

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 300 Department or Agency Alabama Commission on Higher Education
Rule No. 300-2-3-.03
Rule Title: Policy on Eligibility for Alabama Resident Tuitions
 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer 

Date June 12, 2018

(DATE FILED)
(STAMP)

APA-2

Alabama Commission on Higher Education

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Commission on Higher Education (Commission)

RULE NO. & TITLE:

300-2-3-.03 Policy On Eligibility For Alabama Resident Tuitions

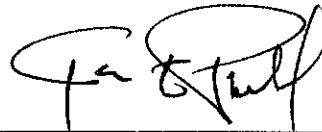
INTENDED ACTION: Amendment.

SUBSTANCE OF PROPOSED ACTION: The purpose of this amendment is to eliminate outdated language and to streamline the administrative procedures.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Persons wishing to present views on this amended rule may contact Tim Vick, Director of Operations and Fiscal Services, Alabama Commission on Higher Education, P.O. Box 302000, Montgomery, Alabama 36130-2000, Telephone 334-353-9153 between 8 a.m. and 5 p.m. each day up to and including August 8, 2018.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: August 8, 2018

CONTACT PERSON AT AGENCY: Timothy W. Vick



James E. Purcell, Ed.D.
Executive Director

300-2-3-.03 Policy On Eligibility For Alabama Resident Tuitions.

(1) The Commission is vested with the authority to carry out and enforce the provisions assigned by Code of Ala. 1975, §16-64 and to promulgate policies and procedures consistent with carrying out the required statutory functions.

(a) The Commission shall develop and maintain a list of counties within fifty miles of a campus of a public institution whose students shall qualify for resident tuition rates in compliance with §16-64-4(b). This list is available upon request from the Commission.

~~(1) — The policy on eligibility for Alabama-resident tuitions has several purposes. First, the policy establishes procedures for implementing Act 96-663. Secondly, it sets guidelines concerning the classification of resident and nonresident students. Further, it establishes minimum documentation which must be provided by all individuals claiming Alabama residency (see paragraph (4)(a) following). Next, the policy states a minimum standard in accordance with Act 96-663 regarding tuition charges for non-resident students. Finally, the policy provides a list of counties in adjacent states meeting the definition of Fifty Mile County found in (2)(f) following and sets minimum documentation required for any person claiming to be a resident of a Fifty Mile County (see subparagraph (a) of paragraph (6) following). (Act 96-663; Commission policy adopted December 16, 1988, and revised in accordance with Act 96-663 on December 13, 1996.)~~

~~(2) — Definitions related to the policy. For the purposes of this policy, the following terms have the following meanings.~~

~~(a) — Minor: An individual who, because of age, lacks the capacity to contract under Alabama law. Under current law, this means a single individual under 19 years of age and a married individual under 18 years of age, but excludes an individual whose disabilities of nonage have been removed by a court of competent jurisdiction for a reason other than establishing a legal residence in Alabama. If current law changes, this definition shall change accordingly.~~

~~(b) — Residence: The single location at which a person resides with the intent of remaining in that location indefinitely as evidenced by more~~

~~substantial connections with that place than with any other place. A residence location is not defined by a postal service mailing address which may be assigned without regard to county or state boundaries.~~

~~(c) Resident: One whose residence is in the State of Alabama.~~

~~(d) Resident/Nonresident Student: In determining resident or nonresident classification, the primary issue is one of intent. If a person is in Alabama primarily for the purpose of obtaining an education, that person shall be considered a nonresident student.~~

~~(e) Supporting Person: Either or both of the parents of the student, if the parents are living together, or if the parents are divorced or living separately, then either the parent having legal custody or, if different, the parent providing the greater amount of financial support. If both parents are deceased or if neither has legal custody, supporting person shall mean, in the following order: the legal custodian of the student, the guardian, and the conservator.~~

~~(f) Fifty Mile County: A county of an adjacent state that is within fifty miles of a campus of an institution; provided, however, that campus existed and operated as of January 1, 1996. The Commission on Higher Education will maintain a list of qualifying fifty-mile counties for each qualifying campus of an Alabama public college or university. See paragraph (11) of this rule for a list of the counties recognized as Fifty Mile Counties for each institution.~~

~~(3) Persons eligible for resident tuitions. For purposes of admission and tuition, a public institution of higher education may consider that the term resident student includes any of the following:~~

~~(a) One who, at the time of registration, is not a minor and satisfies one of the following:~~

~~1. Is a full-time permanent employee of the institution at which the student is registering or is the spouse of such an employee.~~

~~2. Can verify full-time permanent employment within the State of Alabama, or is the spouse of such an employee, and will commence said employment within 90 days of registration with the institution.~~

~~3. Is a member or the spouse of a member of~~

~~the United States military on full-time active duty stationed in Alabama under orders for duties other than attending a public institution of higher education.~~

