Policies

USM Bylaws, Policies and Procedures of the Board of Regents

Policy on Student Classification For Admission and Tuition Purposes

(Approved by the Board of Regents August 28, 1990; Amended July 10, 1998; Amended November 27, 2000; Amended April 11, 2003; Amended June 23, 2006, Amended February 15, 2008, Amended October 24, 2014; Amended April 10, 2015; Amended February 17, 2017. Amended June 16, 2017.)

Check the USM website (www.usmd.edu/regents/bylaws/SectionVIII) for the most up-to-date version.

I. Policy

A. Purpose

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

B. Qualification for In-State Status

Generally, in order to qualify for in-state status, a prospective, returning, or current student must demonstrate that he or she is a permanent Maryland resident. Under certain circumstances, as set forth in this Policy, students who are not permanent Maryland residents may qualify temporarily for in-state status. Students who do not qualify for in-state status under this Policy shall be assigned out-of-state status for admission and tuition purposes.

C. Standard of Proof

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

II. Determination of Residency Status

A. Criteria for Determination of Residency Status

An initial determination of residency status will be made at the time of admission and readmission based upon information provided by the student with the signed application certifying that the information provided is complete and correct. Additional information may be requested by the institution, to clarify facts presented. To qualify for in-state status, the student must demonstrate that for at least 12 consecutive months immediately prior to and including the last date available to register for courses for the semester/term for which the student seeks in-state status, the student had the continuous intent to reside in Maryland indefinitely and for a primary purpose other than that of attending an educational institution in Maryland. The student will demonstrate the requisite intent by satisfying all of the following requirements for the 12-month period (or shorter period indicated):

1) Has continuously maintained his or her primary living quarters in Maryland.
2) Has substantially all personal property, such as household effects, furniture, and pets, in Maryland.
3) Has paid Maryland income tax on all taxable income, including all taxable income earned outside of Maryland, and has filed a Maryland Resident Tax Return.
4) Has registered all owned or leased motor vehicles in Maryland for at least 12 consecutive months, if previously registered in another state. Students who have lived in Maryland for at least 12 consecutive months but who have had their motor vehicle(s) registered in Maryland for less than 12 months will be deemed to have satisfied this requirement if they can show evidence that their owned or leased motor vehicle(s) was (were) registered in Maryland within 60 days after moving to the state.
5) Has possessed a valid Maryland driver's license for at least 12 consecutive months, if previously licensed to drive in another state. Students who have lived in Maryland for at least 12 consecutive months but who have held a Maryland driver's license for less than 12 months will be deemed to have satisfied this requirement if they can show evidence that their driver's license was issued in Maryland within 60 days after moving to the state.
6) Is currently registered to vote in Maryland, if previously registered to vote in another state (no time requirement).
7) Receives no public assistance from a state other than the State of Maryland or from a city, county, or municipal agency other than one in Maryland.
8) Has a legal ability under Federal and Maryland law to live permanently and without interruption in Maryland.

B. Presumption of Out-of-State Status

Either of the following circumstances raises a presumption that the student is residing in the State of Maryland primarily for the purpose of attending an educational institution and, therefore, does not qualify for in-state status under this Policy:

1) A student is attending school or living outside Maryland at the time of application for admission to a USM institution, or
2) A student is Financially Dependent on a person who is not a resident of Maryland. A student will be considered financially independent if the student provides 50% or more of his or her own living and educational expenses and has not been claimed as a dependent on another person's most recent tax returns.

III. Change In Classification For Tuition Purposes

A. Petition for Change in Classification for Tuition Purposes

After the initial determination is made, a student seeking a change to in-state tuition status must submit a Petition for Change in Classification for Tuition Purposes that includes all of the information the student wishes the institution to consider. All information must be submitted by the institution’s deadline for submitting a petition for the semester for which the student seeks reclassification. Only one Petition may be filed per semester.

B. Criteria for Change in Tuition Status

A student seeking reclassification from out-of-state to in-state tuition status must demonstrate, by clear and convincing evidence, that for at least twelve (12) consecutive months immediately prior to and including the last date available to register for courses for the semester/term for which the student seeks in-state tuition status, the student had the continuous intent to (1) make Maryland his or her permanent home; 2) abandon his or her former home state; 3) reside in Maryland indefinitely; and reside in Maryland primarily for a purpose other than that of attending an educational institution in Maryland.

