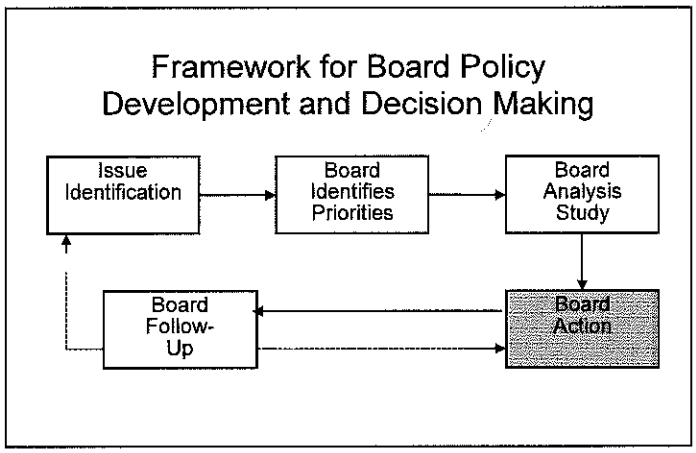
Iowa State Board of Education

Executive Summary

May 14, 2015



Agenda Item: Rules: 281 IAC Chapter 21 – Community Colleges (Adopt)

Iowa Goal: Individuals will pursue postsecondary education in order to drive economic success.

State Board Role/Authority: Iowa Code section 256.7(5) gives the State Board of Education the statutory authority to adopt rules under chapter 17A.

Presenter: Jeremy Varner, Administrator, Division of Community Colleges

Attachments: 1

Recommendation: It is recommended that the State Board adopt the amendments to Chapter 21.

Background: The proposed amendments to 281 Iowa Administrative Code Chapter 21 would clarify protocol for community college residency determinations for students, including veterans, and clarify permissible tuition rates.

The amendments would move the State Board of Education's Uniform Policy on Residency Status into Iowa Administrative Code. The department received comments from the Iowa National Guard concerning the definition of a veteran.

The department has changed the language in the proposed rule to reflect the comments received by the Iowa National Guard. The department has also stricken Item 1 from the Noticed rule and replaced with item 2.

EDUCATION DEPARTMENT [281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 21, "Community Colleges," Iowa Administrative Code.

These proposed amendments clarify protocol for community college residency determinations for students, including veterans, and clarify permissible tuition rates. The proposed amendments move the State Board of Education's Uniform Policy on Residency Status into administrative rule.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published on February 18, 2015, Iowa Administrative Bulletin as **ARC 1879C**. Public comments were allowed until 4:30 p.m. on March 10, 2015. A public hearing was held on that date. No one attended the public hearing. No written comments were received regarding this amendment. This amendment was modified from that published under Notice. Item 1 was stricken and replaced with item 2. Additionally, the definition of in-state residency for veterans in 21.2(11)(b)(5) was modified at the request of the Iowa National Guard.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 260C.

The following amendments are proposed.

ITEM 1. Rescind subrule 21.2(11) and adopt the following **new** subrule in lieu thereof:

21.2(11) *Residency status and tuition.* A student who has been admitted to an Iowa community college shall be classified as a resident or as a nonresident for admission, tuition, and fee purposes. A student classified as a resident shall pay resident tuition costs.

A student classified as a nonresident shall pay nonresident tuition costs. Tuition rates are established by a community college's board of trustees pursuant to Iowa Code section 260C.14(2).

a. Tuition rates. Tuition rates adopted by a community college's board of trustees shall be consistent with the following requirements.

(1) Resident tuition.

1. Tuition for residents shall not exceed the lowest tuition rate per semester, or the equivalent, for a full-time student charged by an institution of higher education under the state board of regents.

2. For students of high school age enrolled in a course through a contractual agreement with a school district, the limit on resident tuition shall not apply, and the amount of tuition shall be determined by the community college's board of trustees with the consent of the school board.

3. Resident tuition rates shall not require department approval.

(2) Nonresident tuition. Tuition for nonresidents shall be not less than the marginal cost of instruction of a student attending the college. The establishment of nonresident tuition rates shall not require department approval, with the exception of rates established pursuant to paragraphs 21.2(11)*"a"*(2)"2" and "3" and 21.2(11)*"a"*(3).

1. International student tuition rates. A separate nonresident rate for international students shall be permissible, provided the rate is reasonable and reflects the cost of appropriate services.

2. Reciprocal agreements. A lower tuition rate for nonresidents is permitted under a reciprocal tuition agreement between a community college and an educational institution

in another state, if the rate established in the agreement is approved by the department.

3. Other nonresident rates. Other nonresident tuition rates may be established for specific purposes provided the tuition rate is greater than the resident tuition rate, the tuition rate is not less than the marginal cost of instruction, and the arrangement is approved by the department.

(3) Consortia. A separate tuition rate for residents and nonresidents is permitted for courses delivered through a consortia agreement for online, distance education, or other coursework between Iowa community colleges, if the rate established in the agreement is approved by the department. Tuition shall not be less than the lowest resident rate or higher than the highest nonresident rate of institutions within the consortium.

