each institution.

1. Why are non-resident students at New Mexico's educational institutions charged higher tuition than resident students?

New Mexico's institutions of higher education are supported by the General Fund of the State of New Mexico. Since non-resident students (and their families) generally have not contributed to the support of public education in New Mexico, they are required to pay additional tuition which more closely represents the actual cost of their education.

2. What is required for residency for tuition purposes?

In general, a financially independent, adult person over 18 years of age must have resided in New Mexico for a period of 12 consecutive months immediately prior to the term for which the petition is being filed. Furthermore, "residency" in this context means legal "residence." Legal residence requires intent to remain in a place indefinitely, in the sense of making one's permanent home there, as well as physical presence at the place. The distinction is that one may have any number of residences at one time, but never more than one legal residence.

There are two types of education... One should teach us how to make a living, And the other how to live.

—John Adams

3. When is a student's residency status determined?

The Admissions Office at each institution determines each student's residency status when the completed application for admission is received and processed. The decision is based on the information contained in the application for admission, transcripts and other documents required for admission. The residence status determined at this time remains in effect until the student-state survey is completed. The requirements for residency

and petitions for resident tuition classification, or 2) loses residency by his/her absence from New Mexico or intends to become a resident of another state.

4. How is a minor student's residency status determined?

In New Mexico, for most purposes, the age of majority is 18. Persons under the age of 18 are considered minors under the law. A minor's residence is presumed to be the same as his/her parents' or legal guardian's. The residence decision for students under 18 is based upon the legal residence of the parents or legal guardian. In the event that a non-custodial parent is a legal resident of New Mexico, the minor student will be classified as a resident.

5. Can a minor establish residency separate from that of his parents or legal guardian?

Not usually. With the sole exception of automatic legal emancipation upon marriage, a minor is presumed to share his parents' or legal guardian's residence, unless the minor presents to the appropriate institution official written evidence sufficient to justify (as a conclusion of law) a finding of the minor's emancipation. What this means is you must be 18 years old to begin to establish residency apart from your parents or guardian.

6. What is the residence of a student who becomes 18 after he/she has enrolled in a university or college?

Because of the presumption that a minor shares his/her parents' or legal guardian's residence and because of the 12 month physical presence requirement, the 18 year old student's residence is the same as the parents' until the student's 19 birthday. Upon the student's 19 birthday, the student is eligible to have established his/her separate legal residence. A non-resident student may then petition for residency based on his/her compliance with the residency regulations.

7. How does a person establish New Mexico residency?

To become a legal resident of New Mexico for tuition purposes, four basic requirements must be completed. Each person must meet the requirements individually.

A. The 12 month Consecutive Presence Requirement. A person must physically reside in the state for 12 consecutive months immediately preceding the term for which classification is requested. NOTE: A student cannot begin to complete the 12 month requirement until his/her 18 birthday.

B. The Financial Independence Requirement. Only persons who are financially independent may establish residency apart from parents or guardian regardless of age. A student cannot be approved for residency who is financially dependent upon his/her parents or legal guardian who are non-residents of New Mexico. Dependency will be determined according to the 1954 Internal Revenue Service Code, Section 152 and is always based on the previous tax year for residency purposes. If under the age of 23 at the time the student applies for residency, a copy of his/her parents' or guardians' 1040 or 1040A U.S. income tax form for the previous tax year is required. If the student is shown to be a dependent on this tax form, he/she will not be considered financially independent or eligible for residency during the current year.

20. Can a student who is classified as a resident lose resident status and be reclassified as a non-resident?

A student can lose resident status by: 1) acting to establish legal residence in another state or 2) a finding by the institution that resident status was granted on the basis of false or misleading information.

In the first situation, any resident student may forfeit resident status by acting in ways inconsistent with being a New Mexico resident (See Overt Acts, Section 7D.) or by being absent from the state for 12 continuous months. Intent and actions in support of intent are of greater importance than length of absence because of the principle that one does not surrender the old legal residence until new legal residence is acquired. For example, absences which are the result of attending an out-of-state school or active military service do not result in loss of residency so long as the student does not attempt to establish residency elsewhere.