A student will demonstrate the requisite intent by satisfying all of the following requirements for a period of at least twelve (12) consecutive months (or for the shorter period of time indicated) immediately prior to and including the last date available to register for courses in the semester/term for which the student seeks in-state tuition status. Evidence of intent must be clear and convincing and will be evaluated not only by the amount presented but also based upon the reliability, authenticity, credibility and relevance of the evidence and the totality of facts known to the institution. The student must demonstrate (providing appropriate documentation as necessary) that for the relevant period he or she:

1) Continuously maintained his or her primary living quarters in Maryland.
2) Has substantially all of his or her personal property, such as household effects, furniture and pets, in Maryland.
3) Has paid Maryland income tax on all taxable income including all taxable income earned outside the State and has filed a Maryland Resident Tax Return.
4) Has registered all owned or leased motor vehicles in Maryland for at least 12 consecutive months, if previously registered in another state.

Students who have lived in Maryland for at least 12 consecutive months but who have had their motor vehicle(s) registered in Maryland for less than 12 months will be deemed to have satisfied this requirement if they can show evidence that their owned or leased motor vehicle(s) was (were) registered in Maryland within 60 days after moving to the state.
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5) Has possessed a valid Maryland driver’s license for at least 12 consecutive months, if previously licensed to drive in another state. Students who have lived in Maryland for at least 12 consecutive months but who have held a Maryland driver’s license for less than 12 months will be deemed to have satisfied this requirement if they can show evidence that their driver’s license was issued in Maryland within 60 days after moving to the state.

6) Is currently registered to vote in Maryland, if previously registered to vote in another state (no time requirement).

7) Receives no public assistance from a state other than the State of Maryland or from a city, county or municipal agency other than one in Maryland.

8) Has a legal ability under Federal and Maryland law to live permanently without interruption in Maryland.

9) Has either not raised the presumption set forth in Section II.B above; or alternatively, if the student’s circumstances have raised the presumption set forth in Section II.B above, the student has rebutted that presumption.

C. Rebuttal Evidence

If the information received by the institution about the student has raised the presumption set forth in Section II.B, the student bears the burden of rebutting the presumption set forth in Section II.B by presenting additional evidence of objectively verifiable conduct to rebut the presumption and show the requisite intent. Rebuttal evidence of intent must be clear and convincing and will be evaluated not only by the amount presented but also based upon the reliability, authenticity, credibility and relevance of the evidence and the totality of facts known to the institution. Evidence that does not document a period of at least twelve (12) consecutive months immediately prior to and including the last date available to register for courses in the semester/term for which the student seeks in-state tuition status is generally considered an unfavorable factor. A student’s statement of intent to remain in Maryland in the future is generally not considered to be objective evidence of intent must be clear and convincing and will be evaluated not only by the evidence under this Policy.

For purposes of rebutting the presumption, additional evidence that will be considered includes, but is not limited to:

1) Source of financial support:
   a. Maryland employment and earnings history through sources beyond those incident to enrollment as a student in an educational institution e.g., beyond support provided by work study, scholarships, grants, stipends, aid, student loans, etc., (Tuition costs will be considered as a student expense only to the extent tuition exceeds the amount of any educational scholarship, grant, student loan, etc.), or
   b. Evidence the student is Financially Dependent upon a person who is a resident of Maryland.

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

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

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

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

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

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

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

D. Appeal

A student may appeal an adverse decision on a Petition for Change in Classification.

E. Change in Circumstances Altering In-State Status

The student shall notify the USM institution in writing within fifteen (15) days of any change in circumstances which may alter in-state status. Failure to do so could result in retroactive charges for each semester/term affected.

F. Incomplete, Untimely, False or Misleading Information

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

IV. Criteria For Temporary Qualification of Non-Residents For In-State Status

Non-residents with the following status shall be accorded the benefits of in-state status for the period in which they hold such status, if they provide clear and convincing evidence through documentation, by the institution’s deadline for the semester for which they seek in-state status, showing that they fall within one of the following categories:

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

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

C. An active duty member of the Armed Forces of the United States as defined in 38 U.S.C.A. § 101(10) as the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof, who is stationed in Maryland, resides in Maryland, or is domiciled in Maryland, or his/her spouse or a financially dependent child of that active duty member. Spouses and children who qualify for exemptions under this provision will retain in-state status for tuition purposes as long as they are continuously enrolled, regardless of whether the active duty member’s station assignment, residence, or domicile remains in Maryland.

