



Department of Education Improves Rules Guiding Resident Tuition Determinations

at a glance

The Department of Education, State Board of Education, and Board of Governors have taken most of the actions recommended by our 2003 report on student residency determinations. The board approved several amendments to residency rules in the *Florida Administrative Code*, clarifying

- minimum documentation standards,
- definitions for student dependent and independent status, and
- standards concerning the reclassification of students from non-resident to resident status.

The department intends to modify the Postsecondary Residency Guidelines to reflect these changes in residency rules. However, the department decided not to require periodic internal reviews to identify errors that lead to costly misclassifications.

The 2005 Legislature passed a bill that would further tighten the rules for reclassifying non-resident students as residents; however, the Governor vetoed the bill due to concerns about its potential effect on some students. If changes in the policies and procedures governing reclassification of student residency status prevented all out-of-state students from being reclassified as residents and the affected students stayed in Florida, higher education institutions would gain an estimated \$56.5 million in additional revenue. However, since at least some residency reclassifications are warranted, such changes are likely to bring in less than that amount.

Scope

In accordance with state law, this progress report informs the Legislature of actions taken in response to a 2003 OPPAGA report.^{1,2}

Background

As established by the Legislature, Florida's tuition policy is intended to benefit students who are Florida residents or have significant legal or family ties to the state. Florida residents pay low in-state tuition rates that cover a small portion of the cost of their education. The remaining cost is subsidized by state appropriations. In contrast, non-resident students must pay tuition that covers the full cost of their education. As shown in Exhibit 1, in Fiscal Year 2004-05, resident undergraduate students taking 30 credit hours paid \$1,777 for tuition at community colleges and \$3,075 for tuition at universities, while non-resident undergraduates paid \$6,566 and \$15,490, respectively.

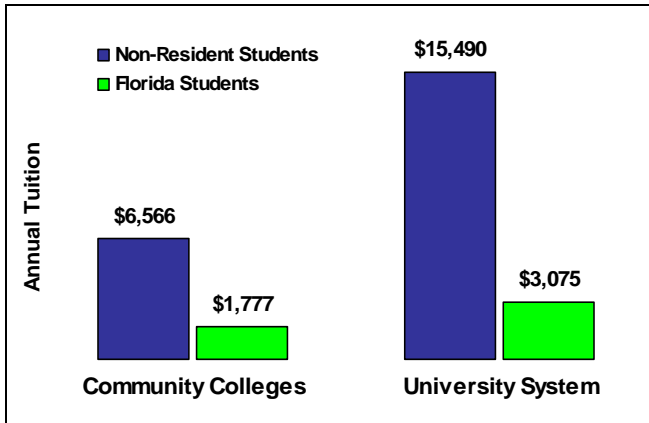
Student tuition and fees contribute significant resources to institutions' funding. The Community College System's 2004-05 funding totaled over \$1.4 billion, with 33% (\$460 million) coming from student tuition and fees. The State University System's 2004-05 funding totaled

¹ Section 11.51(6), *F.S.*

² [Non-Residents Qualify Too Easily for Much Lower Resident Tuition Rates](#), OPPAGA Special Review, [Report No. 03-29](#), March 2003.

\$6.4 billion, with 12% (\$755,606,909) paid from student tuition and fees.

**Exhibit 1
Non-Residents Pay Higher Annual Tuition at Florida Postsecondary Institutions**



Source: Department of Education 2004-05 information, based on undergraduate students taking 30 credit hours during the year.

Prior Findings

Our 2003 review found major weaknesses in the systems used by Florida’s universities and community colleges to determine students’ residency status. This occurred in part because the criteria provided in law, rules, and Postsecondary Residency Guidelines were not adequate to provide higher education institutions clear guidance on

- how to determine and reclassify students’ residency;
- how to determine students’ dependency status; and
- which documents to use to determine residency and dependency.

In addition, higher education institutions were not conducting internal reviews to assess the accuracy of residency decisions.

As a result, Florida public postsecondary institutions were using inconsistent and sometimes inaccurate methods of determining student residency. For example, Florida laws and rules governing student residency determinations indicated that non-resident students generally should not be reclassified. Nevertheless, 28% of the students in community colleges and 25% of the students in universities who were originally

classified as non-residents in 1998-99 were reclassified as residents by the end of 2000-01, resulting in an estimated loss of \$28.2 million in tuition revenue.

Many of these reclassification decisions were based on differing interpretations of the 12-month residency requirement for students or their parents. Many schools reclassified students as residents when they had been in the state for 12 months, even though the students came to the state to go to school or were dependent on parents who lived out of state.

To improve the consistency and accuracy of student residency determinations, we recommended that the Legislature consider the options presented below.

- Amend the law to require students or their parents to maintain legal residences in the state at least 12 months prior to their initial enrollment in a Florida public postsecondary institution.
- Amend the law to permit individuals to be reclassified as residents if they or their parents maintain legal residences in the state for a 12-month period during which they are not enrolled in a public postsecondary institution.
- Amend the law to permit individuals to be reclassified as residents if they or their parents have established legal residences in Florida for a 12-month period of time.

In addition, we recommended that the Legislature require students under the age of 25 to provide copies of the parent’s tax returns and records of their employment and income before classifying those students as independent.

We recommended that the Department and State Board of Education take the actions outlined below.

- Establish minimum documentation standards for residency applications.
- Modify the Postsecondary Residency Guidelines to clarify the minimum documentation requirement for Florida residents and for students who did not graduate from Florida high schools who want to be classified as Florida residents.
- Modify the standard residency form to include questions about filed taxes or earned wages for students seeking to be classified as Florida

residents who claim they are not dependent on a parent who lives in another state.