For information or interpretation, contact the New Mexico Higher Education Department or the Admissions Office or Registrar's Office at your institution. Following are the post-secondary institutions for which these regulations apply:

- Albuquerque Technical Vocational Institute
- Clovis Community College
- Eastern New Mexico University
 - Roswell Branch
 - Ruidoso Center
- Luna Community College
- Mesalands Community College
- New Mexico Highlands University
- New Mexico Institute of Mining and Technology
- New Mexico Junior College
- New Mexico Military Institute
- New Mexico State University
 - Alamogordo Branch
 - Carlsbad Branch
 - Dona Ana Branch
 - Grants Branch
- Northern New Mexico College
- San Juan College
- Santa Fe Community College
- University of New Mexico
 - Gallup Branch
 - Los Alamos Branch
 - Valencia Branch
 - Taos Branch
- Western New Mexico University

**New Mexico Higher Education Department
Santa Fe New Mexico 87505
Phone: 505-476-6500
Fax: 505-476-6511
Student Helpline: 800-279-9777
higher@state.nm.us
http://hed.state.nm.us**

ESTABLISHING NEW MEXICO RESIDENCY *or* ELIGIBILITY *for* REDUCED TUITION RATES *or* IN-STATE TUITION



STATE OF NEW MEXICO
HIGHER EDUCATION DEPARTMENT

EFFECTIVE FALL 2005

C. The Written Declaration of “Intent” Requirement. The student must sign a written declaration of intent to relinquish residency in any other state and to establish residency in New Mexico.

D. The Overt Acts Requirement. New Mexico requires the completion of several “overt” acts which support the student’s written declaration of intent to become a permanent resident. The required Overt Acts are evidence of any of the two of the following:

- 1) If the applicant is financially dependent, a copy of the parents’ or guardians’ previous year income tax form showing the applicant as a dependent and the parents’ address as New Mexico;
- 2) A New Mexico high school transcript issued in the past year confirming attendance at a New Mexico public or private high school within the past 12 months;
- 3) A transcript from an online high school showing a New Mexico address confirming attendance within the past 12 months;
- 4) A New Mexico driver’s license or ID card with an original date of issue or a renewal date issued prior to the application date for admission;
- 5) Proof of payment of New Mexico state income tax for the previous year;
- 6) Evidence of employment within the state of New Mexico;
- 7) New Mexico vehicle registration;
- 8) Voter registration in New Mexico;
- 9) A bank account established in New Mexico prior to the application date for admission;
- 10) Proof of residential property ownership in New Mexico;
- 11) A rental agreement within New Mexico;
- 12) Utility bills showing the applicant name and a New Mexico address;
- 13) Other evidence which would reasonably support the individual’s intent to establish and maintain New Mexico residency.

However, any act considered inconsistent with being a New Mexico resident will cause the request for resident classification to be denied.

8. How is the residence status determined for parents or a legal guardian when the student’s classification depends upon the parents’ or guardian’s residence?

The residence status of parents or a guardian for minors and students financially dependent on parents or a guardian is determined according to the same requirements as outlined for individuals (See #7).

9. Are there any exceptions to the residency regulation?

Yes, provisions have been made for some special groups of people.

A. Federal service employees and military personnel who were legal residents of New Mexico prior to entering federal service or the armed forces may retain their New Mexico residency while assigned out of the state so long as they take no action inconsistent with legal residence in New Mexico. Examples of such inconsistent actions are voting in another state, remaining outside New Mexico for an unreasonable time after separation from government service, or establishing another residence.

B. Non-resident members of the armed forces of the United States while stationed on active duty within New Mexico, their spouses and dependent children are exempt from non-resident tuition by statute. A spouse or child of an active member of the armed forces who is assigned to duty elsewhere immediately following assignment to duty in New Mexico shall be deemed an in-state resident for purposes of determining tuition and fees at all state institutions of higher learning as long as the spouse or child resides continuously in New Mexico. A spouse or child of an active member of the armed forces who dies or is killed shall be deemed an in-state resident for purposes of determining tuition and fees at all state institutions of higher learning if the spouse or child becomes a resident of New Mexico within 60 days of the date of death. A certification form must be submitted when the student initially enrolls for this waiver. This waiver of non-resident tuition remains in effect for as long as the student enrolls continuously at the same institution.

C. Active participating members of the New Mexico National Guard shall be deemed in-state residents for in-state tuition rates. An active member of the National Guard and the member’s spouse and children shall be deemed in-state residents for purposes of determining tuition and fees at all state institutions of higher learning.

D. Part-time students enrolling for six hours or less during a regular semester may be charged resident tuition rates according to the institution’s tuition policy.

