

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 300 Department or Agency Alabama Commission on Higher Education
Rule No. 300-2-4-.03

Rule Title: Determining Alabama Residency for Purposes of the Academic
Common Market and Contract Programs with the Southern Regional Education
Board.

 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

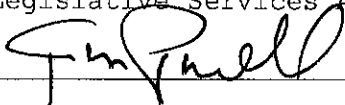
Does the proposed action relate to or affect in any
manner any litigation which the agency is a party to
concerning the subject matter of the proposed rule? No

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 14, 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:

300-2-4-.03 Determining Alabama Residency for Purposes of the Academic Common Market and Contract Programs With the Southern Regional Education Board

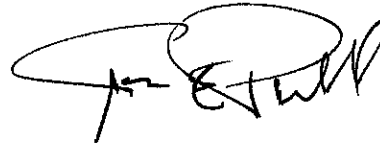
INTENDED ACTION: Amendment

SUBSTANCE OF PROPOSED ACTION: The purpose of this amendment is to eliminate outdated language and to streamline the administrative procedures related to the administration of programs connected to the Southern Regional Education Board.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Persons wishing to present views on these amended rules 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

300-2-4-.03 Determining Alabama Residency for Purposes Of The Academic Common Market and Contract Programs with the Southern Regional Education Board.

(1) The purpose of determining Alabama residency for the Academic Common Market and Contract Programs is to provide an equitable opportunity for persons who are not native to the state, but who meet certain other criteria, to participate in these programs.

(2) It is the responsibility of the Alabama Commission on Higher Education to establish policies and procedures for determining Alabama residency for purposes of the Academic Common Market and Contract Programs.

(3) The following definitions apply in this rule:

(a) A student is financially dependent if he or she receives half or more of his or her income from another person or persons, or appears as a dependent on the state income tax return of any other person.

(b) A student is financially independent if he or she declares himself or herself so, if he or she received less than half of his support from any other person or persons, and if he or she does not appear as a dependent on the state income tax return of any other person.

(c) A parent is a natural parent, an adoptive parent, a legally appointed guardian, or a person who stands in loco parentis to the student.

(d) A domicile is a person's permanent place of abode, that location with which a person is considered to have the most settled and permanent connection. A person must demonstrate intent to live permanently or indefinitely in Alabama, and cannot have more than one domicile at a given time.

(e) A spouse is a partner in a legally contracted marriage.

(4) In determining domicile, the Commission staff shall take into consideration, but shall not be limited to, whether an applicant:

~~(a) Owns or rents and occupies real property in Alabama as one's domicile on a year-round basis.~~

~~(b) Maintains a substantially uninterrupted presence within Alabama for twelve (12) consecutive months prior to the anticipated date of enrollment in the Common Market or Contract Program.~~

~~(c) Maintains all, or substantially all, personal possessions in the State of Alabama.~~

- (d a) Pays Alabama income tax on earned income.
- ~~(e) Registers all owned motor vehicles in Alabama.~~
- (f b) Possesses a valid Alabama driver's license, if licensed.
- ~~(g) Registers to vote in Alabama, if registered.~~
- (h c) Gives an Alabama home address on income tax forms.

(5) In conjunction with the above, the Commission will certify Alabama residency, for purposes of the Academic Common Market ~~and Contract Programs~~, for United States citizens and immigrant aliens lawfully admitted for permanent residence in the U.S., in the following cases:

(a) A student is financially dependent upon a parent(s) or spouse domiciled in Alabama for at least twelve (12) months prior to the date of the residency application.

(b) A student is financially independent and has maintained domicile in Alabama for at least twelve (12) months prior to the date of the residency application.

(c) A student has been classified as an in-state resident by an Alabama institution, and is still enrolled at that institution at the time he or she makes residency application for the Common Market ~~or contract program~~.

(6) A student requesting certification of Alabama residency must complete a residency application form available from the State Academic Common Market Coordinator. Any student who asserts that he or she is financially dependent upon a parent(s) or spouse domiciled in Alabama must also produce a copy of the state income tax form which shows the student claimed as a dependent ~~or a signed notarized statement from the parent(s) or spouse which indicates the most recent year the student was claimed as a dependent on the Alabama income tax form~~. Completed applications will be sent to the State Academic Common Market Coordinator for evaluation of the residency claim.

(7) A student may appeal the State Academic Common Market Coordinator's denial of his or her residency application by filing written request for appeal within thirty (30) days of the date of denial. The request for appeal shall be sent to the executive director of the Commission and shall include the reasons the petitioner believes the denial is erroneous and all other evidence in support of his appeal. The decision of the executive director shall be final.

Author: Brenda T. Carter; Paul B. Mohr, Sr.
Statutory Authority: Code of Ala. 1975, §§16-5-1, et seq.
History: Filed April 10, 1989. Filed June 14, 2018.