D. A veteran of the Armed Forces of the United States who provides documentation that he or she was honorably discharged and currently resides or is domiciled in Maryland.

E. A veteran who lives in Maryland and was discharged from a period of at least 90 days of service in the active military, naval, or air service less than three years before the date of the veteran’s enrollment and is pursuing a course of education with educational assistance under the Montgomery G.I. Bill (38 U.S.C. §3001) or the Post-9/11 G.I. Bill (38 U.S.C. §3301). A veteran so described will continue to retain in-state status if the veteran is enrolled prior to the expiration of the three-year period following discharge, is using educational benefits under either chapter 30 or chapter 33, of title 38, United States Code, and remains continuously enrolled (other than during regularly scheduled breaks between courses, semesters, or terms) at the same school.

F. Anyone who lives in Maryland, and:
I. Armed Forces of the United States: As defined in 38 U.S.C.A. § 101(10) as the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof.

VII. Implementation
This Policy as amended by the Board of Regents on February 17, 2017 and also on June 16, 2017 shall be applied to all student tuition classification decisions effective Spring semester 2018 and thereafter.

FSU Procedure for Residency Status Appeals
Any student who wishes to appeal the decision of residency status previously determined by the Office of the Registrar or the Admissions Office, may do so in writing to the Appeals Board for Residency Status. This board shall consist of representatives designated by the Provost, the Vice President for Student and Educational Services, and the Vice President for Administration and Finance. The appeal will be reviewed by the board members in the order listed. Only by unanimous agreement of the board members will the decision of the Office of the Registrar or Admissions be overruled. Upon request, the President or designee has the authority to waive any residency requirements if it is determined that the student is indeed a permanent resident and application of the criteria creates an unjust result. A student desiring to appeal should obtain and submit the University System of Maryland “Petition for Change in Classification for Tuition” through the office that made the original residency status decision, the Office of the Registrar or the Admissions Office.

University Procedures for Review of Alleged Arbitrary and Capricious Grading

Grounds for Grievance
The following procedures implement the University System of Maryland Policy for Review of Alleged Arbitrary and Capricious Grading (BOR III-1.20) and are designed to provide a means for a student to seek review of final course grades alleged to be arbitrary and capricious. In this policy the term arbitrary and capricious grading means

1) the assignment of a course grade to a student on some basis other than performance in the course; 2) the assignment of a course grade to a student by unreasonable application of standards different from the standards that were applied to other students in that course; or 3) the assignment of a course grade by a substantial and unreasonable departure from the instructor’s initially articulated standards.

Alleging a final grade to have been determined in an arbitrary and capricious manner is the sole ground upon which a student may seek review under these procedures. Since matters within the instructor’s sphere of academic judgment — such as choice of instructional and evaluation methods, criteria, and standards for evaluation — are not grounds for grievance, the burden of proving arbitrary and capricious grading by clear and convincing evidence will rest with the student.

How to Undertake a Grade Grievance
Students or faculty who desire additional information about the procedures that follow should contact the Associate Provost. Class days are days classes are in session in the subsequent semester after the grade that the student wants to grieve is assigned. The timetable portrays the maximum time allotted. Participants can meet their responsibilities any time before the specified day.
Stage I: Mediation
A student seeking review for a final grade in a course should make a reasonable effort to confer with the instructor (in person or in writing) and attempt to resolve the matter informally. If this effort is unsuccessful, the student approaches the chair of the department offering the course to request mediation of the grade dispute. This action must be taken no later than the 15th class day of the semester subsequent to the term in which the grade was received. The chair will inform the student of the grounds proper to a grade grievance, as stated above. The chair also will review relevant material and consult with the instructor in an effort to resolve the issue of the grade. (If the instructor involved is the chair, the student approaches the senior faculty member in the department to request mediation.) Mediation must be completed no later than the 25th class day.

In cases where a resolution mutually acceptable to the student and the instructor is not forthcoming, and the student wishes to pursue a formal grievance, the student may proceed to Stage II.

Stage II: Formal Grievance
As a precondition to filing a formal grievance, a student must fulfill all of his/her responsibilities and meet the deadline specified in Stage I: Mediation above.

No later than the end of the 30th class day of the semester, a student still wishing to grieve a grade must file a written grievance with the instructor’s College dean. This grievance must describe in detail the bases for the allegation that the grade was arbitrary and capricious, and include all evidence supporting that claim. The student must send copies of this statement to the instructor and the chair.

