

# RESIDENCY APPEALS POLICY AND PROCEDURES

## 1. Basis for Residency Classification

The Commonwealth of Kentucky has established a process and corresponding criteria for the determination of residency classification for students seeking admission to, or enrolled in, public institutions of higher education. The Council on Postsecondary Education (hereinafter referred to as "CPE") has established Kentucky Administrative Regulation 13 KAR 2:045 (hereinafter referred to as "the Regulation") to be followed by all public institutions of higher education in the Commonwealth concerning residency classification. This Regulation can be found in the current Undergraduate Catalog and the current Graduate Catalog and copies are available upon request from the Office of Admissions, located in the Whitlock Building, Room 112 or by calling (859) 622-21-6 or 1-800-465-9191.

## 2. Institutional Administration of the Residency Policy

The Council on Postsecondary Education authorizes each institution to establish a procedure for the determination of residency classification based upon the Regulation.

### 2.1 Office of Admissions

The Office of Admissions  
Whitlock Building, Room 112, CPO 54  
521 Lancaster Avenue  
Richmond, KY 40475-3154

The Office of Admissions at Eastern Kentucky University serves as the coordinating office for institutional implementation of the Regulation. Instructions for filing applications for reclassification and copies of the Regulation are available in this office. Also, Admissions staff members are available to answer questions regarding policy and procedures.

### 2.2 Initial Classification

The initial determination of residency status is made by the University based upon the credentials submitted by an applicant for admission to the University in accordance with the Regulations.

### 2.3 Appeal of Residency Status

Once an initial classification of residency is made by the Office of Admissions, it is the student's responsibility to initiate an appeal of such classification. Request for reclassification must be filed with the Dean of Students Office **no later than thirty (30) calendar days** after the first full day of classes of the fall or spring academic term for which reclassification is sought or not later than ten (10) calendar days after the first day of class for the summer term. Requests for reclassification are to be made in affidavit form on the form available from the Office of Admissions or the Dean of Students Office. A student may apply only once during an academic term. A student classified as a non-resident will retain that status until a change is brought about by successful appeal. If an appeal results in a change of classification, the change will not be effective earlier than the semester during which the appeal is filed. If a student is initially classified non-resident but does not enroll the semester for which the student originally applied, the residency classification will be reassessed for subsequent semesters.

### 2.4 Affidavit (Application for Reclassification)

Affidavits will not be accepted unless the form is fully completed, properly signed and notarized. In no case will a decision be granted without an affidavit and all required supporting documentation.

### 2.5 Documentation

Because of the variety of factors related to establishing residency for tuition purposes, the number of documents required to complete an appeal may vary from case to case. In all cases, the University may require certification of authenticity of documents.

It is the appealing student's responsibility to provide sufficient documentation to clarify circumstances related to the appeal. In all cases, circumstances related to establishing domicile must be verifiable.

### 2.6 Review of the Residency File by the Residency Appeals Officer

A Residency Appeals Officer designated by the University shall review the affidavit and documentation and notify the student, in writing, within fourteen (14) days of making a determination. Students who do not agree with the Residency Appeals Officer's determination may appeal his/her residency status to the University's Residency Review Committee within fourteen (14) days of the Residency Appeals Officer's determination.

## 3. University Residency Review Committee

Pursuant to the Regulation, Eastern Kentucky University has a Residency Review Committee (hereinafter referred to as the "Committee") to review and evaluate student affidavits for reclassification and to consider changes in the residency classification.

### 3.1 Timely Appeal

The Student must notify the Residency Appeals Officer in writing, if he or she wishes his/her case to be reviewed by the Committee, within fourteen (14) calendar days after notification of the Residency Appeals Officer's determination. The Residency Appeals Officer shall immediately forward the request and the student's residency file to the Chair of the Committee.

### 3.2 Committee Membership

The Residency Review Committee shall be comprised of three members: the Executive Director for Enrollment Management; a member of the Faculty-at-Large, who shall be appointed annually by the Faculty Senate; and a member of the student body, who shall be appointed by the Office of the Vice President for Student Affairs from a list of students recommended by the Student Association.

### 3.3 Determination of the Committee

The Committee shall issue a written decision citing the section of the Regulation on which the decision is based. The Committee may vote to defer a case for additional documentation, or the Committee may make a decision contingent upon conditions prescribed by the Committee. The Chair of the Committee will then determine when and whether contingencies are met.

### 3.4 Notification of Decision

The Committee shall make a determination of student residency status and notify the student, in writing, within forty-five (45) days after receipt of the student appeal. Decisions denying appeals are communicated to the student by certified mail, return receipt requested. In all cases where the Committee reaches a determination granting in-state residency

status, copies of the letter of notification will be sent to the Office of Admissions, Student Accounting Services, the Registrar's Office, and Student Financial Assistance.

## 4. Request for Formal Hearing

Pursuant to the Regulation, the University shall provide a formal hearing in the event a student wishes to appeal the determination of the Residency Review Committee.

### 4.1 Timely Request

A student who wishes to appeal the determination of the Committee shall be granted a formal hearing by the University if the student notifies the Executive Director for Enrollment Management, Whitlock Building, Room 436, CPO 69, Richmond, KY 40475-3163, in writing, within fourteen (14) calendar days after notification of the Residency Review Committee's determination. The Executive Director for Enrollment Management shall immediately forward the request and the student's residency file to the Office of the President.