E. Assessment of non-resident tuition is made for summer session attendance according to the institution’s tuition policy.

F. The spouse and dependent children of a person who has moved to New Mexico and has obtained permanent full-time employment (sufficient documentation is required) shall not be required to complete the 12 month durational requirement. However, all other requirements must be satisfied.

G. Persons, their spouses and dependents who move to New Mexico for retirement purposes and who provide appropriate evidence of formal retirement shall not be required to complete the 12 month durational requirement. They must, however, satisfy the other requirements of residency.

H. An individual married to a legal resident of New Mexico and providing appropriate evidence of marriage shall not be required to complete the 12 month durational requirement but must satisfy all other requirements.

I. For the purpose of tuition payment and budget and revenue calculations, "resident student" includes a member of an Indian nation, tribe or pueblo located wholly or partially in New Mexico, regardless of the residence of the member prior to acceptance at a post-secondary educational institution enumerated in Article 12, Section 11 of the Constitution of New Mexico for either undergraduate or post-graduate enrollment.

J. Certain residents of Texas may be eligible for in-state tuition.

K. Any student receiving a state-funded athletic scholarship from a New Mexico public post-secondary educational institution.

L. Any tuition rate or state-funded financial aid that is granted to residents of New Mexico shall also be granted on the same terms to all persons, regardless of immigration status, who have attended a secondary educational institution in New Mexico for at least one year and who have either graduated from a New Mexico high school or received a general educational development certificate in New Mexico.

10. Are there any programs that have special restrictions concerning residency eligibility?

Yes, students who participate in any of the following programs are ineligible to establish residency. Furthermore, such students may not begin to establish residency (i.e. satisfy the 12 month durational requirement) until after discontinuing any of these programs:

- Tuition Reciprocity
- Competitive Scholarship
- WICHE Student Exchange

11. What is the resident status of immigrants, refugees, and international students?

A. Non-citizens of the United States, who are lawfully in the United States, have obtained permanent status from the Department of Homeland Security (DHS) , or non-citizens who serve on active duty in the armed forces of the United States, may establish residency by meeting the durational and intent requirements. Any non-citizen entering an institution of higher education on a non-immigrant visa (i.e. student, diplomatic, visitor, or visiting scholar), including spouses and dependents, shall be classified as non-residents for tuition purpose.

B. Non-citizens however are eligible for instate tuition without regard to their immigration status if they have met requirements as noted in Section L of Question 9 in this brochure.

12. What procedure should be followed in petitioning for resident status?

A non-resident student who feels he/she has satisfied the residency requirements may obtain a “Petition for Resident Tuition Classification” from the appropriate institutional office. The form should be completed in detail and returned to the appropriate office, along with a copy of his/her parents’ or guardian’s 1040 or 1040A U.S. income tax form, if the student is under 23 years old. A change in residency classification is never automatic and it is always the student’s responsibility to initiate the petition.

13. Must all requirements be met before the commencement of the semester for which a change of residency status is petitioned in order to qualify for resident tuition for that semester?

Yes. Petitions for resident status will not be approved unless all requirements are met before the first day of classes for that term.

14. Is there a deadline for petitions for resident tuition classification for a semester which has officially begun?

While the requirements for residency must be completed before the first day of classes or the institution’s census date, if different, the deadline for any petition for resident tuition classification applicable to a current semester is 21 calendar days after the first day of classes (i.e., the date the semester officially begins). A petition received after that date will not be considered. Another petition must be filed for any subsequent semester.

15. On first applying for admission to a New Mexico educational institution or while awaiting the result of a petition for residence status, should a student pay tuition at resident or non-resident rates?

Until officially classified as a resident, the student must proceed as a non-resident. Tuition and fees must be paid on time at the non-resident rates.

16. If a student fails to petition for residency and continues to be charged at, and/or pay non-resident tuition after he/she is eligible for a change of status, may he/she receive the difference between non-resident and resident tuition retroactive to the date of actual eligibility?

No. It is the student’s responsibility to petition for a change of resident status when he/she feels the requirements have been met. If the student does not petition for a change of resident status and continues to pay non-resident tuition, he/she waives any right to recover the difference.

17. What happens after the petition requesting a change to resident status is submitted to the appropriate university or college office?

The petition is reviewed and a decision is made as quickly as possible. Normally the student will be notified of the decision within a few days. A student may be requested to supply additional information or to explain apparent inconsistencies before a final decision is reached.