- Develop standards to determine when students are earning enough to be considered independent.
- Require institutions to establish internal reviews of residency classification decisions.
- Compile results from institutions' internal reviews of residency determinations to identify any problems areas and best practices.

Current Status ---

Most of our recommendations have been implemented. The State Board of Education adopted revisions in Rule 6A-10.044, *Florida Administrative Code*, to clarify residency criteria and encourage consistency in determinations across institutions. The Board of Governors passed a resolution adopting the same rule changes for the university system. The Department of Education Residency Committee will incorporate these changes in the residency guidelines. Institutions are expected to implement these changes for the summer or fall semesters in 2005.

Board changes require students to better document their residency reclassification requests; reclassifications cost universities and community colleges an estimated \$56.5 million in lost out-of-state tuition. The State Board of Education and Board of Governors adopted rule changes to provide additional guidance in reclassifying students from non-resident to resident status. In particular, the rule now states that a student wishing to be reclassified must provide documentation which substantiates that he or she or, if a dependent, the student's parent, or guardian, is establishing Florida as a permanent domicile and not as a mere temporary residence incident to enrollment in higher education.

The rule specifies a 12-month period of legal residence in the state prior to the first day of classes for the term for which residency is sought, one of the options suggested in our report. The 2005 Legislature passed a more stringent option, which would have required students to not attend school full-time during the 12-month period during which they or their parents are

establishing residency. However, the Governor vetoed the bill due to concerns about its effect on some students.

If changes in the policies and procedures governing reclassification of student residency status prevented all out-of-state students from being reclassified as residents and the affected students stayed in Florida, higher education institutions would gain an estimated \$56.5 million in additional revenue (see Exhibit 2). However, since at least some residency reclassifications are warranted, such changes are likely to bring in less than that amount.

Exhibit 2 The Reclassification of Students Results in an Annual Projected Loss of \$56.5 Million Tuition Revenue to Institutions ¹

	University System	Community College System
First time in college	\$ 16,708,240	\$ 5,480,555
First time in graduate school	20,866,920	n/a
Transfer students	5,628,764.05	8,307,622
Adjustment factor in enrollment between 2001-02 and 2003-04 ²	1.1%	No change
Adjusted Total ²	\$ 42,728,681	\$13,788,177
Grand Total	\$56,516,858	

¹ Our estimate is based on the number of nonresident students enrolled in academic year 2003-04. To this number we applied the reclassification rates from a 1998-99 cohort and the most recent published retention rates for the university system. For the community college system, we used retention rates derived from a previous OPPAGA analysis. Our estimate includes undergraduate and graduate students, excluding students who received tuition waivers.

² Overall non-resident enrollment in the university system decreased by 1.1% between 2001 and 2003-04 while overall community college enrollment remained stable.

Source: OPPAGA analysis of data from Department of Education's Divisions of Community Colleges and Colleges and Universities.

The estimate of lost revenue from non-resident tuition has nearly doubled from our previous estimate (see page 2). This is due to the increase in the number of non-resident student groups described in Exhibit 2 as well as in tuition cost from 2000-01 to 2003-04. In particular, the cost for non-resident tuition increased by approximately 48% for first-time in college students at public universities and by approximately 16% for students in the community college system. The number of first-time-in-graduate-school students

increased by over 112% while transfer students to community colleges increased by over 60%.

Amended rules now provide standard definitions and documentation requirements for determining student residency status. The amended rule defines the circumstances under which students are considered dependent or independent persons and the documentation required to substantiate their status. The rule defines dependent persons as those whose parents or guardians provide 50% or more of their support and independent persons as those who provide more than 50% of their own support. To aid residency staff in the determination of dependent status, the amended rule also requires students to submit copies of their own or their parents' most recent tax returns or other documentation.

The amended rule also clarified the criteria for students requesting "all Florida" residency status. Students with "all Florida" residency status are immediately deemed to be residents for tuition purposes. To obtain "all Florida" residency status as independent persons, students must document that they

- are United States citizens;
- are 24 years old or older;
- have a permanent address in Florida;
- graduated from a Florida high school; and
- attended only Florida institutions of higher education.

To obtain "all Florida" residency status as dependent persons, students must document that they

- are eligible to be claimed by their parents or guardians as a dependent under the federal income tax code;

- are United States citizens;
- are under 24 years of age;
- have parents or guardians with a permanent legal address in Florida.

The department did not address the issue of internal reviews to monitor residency decisions. The department decided not to follow our recommendation to implement periodic internal reviews of residency decisions. Instead, the Residency Committee is planning to sponsor a number of outreach and training efforts to improve residency policies and practices.

The department based its decision on several factors. It stated that the law related to residency determination for tuition purposes (Ch. 1009.21, *Florida Statutes*) did not assign authority to the department to specifically address this provision. Second, community colleges and universities are subject to state audit provisions. In addition, accreditation standards recognize the need for separate institutional audits.

However, in practice, state audits do not focus on residency decisions, as this would detract from their wide scope of budget evaluations. Similarly, accreditation standards for internal audits mainly focus on ensuring the adequacy of the institutions' financial resources and do not explicitly address residency decisions. Our review found that, while some institutions validate residency determinations through internal audits and random sampling techniques, most of the institutions OPPAGA interviewed did not engage in this practice. Given the high error rates we found in our review, we continue to believe that more thorough reviews of residency decisions are warranted.

OPPAGA supports the Florida Legislature by providing evaluative research and objective analyses to promote government accountability and the efficient and effective use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021 or 800/531-2477), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

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