Within 10 class days of receipt of a student’s written, Stage II grievance, the dean will dismiss the grievance if the student 1) did not participate in Stage I: Mediation and/or meet the deadline specified in Stage I; 2) did not file the Stage II appeal by the stated deadline; 3) does not furnish evidence that the allegations, if true, constitute arbitrary and capricious grading, as defined above; and/or 4) has filed a complaint concerning the same grade with the ADA/EOO Compliance Office alleging discrimination or sexual harassment.

If the grievance is not dismissed, the dean shall ask the instructor to respond to the grievance in writing within ten class days, addressing the response to the dean and copying the student and the chair. The dean will ask the chair to forward all documentary evidence collected during the mediation stage to the dean.

If the grievance is not dismissed, the dean shall appoint a grade grievance committee of three tenured faculty members and shall set the date for an informal, non-adversarial grade grievance hearing to occur within five class days following the due date for a written response from the instructor. The student, the instructor, and the chair will be invited to attend the hearing, and may present relevant evidence. The dean also will attend and may choose to participate in the discussion. In keeping with the informal nature of the hearing, neither the student nor the instructor may be accompanied by a representative or advisor. If the academic records of other students in the grievant’s class are relevant to the discussion, the grievant must be excused for that portion of the hearing to protect the privacy of other students. The grade grievance committee shall forward its written recommendation to the dean within five class days after the conclusion of the hearing. The dean may accept, reject or alter the recommendation. The dean shall render a decision to the student in writing, either in support of the original grade or of a grade change, with copies to the instructor, the chair and the members of the grade grievance committee. If the dean recommends a grade change and the instructor refuses to change the grade, the dean will vacate and replace the grade in question.

In deciding whether the circumstances justify changing the grade, the dean shall determine whether the grievant has provided clear and convincing evidence of arbitrary and capricious grading. The dean’s decision is final.

### Student Records Annual Notification
Under the Family Educational Rights and Privacy Act (FERPA), students have certain rights regarding the inspection and disclosure of education records directly related to the student and maintained by the University. These rights include:

1. The right to inspect and review the student’s educational records within forty-five (45) days of the day the University receives a request of access. Requests for inspection should be made in writing and directed to the Office of the Registrar.
2. The right to request an amendment of the student’s education records if the student believes that they are inaccurate, misleading or otherwise in violation of the student’s privacy rights under FERPA. A request to amend education records must be made in writing and submitted to the Registrar. The request must clearly identify the part of the record the student wants changed and why it should be changed. If the University decides not to amend the record as requested, the University will notify the student of its decision, and if the decision is negative, the procedures for a hearing regarding the request.
3. The right to consent to disclosures by the University of personally identifiable information contained in the student’s education records, except to the extent FERPA authorizes disclosure without consent.

The University discloses education records without a student’s prior written consent under several exceptions to FERPA, including the exception for disclosure to school officials with legitimate educational interests. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill professional responsibilities for the University. A “school official” is any person employed by the University in any administrative, supervisory, academic, research or support staff position; any person or company with whom the University has contracted (such as an auditor or collection agent); or any student serving on an official committee such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

Upon request, the University also discloses education records without consent to officials of another school in which a student seeks or intends to enroll.

The following categories of information are considered by the University to be directory information and may be disclosed without the student’s prior consent unless the student submits a Directory Restrictions Form using PAWS: Name; local, home and email address; local and home telephone number; major field of study; classification; dates of attendance, degrees, honors and awards received; officially recognized activities and sports; weight and height for athletes; and most recent school or educational institution attended.

The Directory Restrictions Form in PAWS can be found using the following path: Student Center>User Preferences>FERPA restrictions>Edit FERPA Directory Restrictions.

Note that directory information may be released to commercial organizations and may be used for solicitation purposes. However, restricting release of directory information will prevent the University from providing such information to prospective employers and other organizations, media, friends and family.

4. A student may permit inspection of education records by parents or guardians or others by completing a Release of Information Form in PAWS on an annual basis. The form can be found using the following path: Student Center>“other academics” drop down box>Release of Information.

Release of Information Forms are purged at the completion of each academic year. If a student wishes to permit inspection of education records for the upcoming academic year, a new form must be completed.

5. The right to file with the U.S. Department of Education a complaint if the student believes that the University has failed to comply with the requirements of FERPA. Complaints may be filed with the Family Policy and Regulations Office, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC, 20202-5901.