(4) Noncredit course tuition. Tuition for noncredit continuing education courses shall be determined based on course costs and market demand. Tuition rates for courses that are not credit-bearing shall not require department approval.

(5) Department approval. For tuition rates requiring department approval, the department shall approve rates which comply with the requirements set forth in this chapter. Before a rate is adopted by a community college's board of trustees and charged to students, the community college shall request and receive approval for a tuition rate.

(6) Reporting. A community college shall annually report all tuition rates and mandatory fees in a manner prescribed by the department.

(7) Notification. A community college shall inform all students about residency status determinations, the appeal process, and tuition policies. Information shall be included in appropriate publications such as the college's catalog, registration materials, Web site, and student handbook.

b. Determination of residency status. In determining a community college resident or nonresident classification, the primary determinant shall be the reason the student is in the state of Iowa. The second determinant shall be the length of time a student has resided in Iowa. If a student is in the state primarily for educational purposes, that student shall be considered a nonresident. The burden of establishing the reason a student is in Iowa for other than educational purposes rests with the student.

(1) Procedure. The registrar or officially designated community college office shall require written documents, affidavits, or other related evidence deemed necessary to determine why a student is in Iowa. A student shall be required to file at least two documents from different sources to determine residency status. Examples of acceptable documentation include: written and notarized documentation from an employer that the student is employed in Iowa or a signed and notarized statement from the student describing employment and sources of support; an Iowa state income tax return; an Iowa driver's license; an Iowa vehicle registration card; an Iowa voter registration card; or proof of Iowa Homestead credit on property taxes. In all events, to be determined a resident of Iowa, the student must document residing in the state of Iowa for at least 90 days prior to the beginning of the term for which the student is enrolling.

1. If a student gives misleading or incorrect information for the purpose of evading payment of nonresident tuition, the student must pay the nonresident tuition for each term the student was not officially classified as a nonresident.

2. The procedures described in paragraph 21.2(11)*"b"* shall be administered by the registrar or staff designated by the community college.

(2) Residency of minor students. The domicile of a minor shall follow that of the parent

with whom the minor resides, except where emancipation of said minor can be proven. The word "parent" herein shall include legal guardian or others in cases where the lawful custody of a minor has been awarded to persons other than the minor's actual parents. A minor living with a resident of Iowa who is legally responsible for the minor shall be granted resident status if the minor has lived with the Iowa resident for at least 90 days immediately prior to enrollment. The residency status of an emancipated minor shall be based upon the same qualifications established for a student having attained majority.

(3) Residency of students who are not citizens of the United States. The residency status of students who are not citizens of the United States shall be determined consistent with the following procedures.

1. A student who is a refugee or who is granted asylum by an appropriate agency of the United States must provide proof of certification of refugee or asylum grantee status. A student may be accorded resident status for admission and tuition purposes when the student comes directly, or within a reasonable time, to the state of Iowa from a refugee facility or port of debarkation and has not established domicile in another state.

2. A student who has immigrant status, and the student's spouse or dependents, may establish Iowa residency in the same manner as a United States citizen.

3. A student who has nonimmigrant status and who holds a nonstudent visa, and the student's spouse or dependents, may establish residency in the same manner as a United States citizen. An alien who has nonimmigrant status and whose primary purpose for being in Iowa is educational is classified as nonresident.

4. A student who is a resident of an Iowa sister state may be classified as a resident or nonresident, in accordance with rules adopted by the college's board of directors.

(4) Residency of federal personnel and dependents. A student, or the student's spouse or dependent child, who has moved into the state of Iowa as the result of military or civil orders from the federal government, and the minor children of such student, is immediately an Iowa resident.

(5) Residency of veterans and family members and individuals covered under Section 702 of the Veterans Access, Choice and Accountability Act of 2014. A veteran of a uniformed service, member of the national guard, or their spouse or dependent child shall be classified as an Iowa resident student and be eligible for resident tuition and fee amounts, if the veteran or national guard member meets the requirements of paragraph 21.2(11)*"b"*(5)"1," "2," or "3."

1. The veteran has separated from a uniformed service with an honorable or general discharge, is eligible for benefits, or has exhausted benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 or any other federal authorizing veteran educational benefits program.

2. The individual is an active duty military person or activated or temporarily mobilized National Guard member.

3. The individual is a covered person under Section 702 of the Veterans Access, Choice and Accountability Act of 2014 or subsequent legislation.

(6) Reclassification of residency status. It is the responsibility of a student to request a reclassification of residency status. If a student is reclassified as a resident for tuition purposes, such classification shall be effective beginning with the next term for which the student enrolls. In no case shall reclassification to residency status be made retroactive for tuition and fee purposes, even though the student could have previously qualified for

residency status had the student applied.

(7) Appeal. The decision on the residency status of a student for admission, tuition, and fee purposes may be appealed to a review committee established by the community college. The findings of the review committee may be appealed to the community college's board of trustees, whose decision shall be a final administrative decision.