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Chapter A-V 10

RESIDENCY, ADMISSIONS AND FEE REFUND

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A-V 10.01 Purpose and application. The purpose of this chapter is to establish policies, procedures and administratively interpret ss. 38.22 (4) and (5) and 38.24 (1) (b), (2) and (3), Stats., relating to determination of residency for persons attending district schools, exemptions from payment of program fees, district liability for payment of interdistrict tuition, apprentices enrolled in block apprentice programs, reservation of places for non-district resident students in programs not offered statewide, and fee refunds. These rules are adopted pursuant to ss. 38.22 (5) and 227.014 (2) (a), Stats.

History: Cr. Register, May, 1983, No. 329, eff. 6-1-83.

A-V 10.02 Definitions. In this chapter:

(1) "Alien" means a person who is not a citizen or national of the United States.

(2) "Board" means the board of vocational, technical and adult education.

(3) "Director" means a person appointed by the board under s. 38.04 (2), Stats.

(4) "District" means a vocational, technical and adult education district.

(5) "District director" means a person employed by a district pursuant to s. 38.12 (3), Stats.

(6) "Immigrant" means an alien who has been lawfully admitted to the United States as a permanent resident and possesses an alien registration card issued by the United States department of justice, immigration and naturalization service.

(7) "Interdistrict tuition" means the fee established by the board pursuant to s. 38.24 (3) (a) 1., Stats.

(8) "Materials fees" means the fees for consumable materials established by the board pursuant to s. 38.24 (1) (c), Stats.

(9) "Minor" means a person who has not attained the age of 18 years.

(10) "Non-district resident" means a person whose permanent residence is outside the district, but inside the state.

(11) "Nonresident" means a person whose permanent residence is outside the state.

(12) "Out-of-state tuition" means the nonresident fee established by the board under s. 38.24 (3) (a) 2., Stats.

(13) "Program fee" means the fee established by the board pursuant to s. 38.24 (1) (b), Stats.

(14) "Refugee" means an alien who has abandoned his or her country of citizenship, has been admitted to the United States and granted refugee status by the United States department of justice, immigration and naturalization service.

(15) "Registration" means the procedure by which students are assigned to class including approval of courses to be taken by the student, organization of sections, and assessment and collection of fees.

History: Cr. Register, May, 1983, No. 329, eff. 6-1-83.

A-V 10.03 Wisconsin residency requirements. (1) GENERAL PROVISION. Any person who is a resident of the state for fee purposes.

(2) **DETERMINATION OF RESIDENCE.** In determining residence at the time of the beginning of any semester or session, the intent of the person to establish and maintain a permanent residence in the state is determinative. In addition to representations by the person, intent may be demonstrated or disproved by factors including, but not limited to, filing of Wisconsin income tax returns, eligibility to vote in the state, motor vehicle registration in the state, possession of a Wisconsin motor vehicle operator's license, place of employment, and self-support. Notwithstanding sub. (1), a person who enters and remains in this state principally to obtain an education is presumed to continue to reside outside this state and such presumption continues in effect until rebutted by clear and convincing evidence of residence in the state.

(3) **MINORS.** Any minor whose parents or custodial guardian have maintained a permanent residence in the state next preceeding the beginning of any semester or session for which such person makes application at a district is considered a resident of the state for fee purposes.

(4) **INCARCERATED AND INVOLUNTARY DETAINED INDIVIDUALS.** Residence of a person incarcerated, involuntarily detained by a court or committed in a hospital shall continue to be the district in which the person was a legal resident prior to incarceration, involuntary detention or commitment.

(5) **IMMIGRANTS AND REFUGEES.** Immigrants and refugees may establish residence in the state under the terms of this section.

(6) **PETITION FOR CHANGE OF RESIDENT STATUS.** Prior to the beginning of any semester or session, a person may petition the district director of the district of attendance for a change from out-of-state to district resident status if residence in the state can be established under the requirements of this section and s. A-V 10.04. Within 30 days of receipt of the petition the district director shall issue a written decision.

(7) **APPEAL.** (a) Persons adversely affected by a district director's residency determination may appeal that decision, in writing, to the director within 30 days of issuance of the decision. The director shall issue a written decision with 30 days of filing of the appeal.

(b) The decision of the director shall be subject to review pursuant to ch. 227, Stats., and ch. A-V 4.

History: Cr. Register, May, 1983, No. 329, eff. 6-1-83.

A-V 10.04 District residency requirements. (1) GENERAL PROVISIONS. Any resident of the state who has maintained a permanent residence within the district next preceding the beginning of a semester or session for which such person makes application is a district resident for fee purposes.

(2) **DETERMINATION OF RESIDENCE.** In determining residence at the time of the beginning of any semester or session, the intent of the person to establish and maintain a permanent residence in the district is determinative. A person who enters and remains in the district principally to obtain an education is presumed to continue to reside outside the district, and such presumption continues in effect until rebutted by clear and convincing evidence of permanent residence in the district. In addition to representations by the person, intent may be demonstrated or disproved by factors including, but not limited to, filing of Wisconsin income tax returns, eligibility to vote in the state, motor vehicle registration in the state, possession of a Wisconsin operator's license, place of employment, and self-support. State and district residency may be established concurrently.

(3) **MINORS.** Any minor whose parents or custodial guardian have maintained a permanent residence in a district next preceding the beginning of any semester or session for which such person makes application at a district is considered a resident of that district for fee purposes.

(4) **INCARCERATED AND INVOLUNTARILY DETAINED INDIVIDUALS.** Permanent residence of persons incarcerated, involuntarily detained by the courts or committed in hospitals remains in the location from which the person was a legal resident prior to involuntary detention.