4. ~~Is employed as a graduate assistant or fellow by the institution at which the student is registering.~~

5. ~~Is an accredited member of or the spouse of an accredited member of a consular staff assigned to duties in Alabama.~~

6. ~~Is, at the time of passage of Act 96-663, a student enrolled at a public college or university and who is currently classified as a resident for tuition purposes provided such student maintains continuous enrollment at that institution.~~

~~(b) One who, at the time of registration, is a minor and whose supporting person satisfies one of the following:~~

1. ~~Is a full-time permanent employee of the institution at which the student is registering.~~

2. ~~Can verify full-time permanent employment within the State of Alabama and will commence said employment within 90 days of registration with the institution.~~

3. ~~Is a member of the United States military on full-time active duty stationed in Alabama under orders for duties other than attending a public institution of higher education.~~

4. ~~Is an accredited member of a consular staff assigned to duties in Alabama.~~

~~(4) Initial Determination of Eligibility. The following are criteria by which initial eligibility as an Alabama resident is determined.~~

~~(a) An individual claiming to be an Alabama resident for purposes of this policy shall certify by a signed statement each of the following:~~

1. ~~A specific address or location within the State of Alabama as his or her residence, as defined in (2)(b) above.~~

2. ~~An intention to remain at that location indefinitely.~~

3. ~~Possession of more substantial connections~~

~~with the State of Alabama than with any other state.~~

~~(b) Though certification of a residence location and an intent to remain in the state indefinitely shall be prerequisites to establishing status as a resident, ultimate determination of that status shall be made by the institution by evaluating the presence or absence of connections with the State of Alabama. This evaluation shall include the consideration of all of the following connections.~~

~~1. Consideration of the location of high school graduation.~~

~~2. Payment of Alabama state income taxes as a resident.~~

~~3. Ownership of a residence or other real property in the state and payment of state ad valorem taxes on the residence or property.~~

~~4. Full-time employment in the state.~~

~~5. Residence in the state of a spouse, parents, or children.~~

~~6. Previous periods of residency in the state continuing for one year or more.~~

~~7. Voter registration and voting in the state; more significantly, continuing voter registration in the state that initially occurred at least one year prior to the initial registration of the student in Alabama at a public institution of higher education.~~

~~8. Possession of state or local licenses to do business or practice a profession in the state.~~

~~9. Ownership of personal property in the state, payment of state taxes on the property, and possession of state license plates.~~

~~10. Continuous physical presence in the state for a purpose other than attending school, except for temporary absences for travel, military service, and temporary employment.~~

~~11. Membership in religious, professional, business, civic, or social organizations in the state.~~

~~12. Maintenance in the state of checking and savings accounts, safe deposit boxes, or investment accounts.~~

~~13. In-state address shown on selective service registration, driver's license, automobile title registration, hunting and fishing licenses, insurance policies, stock and bond registrations, last will and testament, annuities, or retirement plans.~~

~~(5) Nonresident tuition charges. In accordance with Act 96-663 each Alabama public institution of higher education shall charge each undergraduate student who is registered as a nonresident a minimum tuition of two times the resident tuition rate charged by that institution. This rate shall be effective for students who register at an institution beginning August 1, 1997. A nonresident graduate student at an institution shall be charged a rate of tuition that is at least at the level of tuition charged to a nonresident undergraduate.~~

~~(6) The governing boards of each four-year public institution of higher education shall retain the power to extend resident tuition rates to students who reside in any county within fifty miles of a campus of the institution; provided, however, that campus must be in existence and operating as of January 1, 1996. For public two-year institutions, the State Board of Education, upon the recommendation of the Chancellor of the Department of Postsecondary Education, shall retain the power to extend resident tuition rates to students who reside in any county within fifty miles of a campus of the institution; provided, however, that campus must be in existence and operating as of January 1, 1996. In determining residence within a fifty-mile county, institutions will take special care not to rely on postal-service mailing addresses which may be assigned without consideration of county or state boundaries.~~

~~(a) An individual claiming to be a resident of a fifty-mile county for purposes of this policy shall certify by a signed statement each of the following:~~

~~1. A specific address or location within that fifty-mile county as his or her residence, as defined in Section 1.~~

~~2. An intention to remain at that location indefinitely.~~

~~3. Possession of more substantial connections with that fifty-mile county than with any other county.~~

~~(b) Though certification of a residence location and an intent to remain in the fifty-mile county indefinitely shall be prerequisites to establishing status as a resident of that county, ultimate determination of~~

~~that status shall be made by the institution by evaluating the presence or absence of connections with the specific fifty-mile county. This evaluation shall include the consideration of all of the following connections.~~