18. If a student’s petition for residency is denied, does he/she have any recourse?

When residency is denied, the student is notified by a letter stating “petition denied because requirements, as outlined in the Establishing Residency brochure, were not met.” The student may amend his/her petition with additional information in support of his/her cause. Amended petitions are reviewed by the same standards as original petitions. If the amended petition is denied, the student may appeal to the institution’s board of appeals for residency. The board shall be the student’s last recourse prior to the courts.

19. If a student is denied residency and is unable to meet the residency requirements, may he/she petition for a change of status again?

If a student has reason to believe that he/she has satisfied the residency requirements at some later time, he/she may reapply for residency.

*Education is not the filling of a pail,
but the lighting of a fire.*

—William Butler Yeats

PETITION FOR IN-STATE TUITION CLASSIFICATION

STATE OF NEW MEXICO



ALL REQUIREMENTS MUST
BE MET BY THE FIRST DAY
OF CLASSES

DEADLINE FOR
SUBMISSION OF PETITION

FOR THE _____

TERM: 20 _____

FOR OFFICE USE ONLY

Approved Denied Effective: Fall Spring Summer 20 _____

Reviewed by _____ Date _____

Notes _____

Instructions: Please answer all questions using N/A (Not Applicable) for those questions which do not apply to your situation. If you need additional writing space, please attach pages indicating the subject of each attachment. Submit the petition to the appropriate office well in advance of the term for which the request is being made.

PLEASE PRINT OR TYPE

PETITIONER NAME: _____ SSN OR ID #: _____

DATE OF BIRTH: _____ TELEPHONE: _____

List all addresses where you (student) have resided in the last 24 months. Give inclusive month/year for each residence including current residence, the reason you resided at that residence. (For example, parent's home, school, employment, etc.)

Present Address _____	From	To
City _____ State _____ Zip _____ Reason _____	/	/
Previous Address _____	From	To
City _____ State _____ Zip _____ Reason _____	/	/
Previous Address _____	From	To
City _____ State _____ Zip _____ Reason _____	/	/

		1. What state do you consider your permanent home?
YES	NO	2. Do you intend to (or have you) establish (ed) New Mexico residency If yes, student must relinquish residency in all other states.
YES	NO	3. Have you been absent from New Mexico for more than a month in the previous year?
YES	NO	4. Are you married to a New Mexico resident?
YES	NO	5. Are you currently enrolled, or have you attended a higher education institution in the last two years? If yes, complete below:

		INSTITUTION	CITY/STATE	Classified as a resident?	
FROM	TO			YES	NO
/	/				
FROM	TO			YES	NO
/	/				
FROM	TO			YES	NO
/	/				

YES	NO	6a. Did you graduate from a New Mexico high school? If yes, please list high school and graduation date: High School: _____ Date: ____/____/____
YES	NO	6b. Did you attend for at least year?

7. List all employers, addresses and dates of employment in the previous year. Use additional pages if necessary.

EMPLOYER	City	State	FT/PT
FROM / / TO / /			
FROM / / TO / /			

FROM / /	TO / /			
FROM / /	TO / /			

YES	NO	<p>8. Did your parents or legal guardian claim you as a dependent on federal tax returns in the immediate preceding tax year?</p> <p>If yes, who: Parents <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Guardian <input type="checkbox"/></p> <p>If you were under the age of 23 in the most recent tax year, a copy of your parents' 1040, 1040A, 1040EZ tax form is required. If parents filed separately, submit a copy of both parents' returns.</p>
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		<p>9. If you are less than 19 years of age or answered yes to question 8, please provide the following information:</p> <p>A. Parent/Guardian Name: _____</p> <p>Address: _____</p> <p>City/State/Zip: _____</p> <p>B. If parents' addresses differ, explain: _____</p>
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YES	NO	<p>10. Are you registered to vote in New Mexico? If so, provide Voter Registration Number: _____</p> <p>If no, what state are you registered to vote? _____</p>
-----	----	---

YES	NO	<p>11. Did you file a New Mexico income tax return for the previous year?</p> <p>If no, in what state did you file your taxes? _____</p>
-----	----	--

		<p>12. Your driver's license number: _____ State: _____ Expires: _____</p>
--	--	--

YES	NO	<p>13. Do you have a New Mexico State issued ID card? If yes, ID Number: _____ Expiration Date: _____</p>
-----	----	---

YES	NO	<p>14. Do you own residential property in New Mexico? If yes, location: _____</p>
-----	----	---

