

**RULES
OF
AUSTIN PEAY STATE UNIVERSITY**

**CHAPTER 0240-05-05
CLASSIFYING STUDENTS IN-STATE AND OUT-OF-STATE**

TABLE OF CONTENTS

0240-05-05-.01	Intent	0240-05-05-.05	Presumption
0240-05-05-.02	Definitions	0240-05-05-.06	Evidence to Consider for Establishment of Domicile
0240-05-05-.03	Rules for Determination of Status	0240-05-05-.07	Appeal
0240-05-05-.04	Out-of-State Students Who Are Not Required to Pay Out-of-State Tuition	0240-05-05-.08	Effective Date for Reclassification

0240-05-05-.01 INTENT. It is the intent that Austin Peay State University (APSU or University) shall apply uniform rules, as described in these regulations and not otherwise, in determining whether students shall be classified “in-state” or “out-of-state” for fees and tuition purposes and for admission purposes.

Authority: *T.C.A. § 49-8-104; Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History: Original rules filed June 15, 2020; effective September 13, 2020.*

0240-05-05-.02 DEFINITIONS. Wherever used in these regulations:

- (1) “Continuous Enrollment” or “Continuously Enrolled” shall mean enrollment at a public higher educational institution or institution of this State as a full-time student, as such term is defined by the governing body of said Public Higher Educational Institution or Institutions, for a normal academic year or years or the appropriate portion or portions thereof since the beginning of the period for which continuous enrollment is claimed. Such person need not enroll in summer sessions or other such inter-sessions beyond the normal academic year in order that his or her enrollment be deemed continuous, notwithstanding lapses in enrollment occasioned solely by the scheduling of the commencement and/or termination of the academic years, or appropriate portion thereof, of the Public Higher Educational Institutions in which such person enrolls.
- (2) “Domicile” shall mean a person’s true, fixed, and permanent home and place of habitation; it is the place where he or she intends to remain, and to which he or she expects to return when he or she leaves without intending to establish or having established a new domicile elsewhere. Undocumented immigrants cannot establish domicile in Tennessee, regardless of length of residence in Tennessee.
- (3) “Emancipated Person” shall mean a person who has attained the age of eighteen (18) years and whose parents have entirely surrendered the right to the care, custody, and earnings of such person and are no longer under any legal obligation to support or maintain such person.
- (4) “Parent” shall mean a person’s father or mother. If there is a non-parental guardian or legal custodian of an unemancipated person, then “parent” shall mean such guardian or legal custodian; provided, that there are not circumstances indicating that such guardianship or custodianship was created primarily for the purpose of conferring the status of an in-state student on such emancipated person.
- (5) “Public Higher Education Institution” shall mean a university or community college supported by appropriations made by the Legislature of this State.
- (6) “Residence” shall mean continuous physical presence and maintenance of a dwelling place within this State, provided that absence from the State for short periods of time shall not affect the establishment of a residence.

(Rule 0240-05-05-.02, continued)

- (7) "U.S. Armed Forces" shall mean the U.S. Army, Navy, Air Force, Marine Corps, and Coast Guard.
- (8) "Veteran" means:
 - (a) A former member of the U.S. Armed Forces; or
 - (b) A former or current member of a reserve or Tennessee national guard unit who was called into active military service of the United States, as defined in Tennessee Code Annotated § 58-1-102.

Authority: T.C.A. § 49-8-104; *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rules filed June 15, 2020; effective September 13, 2020.

0240-05-05-.03 RULES FOR DETERMINATION OF STATUS.

- (1) Every person having his or her domicile in Tennessee shall be classified "in-state" for fee and tuition purposes and for admission purposes.
- (2) Every person not having his or her domicile in Tennessee shall be classified "out-of-state" for fee and tuition purposes and for admission purposes.
- (3) The domicile of an unemancipated person is that of his or her parent, except as provided in paragraph (4) of this Section .03. Unemancipated students of divorced parents shall be classified "in-state" when one (1) parent, regardless of custodial status, is domiciled in Tennessee, except as provided in paragraph (4) of this Section .03.
- (4) A student shall be classified as "in-state" for fee and tuition purposes if the student is a citizen of the United States, has resided in Tennessee for at least one (1) year immediately prior to admission, and has:
 - (a) Graduated from a Tennessee public secondary school;
 - (b) Graduated from a private secondary school that is located in Tennessee; or
 - (c) Earned a Tennessee high school equivalency diploma.
- (5) The spouse of a student classified as "in-state" shall also be classified "in-state."
- (6) All classifications shall be subject to the Eligibility Verification for Entitlements Act, Tennessee Code Annotated §§ 4-58-101 *et seq.*

Authority: T.C.A. § 49-8-104; *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rules filed June 15, 2020; effective September 13, 2020.