~~1. Consideration of the location of high school graduation.~~

~~2. Payment of state income taxes as a resident of that fifty-mile county by the student or supporting person.~~

~~3. Ownership of a residence or other real property in the fifty-mile county and payment of ad-valorem taxes on the residence or property by the student or supporting person.~~

~~4. Full-time employment of the student or supporting person in the fifty-mile county.~~

~~5. Residence in the fifty-mile county of a spouse, parents, or children.~~

~~6. Previous periods of residency in the fifty-mile county continuing for one year or more.~~

~~7. Voter registration and voting in the fifty-mile county; more significantly, continuing voter registration in the fifty-mile county that initially occurred at least one year prior to the initial registration of the student at a public institution of higher education in Alabama.~~

~~8. Possession of state or local licenses to do business or practice a profession in the fifty-mile county by the student or supporting person.~~

~~9. Ownership of personal property in the fifty-mile county, payment of state taxes on the property, and possession of state license plates by the student or supporting person.~~

~~10. Continuous physical presence in the fifty-mile county for a purpose other than attending school, except for temporary absences for travel, military service, and temporary employment.~~

~~11. Membership in religious, professional, business, civic, or social organizations in the fifty-mile county.~~

~~12. Maintenance in the fifty-mile county of checking and savings accounts, safe deposit boxes, or investment accounts by the student or supporting~~

person.

~~13. Address of the student shown on selective service registration, driver's license, automobile title registration, hunting and fishing licenses, insurance policies, stock and bond registrations, last will and testament, annuities, or retirement plans which is located in the fifty-mile county.~~

~~14. Eligibility of a student for Alabama resident tuition as a resident of a fifty-mile county is campus specific and not transferrable to any other campus. Enrollment at any other campus of a public college and university will require re-certification at the new campus.~~

~~(7) Each institution will keep sufficient records of its tuition practices and decisions that it will be prepared for an annual audit by either the Alabama Commission on Higher Education or by the Examiners of Public Accounts, to include provision of a roster of students enrolled and extended resident tuition privilege as residents of a fifty-mile county.~~

~~(8) Each institution shall submit an annual report to the Commission on Higher Education regarding the number of students determined to be eligible for resident tuitions as well as those determined to be ineligible. This report will reflect these data by student class level (freshman, sophomore, etc.) and will be submitted to the Commission no later than December 10 of each academic year.~~

~~(9) A four-year public institution of higher education, at the discretion of its governing board and a two-year public institution of higher education at the discretion of the~~

~~chancellor of the Department of Postsecondary Education may elect to adopt policies regarding nonresident tuition which are more rigorous than those specified in this policy.~~

~~(10) The provisions of this policy shall not apply to those off-campus offerings on military bases conducted by colleges and universities.~~

~~(11) Following is the list of Alabama institutions with the respective counties (Fifty-Mile Counties) in adjacent states for which the fifty-mile county definition applies.~~

Alabama College Campus	Location	Adj State	50-Mile Co.
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Northeast Ala. State Jr. Col.	Rainsville	Tennessee	Franklin
			Hamilton
			Lincoln
			Marion
		Georgia	Bartow
			Catoosa
			Chattooga
			Dade
			Floyd
			Gordon
			Haralson
			Polk
			Walker
			Whitfield
Snead State	Boaz	Georgia	Chattooga
			Floyd
			Polk
			Walker
Gadsden St. Com Col.	Gadsden	Georgia	Carroll
			Chatooga
			Floyd
			Haralson
			Polk
Jacksonville State Univ.	Jacksonville	Georgia	Bartow
			Carroll
			Chatooga
			Coweta
			Douglas
			Floyd
			Haralson
			Heard
			Paulding
			Polk
Ayers State Tech. Col.	Anniston	Georgia	Carroll
			Floyd

Alabama College Campus	Location	Adj State	50-Mile Co.
			Haralson
			Heard
			Paulding
			Polk
Southern Union State Jr. Col.	Wadley	Georgia	Garroll
			Chattahoochee
			Goweta
			Haralson
			Harris
			Heard
			Marion
			Meriwether
	Valley		Muscogee
			Pike
			Stewart
			Talbot
			Taylor
			Troup
			Upson
Central Al. Com. Col.	Alexander City	Georgia	Harris
			Heard
			Troup
Auburn Univ.	Auburn	Georgia	Chattahoochee
			Harris
			Heard
			Meriwether
			Muscogee
			Quitman
			Stewart
			Talbot
			Troup
Opelika State Tech. Col.	Opelika	Georgia	Chattahoochee
			Harris
			Heard
			Marion
			Meriwether
			Muscogee
			Quitman
			Stewart
			Talbot
			Troup
Troy State Univ — Phenix City Chattahoochee Valley Com. Col.	Phenix City	Georgia	Chattahoochee
			Clay
			Heard
			Harris
			Macon
			Marion
			Meriwether
			Muscogee
			Quitman