YES	NO	<p>15. Do you have utilities in your name? If yes, which: _____</p>
-----	----	---

YES	NO	<p>16. Do you own a motor vehicle? If yes, license number: _____ State: _____</p>
-----	----	---

		<p>17. List any other information which may be pertinent to your classification as a New Mexico resident for tuition purposes:</p> <p>_____</p> <p>_____</p>
--	--	--

YES	NO	<p>18. In the previous year, were you participating in the Texas, Arizona or Colorado tuition reciprocity program?</p>
-----	----	--

YES	NO	<p>19. Are you participating in the Western Undergraduate Exchange Program?</p>
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YES	NO	<p>20. Have you been receiving financial assistance from any state other than New Mexico?</p> <p>If yes, complete the following: Name of granting agency: _____</p> <p>State: _____ Date Received: _____</p>
-----	----	--

YES	NO	<p>21. Have you separated from the U.S. Armed Forces in the previous two years?</p> <p>A. Home of record on original entry papers: _____</p> <p>B. Home of record on State of Legal Residence Certificate (DD 2058): _____</p>
-----	----	--

YES	NO	<p>22. Are you a citizen of the United States? If no, applicant must complete this section:</p> <p>Country of Citizenship: _____</p> <p>Date of entry into the United States: _____</p> <p>Type of Visa: _____</p> <p>Permanent Resident Alien Registration Number: _____</p>
-----	----	---

<p>I certify that the above is true and correct to the best of my knowledge. I am aware that the Institution may cancel my admission or registration for any false or misleading statement on this petition and assess retroactive tuition and fees.</p>	
<p>Petitioner Signature _____</p>	<p>Date _____</p>

Residency for Tuition Purposes Documentation Checklist

In accordance with the rules and regulations set forth by the State of New Mexico Higher Education Department, the following documentation is required to support a petition to establish residency for tuition purposes.

____ 1. Proof that you have resided in New Mexico for the **immediately preceding 12 consecutive months**. Examples of acceptable documents (or combination of documents) to prove 12 months physical presence include:

- Employment verification on company letterhead. *No pay stubs, please.*
- Lease or rental agreement. If lease is month to month, a notarized letter from the landlord or property manager that verifies actual dates of residence may be submitted. *No rent receipts, please.*
- Unofficial transcript that shows continuous enrollment at a New Mexico institution of higher education over the past 12 months.

____ 2. If under the age of 23:

AND

- financially dependent, a copy of the parents' or guardians' previous year federal income tax return(s) showing the petitioner was claimed as a dependent, and the parents' address as New Mexico. Proof that the parents meet two of the overt requirements (see 3.) must also be submitted. **NOTE: This documentation may also be used as proof of one of the two required overt acts.**

OR

- financially independent of parents who reside out-of-state, a copy of the parents' or guardians' previous year federal income tax return(s) showing the petitioner was not claimed as a dependent.

____ 3. Documentation of two of following overt acts to support intent to establish permanent residency in New Mexico.

Note: Although documentation of only two of the following must be submitted, any act considered inconsistent with being a resident of New Mexico will cause the petition for residency for in-state tuition purposes to be denied. Inconsistent acts may include holding a driver's license, vehicle registration, or voter registration in another state.

- A New Mexico driver's license or state issued ID card. **Note:** If you hold a driver's license, it must be issued by New Mexico.
- Copy of New Mexico state income tax return for the previous year.
- Evidence of employment within the State of New Mexico. **NOTE: If you submit a letter from your employer to prove 12 months physical presence in New Mexico, you may not also use the letter as one of your overt acts.**
- New Mexico vehicle registration (if you own your vehicle).
- New Mexico voter registration.
- Proof of residential property ownership in New Mexico. **NOTE: If you submit such proof to support 12 months physical presence in New Mexico, you may not also use it as one of your overt acts.**
- Rental agreement within New Mexico. **NOTE: If you submit a rental agreement to support 12 months physical presence in New Mexico, you may not also use it as one of your overt acts.**
- Utility bills (i. e., electric, gas, telephone, water) showing the petitioner's name and a New Mexico address.

____ 4. To establish residency for tuition purposes, you must be a U.S. citizen or permanent resident of the U.S. Permanent residents must submit a copy of their Alien Registration card.

Any act considered inconsistent with being a resident of New Mexico will cause the petition for residency for in-state tuition purposes to be denied.