(5) **PETITION FOR CHANGE OF RESIDENT STATUS.** Prior to the beginning of any semester or session, a person may petition the district director of the district of attendance for a change from non-district resident to district resident status if residence in the district can be established under the requirements of this section. Within 30 days of receipt of the petition the district director shall issue a written decision.

(6) **APPEAL. (a)** Persons adversely affected by a district director's residency determination may appeal that decision, in writing, to the director within 30 days of issuance of the decision. The director shall issue a written decision within 30 days of the filing of the appeal.

(b) The decision of the director shall be subject to review pursuant to ch. 227, Stats., and ch. A-V 4.

History: Cr. Register, May, 1983, No. 329, eff. 6-1-83.

A-V 10.05 Exemptions from payment of fees and tuition. (1) DEFINITIONS. In this section:

(a) "Adult basic education" means instruction providing basic skills in the language arts, science and math and exploratory experiences for adults.

(b) "Adult high school" means an instructional program for adults to complete their education leading to a high school diploma.

(c) "Apprentice" means any person, 16 years of age or over, who enters into any contract of service, known as an indenture, whereby the person is to receive from or through the employer, in consideration for services in whole or in part, instruction in any trade, craft, business or occupation eligible to be indentured under ch. 106, Stats.

(d) "English as a 2nd language" means a course designed for persons who speak a primary language other than the English language.

(2) EXEMPTIONS. (a) Students enrolled in adult high school, or adult basic education or English as a second language courses shall be exempt from program fees under s. 38.24 (1) (b), Stats.

(b) Students 62 years old and older shall be exempt from program fees under s. 38.24 (1) (b), Stats., in vocational adult courses.

(c) Nonresidents of the district shall pay nonresident tuition except where reciprocal or interdistrict contractual agreements exist.

(d) Wisconsin residents in approved apprenticeship programs are exempt from payment of interdistrict tuition under s. 38.24 (3) (a) 1, Stats.

(e) Students under approved interstate reciprocity agreements are exempt from out-of-state tuition as provided in the agreement.

History: Cr. Register, May, 1983, No. 329, eff. 6-1-83.

A-V 10.055 Hardship determination and jointly offered programs. (1) **Hardship Determination.** (a) A person who is a resident of a district and who desires to take a program in another district that is offered in his or her district of residence may be permitted to take that program in another district without the payment of nonresident fees if:

1. The person is determined by his or her district of residence to possess a hardship under sub. (2);

Note: The correct cross reference should be par. (b).

2. The district of residence and district of proposed enrollment have entered into a contractual agreement to waive or establish interdistrict payments under s. 38.24 (3) (c), Stats.; and

3. The district of proposed enrollment has accepted the person for enrollment subject to a finding of hardship being made by the district of residence.

(b) A person may be considered to possess a hardship under this section if the district of residence determines that the person meets one of the following provisions:

1. The person has a handicap or other special need, as determined by the district of residence, that could be better served by a district other than that person's district of residence.

2. There exists a method of transportation, including public transportation or a car pool that would enable a person to attend a district other than his or her district of residence, and where non-availability of similar

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or other alternative methods of transportation would prevent attendance at the district of residence.

3. The distance, based upon travel by the state or federal highway systems, from the person's residence or place of employment to the closest location where the program is offered in the district of residence exceeds by 50% the distance to be traveled to the closest location where the program is offered in the district of proposed enrollment. Where a district offers a program at more than one location, the comparison of mileage shall be based upon travel from the person's residence or place of employment to the closest location in each district where the program is offered.

(c) In determining whether a program offered in the person's district of residence is the same as the program in the district of proposed enrollment, the program code as assigned by the board shall be determinative. If the person's district of residence does not offer a program with the same program code for the academic year in which hardship approval is sought, or the district of residence has not received approval from the board to offer the program for which approval from the board to offer the program for which approval is sought, the district of residence shall be liable for interdistrict tuition under s. A-V 10.06.

(d) The number of students for whom nonresident tuition charges may be waived by a district in any school year under this section is limited to 5 students or 2% of the district's nonresident and non-district resident postsecondary student enrollment for the previous year, whichever is greater. Headcount enrollment shall be used in computing nonresident and non-district resident postsecondary student enrollment.

(2) JOINTLY OFFERED PROGRAMS. (a) Definition. "Jointly offered program" means a program approved by the board and offered jointly by 2 or more districts.

(b) For a program to be eligible for designation as a jointly offered program, at least one district participating in the jointly offered program shall have previously received board approval to offer the the program, all districts participating in the jointly offered program shall offer at least one required course of the program and all districts participating in the jointly offered program shall have entered into a contractual agreement under s. 38.24 (3) (c), Stats.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

A-V 10.06 District liability for payment of interdistrict tuition. (1) DEFINITIONS. In this section:

(a) "Academic year" means the period beginning with the summer session and succeeding semesters or sessions extending to the following summer session.

(b) "Eligible program" means a program not offered in a student's district of residence.

(c) "Program code" means the program number designated by the board for a program.

(2) GENERAL PROVISIONS. If a person submits an application and credentials and receives permission to register in a program in a district other than that person's district of residence, and the program is not offered by the person's district of residence, the district of residence shall

be liable for the payment of interdistrict tuition, provided written notice of enrollment under s. 38.22 (2), Stats., is sent to the district of residence by the district of enrollment. The program code designated by the board shall be determinative of the district of resident's liability. If the person's district of residence has not been approved by the board to offer the designated program, the district of residence is liable for payment of interdistrict tuition for as long as the person maintains nonresident status and pursues the program. A person may transfer from one eligible program not offered in the district of residence to another eligible program not offered in the district of residence prior to the beginning of the second semester of attendance and the district of residence shall continue to be liable for payment of interdistrict tuition.

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