Alabama College Campus	Location	Adj State	50-Mile Co.
			Randolph
			Schley
			Stewart
			Sumter
			Talbot
			Taylor
			Terrell
			Troup
			Upton
			Webster
Sparks State Tech. Col.	Eufaula	Georgia	Baker
			Chattahoochee
			Calhoun
			Clay
			Dougherty
			Early
			Marion
			Miller
			Museogee
			Quitman
			Randolph
			Stewart
			Sumter
			Terrell
			Webster
Troy State Univ. at Dothan	Dothan	Georgia	Baker
George C. Wallace - Dothan		Calhoun	
			Clay
			Decatur
			Early
			Miller
			Quitman
			Randolph
			Seminole
		Florida	Bay
			Calhoun
			Holmes
			Jackson
			Washington
			Walton
Enterprise State Jr. Col.	Enterprise	Georgia	Early
		Florida	Jackson
			Holmes
			Okaloosa
			Walton
			Washington
Ala. Aviation Tech. Col.	Ozark	Georgia	Clay
			Early
			Miller
			Quitman
			Randolph

Alabama College Campus	Location	Adj State	50-Mile Co.
			Seminole
		Florida	Holmes
			Jackson
			Walton
			Washington
MacArthur State Tech. Col.	Opp	Florida	Jackson
			Holmes
			Okaloosa
			Santa Rosa
			Walton
			Washington
L.B. Wallace St. Jr. Col.	Andalusia	Florida	Holmes
			Okaloosa
			Santa Rosa
			Walton
Jefferson Davis State Jr. Col.	Brewton	Florida	Escambia
			Okaloosa
			Santa Rosa
			Walton
Jefferson Davis State Jr. Col.	Atmore	Florida	Escambia
			Okaloosa
			Santa Rosa
Reid State Tech. Col.	Evergreen	Florida	Escambia
			Okaloosa
			Santa Rosa
Alabama Southern	Monroeville	Florida	Escambia
			Santa Rosa
University of South Alabama Faulkner State Jr. Col.	Bay Minette	Florida	Escambia
			Santa Rosa
University of South Alabama Bishop State Com. Col.	Mobile	Florida	Escambia
			Santa Rosa
		Mississippi	George
			Greene
			Harrison
			Jackson
			Perry
			Stone
Ala Southern Com. Col.	Thomasville	Mississippi	Clarke
			Lauderdale
			Wayne
Univ of West Alabama	Livingston	Mississippi	Clarke
			Jasper
			Kemper
			Lauderdale
			Neshoba

Alabama College-Campus	Location	Adj State	50-Mile Co.
			Newton
			Noxubee
			Winston
University of Alabama Shelton State Com. Col.	Tuscaloosa	Mississippi	Lowndes Noxubee
Bevill State Jr. Col.	Fayette	Mississippi	Clay Itawamba Lowndes Monroe Noxubee
Northwest Ala Com. Col. Northwest Shoals Com. Col.	Hamilton Phil Campbell	Mississippi	Chickasaw Clay Itawamba Lee Lowndes Monroe Pontotoc Prentiss Tishomingo
Northwest Shoals Com. Col.	Phil Campbell	Tennessee	Lawrence Wayne
University of North Alabama	Florence	Mississippi	Alcorn Itawamba Prentiss Tishomingo
		Tennessee	Decatur Giles Hardin Lawrence Lewis McNairy Wayne
Northwest Shoals Com. Col.	Muscle Shoals	Mississippi	Alcorn Itawamba Prentiss Tishomingo
		Tennessee	Hardin Giles Lawrence McNairy Wayne
Athens State Col.	Athens	Tennessee	Bedford Franklin Giles Lawrence Lincoln Marshall Maury

Alabama College Campus	Location	Adj State	50-Mile Co.
			Moore
			Wayne
Calhoun State Com. Col.	Decatur	Tennessee	Giles
			Lawrence
			Lincoln
			Wayne
Univ. of Ala. in Huntsville	Huntsville	Tennessee	Bedford
Drake State Tech. Col.			Coffee
			Franklin
			Giles
			Lawrence
			Lincoln
			Marion
			Marshall
			Moore
Alabama A&M Univ.	Normal	Tennessee	Bedford
			Coffee
			Franklin
			Giles
			Lawrence
			Lincoln
			Marion
			Marshall
			Moore

Author: Edward P. Rutledge; Timothy W. Vick
Statutory Authority: Code of Ala. 1975, §16-64 §§16-5-1, et seq. (This rule is based on Act 96-663 and Commission policy adopted December 16, 1988, and December 13, 1996.)
History: New Rule: June 4, 1997; effective July 9, 1997. Filed June 12, 2018.