0240-05-05-.04 OUT-OF-STATE STUDENTS WHO ARE NOT REQUIRED TO PAY OUT-OF-STATE TUITION.

- (1) An unemancipated, currently enrolled student in a higher educational institution shall be reclassified out-of-state should his or her parent, having theretofore been domiciled in Tennessee, relocate out-of-state. However, such student shall not be required to pay out-of-state tuition nor be treated as an out-of-state student for admission purposes so long as his or her enrollment at a Public Higher Educational Institution or Institutions shall be continuous.

(Rule 0240-05-05-.04, continued)

- (2) An unemancipated person whose parent is not domiciled in Tennessee but is a member of the armed forces and stationed at Fort Campbell pursuant to military orders shall be classified out-of-state, but shall not be required to pay out-of-state tuition. Such a person, while in continuous attendance toward the degree for which he or she is currently enrolled, shall not be required to pay out-of-state tuition if his or her parent thereafter is transferred on military orders.
- (3) A person whose domicile is in a county of another state lying immediately adjacent to Montgomery County, or whose place of residence is within thirty (30) miles of Austin Peay State University shall be classified out-of-state but shall not be required to pay out-of-state tuition at Austin Peay State University.
- (4) A person, who is not domiciled in Tennessee, but has a bona fide place of residence in a county which is adjacent to the Tennessee state line and which is also within a 30 mile radius (as determined by THEC) of a city containing a two-year institution, shall be classified out-of-state, but admitted at in-state tuition rate.
 - (a) The waiver of out-of-state tuition granted to a border county student at an admitting institution will follow the student only from a community college to the University if the student transfers from the community college after successfully completing an associate's degree unless this condition is waived by the community college as being in the student's best interest; provided, in any case the student must complete the general education requirement at the TBR community college.
- (5) Part-time students who are not domiciled in Tennessee but who are employed full-time in the state, or who are stationed at Fort Campbell pursuant to military orders, shall be classified out-of-state but shall not be required to pay out-of-state tuition. This shall apply to part-time students who are employed in the State by more than one employer, resulting in the equivalent of full-time employment.
- (6) Military personnel and their spouses stationed in the State of Tennessee who would be classified out-of-state in accordance with other provisions of these regulations will be classified out-of-state but shall not be required to pay out-of-state tuition. This provision shall not apply to military personnel and their spouses who are stationed in Tennessee primarily for educational purposes.
- (7) Dependent children who qualify and are selected to receive a scholarship because their parent is a law enforcement officer, fireman, or emergency medical service technician who was killed or totally and permanently disabled while performing duties within the scope of their employment shall not be required to pay out-of-state tuition.
- (8) Active-duty military personnel who begin working on a college degree at a the University while stationed in Tennessee or at Fort Campbell, Kentucky, and who are transferred or deployed prior to completing their degrees, can continue to completion of the degrees at the University without being required to pay out-of-state tuition, as long as he/she completes at least one (1) course for credit each twelve (12) month period after the transfer or deployment. Exceptions may be made in cases where the service member is deployed to an area of armed conflict for periods exceeding twelve (12) months.
- (9) Students who participate in a study abroad program, when the course/courses in the study abroad program is/are the only course/courses for which the student is registered during that term, shall not be required to pay out-of-state tuition.
- (10) Students who are awarded tuition waiver scholarships for participation in bona fide campus performance-based programs, according to established guidelines, shall not be required to pay out-of-state tuition.