### 4.2 The Hearing Officer

Upon receipt of a request for a formal hearing, the University President shall appoint a Hearing Officer to conduct the hearing. The Hearing Officer shall not be a person involved in determinations of residency at a public institution of higher education in Kentucky (including the Kentucky Commonwealth Virtual University) and shall not be an employee of the same organizational unit as the Residency Appeals Officer.

### 4.3 Formal Hearing Procedures

The hearing shall be conducted in accordance with the following procedures:

#### 4.3.1. Notice of Hearing

**4.3.1.a.** The University shall conduct the hearing as soon as practicable and shall give notice of the hearing to the parties not less than twenty (20) days in advance of the date set for the hearing. A reasonable effort shall be made to schedule the hearing on a date that is convenient to all parties involved.

**4.3.1.b.** The hearing notice shall be served on all parties by certified mail, return receipt requested, to the last known addresses of the parties, or by personal service.

**4.3.1.c.** The notice shall be in plain language and shall include:

- the date, time and place of the hearing;
- the name, official title, and mailing addresses of the Hearing Officer;
- the names, official titles, mailing addresses, and, if available, telephone numbers of all parties involved in the hearing, including the counsel or representative of the University; and
- a statement advising the student of his/her right to legal counsel.

#### 4.3.2. Hearing Procedure

**4.3.2.a.** The Hearing Officer shall conduct the hearing and all related proceedings in a manner which will promote the orderly and prompt conduct of the hearing.

**4.3.2.b.** To the extent necessary for the full disclosure of all relevant facts and issues, the Hearing Officer shall give all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence.

**4.3.2.c.** Any party to the hearing may participate in person or be represented by counsel. A student shall pay for the cost of all legal representation in support of the student's claim or residency. Legal counsel for the student must file a notice of appearance with the Hearing Officer prior to the date of the hearing.

**4.3.2.d.** The Hearing Officer may conduct all or part of the hearing by telephone, television, or other electronic means, if each party to the hearing has an opportunity to hear, and if technically feasible, to see the entire proceeding as it occurs, and if each party agrees.

**4.3.2.e.** The hearing shall be open to the public unless specifically closed pursuant to a provision of law. If the hearing is conducted by telephone, television, or other electronic means, and is not closed, public access shall be satisfied by giving the public an opportunity, at reasonable times, to hear or inspect the University's records.

## 4.4 Findings of Fact; Evidence; Recording of Hearing; Burden of Proof

**4.4.1.** Findings of fact shall be based exclusively on the evidence on the record.

**4.4.2.** All testimony shall be made under oath or affirmation.

**4.4.3.** Objections to evidence presented may be made by any party and shall be noted in the record.

**4.4.4.** The University shall be responsible for having all testimony, motions and objections in a hearing accurately and completely recorded. Any person, upon request, may receive a copy of the recording or a copy of the transcript, if the hearing has been transcribed, at the discretion of the University, unless the hearing is closed by law. The University may prepare a transcript of a hearing or a portion of a hearing upon request but the party making the request shall be responsible for the transcription costs. The form of all requests and fees charged shall be consistent with KRS 61.870 to 61.884.

**4.4.5.** Unless otherwise provided by state or federal law, the student appealing the residency decision has the burden of proving the student's right to having his/her residency status changed. The student has the ultimate burden of proof of persuasion as to this issue to be shown by a preponderance of evidence in the record. Failure to meet the burden of proof is grounds for a recommended order from the Hearing Officer.

## 4.5 Prohibited Communications

**4.5.1.** The Hearing Officer shall not communicate off the record with any party to the hearing or any other person who has a direct or indirect interest in the outcome of the hearing, concerning any substantive issue, while the hearing is pending.

## 4.6. Recommended Order

**4.6.1.** The Hearing Officer shall complete and submit to the University President, no later than sixty (60) days following receipt of the student's residency file, a written recommended order which shall include the Hearing Officer's findings of fact, conclusion of law, and recommended disposition of the hearing.

**4.6.2.** A copy of the Hearing Officer's recommended order shall also be sent to each party in the hearing. Each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the University President.

The recommended order may be sent by regular mail to the last known address of the party.

#### **4.7. Final Order**

**4.7.1.** In making the final order, the University President shall consider the record including the recommended order and any exceptions filed by, or on behalf of, the student.

**4.7.2.** The University President may accept the recommended order of the Hearing Officer and adopt it as the University's final order, or he or she may reject or modify, in whole or in part, the recommended order, or he or she may send the matter, in whole or in part, back to the Hearing Officer for further proceedings as appropriate.

**4.7.3.** The final order shall be in writing. If the final order differs from the recommended order, it shall include separate statements of findings of fact and conclusions of law.

**4.7.4.** The University President shall render a final order within thirty (30) days after receipt of the recommended order unless the matter is sent back to the Hearing Officer for further proceedings.

**4.7.5.** A copy of the final order shall be transmitted to each party or to his/her attorney of record by certified mail, return receipt requested, sent to the last known address of the parties, or by personal service. A copy of the final order shall also be sent to the Office of Admissions, Student Accounting Services, the Registrar's Office, and Student Financial Assistance.

### **5. Records**

All official files and materials relating to a student's appeal of an initial residency determination shall be returned to the Office of Admissions to be placed with the application for admissions at whatever point in the process the appeals procedure is terminated.