(Rule 0240-05-05-.04, continued)

- (11) A Veteran enrolled at the University shall not be required to pay out-of-state tuition or any out-of-state fee, if the Veteran:
- (a) Has not been dishonorably discharged from a branch of the United States armed forces or the national guard;
 - (b) Is eligible for Post-9/11 GI Bill benefits or Montgomery GI Bill benefits; and
 - (c) Enrolls in the University, after satisfying all admission requirements, within three (3) years from the date of discharge as reflected on the veteran's certificate of release or discharge from active duty, Form DD-214, or an equivalent document.
1. To continue to qualify for in-state tuition and fees, a Veteran shall:
- (i) Maintain continuous enrollment as defined by the University; and
 - (ii) Demonstrate objective evidence of established residency in Tennessee by presenting at least two (2) of the following:
 - (I) Proof of voter registration in the state;
 - (II) A Tennessee driver license;
 - (III) A Tennessee motor vehicle registration;
 - (IV) Proof of established employment in Tennessee; or
 - (V) Other documentation clearly evidencing domicile or residence in Tennessee, as determined by the Tennessee Higher Education Commission.

Authority: T.C.A. §§ 49-4-704 and 49-7-1304; *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; Public Acts of Tennessee, 1807, Chapter 64; 20 U.S.C. § 1015d; and 38 U.S.C. § 3679.* **Administrative History:** Original rules filed June 15, 2020; effective September 13, 2020.

0240-05-05-.05 PRESUMPTION. Unless the contrary appears from clear and convincing evidence, it shall be presumed that an emancipated person does not acquire domicile in Tennessee while enrolled as a full-time student at the University, as such status is defined by APSU.

Authority: T.C.A. § 49-8-104; *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.* **Administrative History:** Original rules filed June 15, 2020; effective September 13, 2020.

0240-05-05-.06 EVIDENCE TO CONSIDER FOR ESTABLISHMENT OF DOMICILE. If a person asserts that he or she has established domicile in Tennessee he or she has the burden of proving that he or she has done so. Such a person is entitled to provide to APSU by which he/she seeks to be classified or reclassified in-state, any and all evidence which he or she believes will sustain his or her burden of proof. APSU will consider any and all evidence provided to it concerning such claim of domicile but will not treat any particular type or item of such evidence as conclusive evidence that domicile has or has not been established.

Authority: T.C.A. § 49-8-104; *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.* **Administrative History:** Original rules filed June 15, 2020; effective September 13, 2020.

(Rule 0240-05-05-.06, continued)

0240-05-05-.07 APPEAL. Initially, the Office of Admissions clerk is responsible for classifying applicants for admission or readmission as either "in-state" or "out-of-state." A decision by the Office of Admission clerk may be appealed in writing to the residency classification officer in the Office of Admissions on an Application for Residency Classification form.

Students currently/continually enrolled may appeal in writing to the residency classification officer in the Office of the Registrar on an Application for Residency Classification form. An appeal of the decision made by either office may be taken to the Residency Appeals Committee. Appointments for students to appear before the committee and copies of written appeals for committee members will be made by the Office of the Registrar. Appeals from students who appear will be heard before the committee. Appeal applications made in abstentia will be considered by the committee after consideration of in-person appeal appointments. Unless additional guests are requested in advance and approved by the committee chair, only the student may appear before the committee. Students may bring additional material to support their appeal at the committee meeting. The committee shall include five (5) faculty representatives (including the chair), two staff representatives, two (2) student representatives, as well as up to three (3) ex-officio members currently made up of the Coordinator of Graduate Admissions, the Director of Admissions, and the Registrar. The committee chair will prepare a record of the student appeals including the name of the student, the date of the committee meeting, the committee members present, name(s) of any other guest(s) and a statement of the resulting decision of the committee. A copy of this record will be kept in the student's permanent file. The appealing student will be contacted by the Office of the Registrar and informed of the committee's recommendation. A decision by the Residency Appeals Committee may be appealed in writing to the associate provost for enrollment management and academic support. All appeals must be received within five (5) class days of receipt by the student of the committee's decision. The decision of the associate provost will be final.

Authority: T.C.A. § 49-8-104; *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.* **Administrative History:** Original rules filed June 15, 2020; effective September 13, 2020.

0240-05-05-.08 EFFECTIVE DATE FOR RECLASSIFICATION. If a student classified out-of-state applies for in-state classification and subsequently is classified thusly, his or her in-state classification shall be effective as of the date on which reclassification was sought. However, out-of-state tuition will be charged for any term or semester during which reclassification is sought and obtained unless application for reclassification is made on or before the last day of registration prior to classes.

Authority: T.C.A. § 49-8-104; *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.* **Administrative History:** Original rules filed June 15, 2020; effective September 13, 2020.