

# Higher Education Residency Requirements

Third Follow-up Report  
January 2009

Office of Performance Evaluations  
Idaho Legislature



Report 09-02F

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### **Acknowledgments**

We appreciate the cooperation and assistance we received from the State Board of Education. Jared Tatro of the Office of Performance Evaluations conducted this follow-up review.

# Higher Education Residency Requirements

## *Third Follow-up Review*

*In 2004, we completed a review of the residency determination process at each of Idaho's four-year higher education institutions. We offered three recommendations designed to clarify legislative intent, ensure uniformity of residency requirements, and improve the accuracy of student residency determinations. In this third follow-up review, we found that the State Board of Education, the institutions, and the Legislature have made changes to implement all three recommendations.*

### **Background**

In November 2002, lawmakers requested a review of the residency determination process because of concerns about (1) whether institutions were applying residency requirements accurately and uniformly; and (2) whether the State of Idaho was subsidizing the education of nonresident students who were inappropriately granted residency.

An improper determination of students' residency status can significantly affect the cost of their education. Based on tuition and fees for 2008–2009, we estimate that nonresident students will pay between \$30,616 and \$40,320 more than an Idaho resident for the same four-year degree. Idaho Code outlines criteria for determining student residency at Idaho's four-year higher education institutions: Boise State University, Idaho State University, Lewis-Clark State College, and the University of Idaho.<sup>1</sup>

Our 2004 evaluation, *Higher Education Residency Requirements*, listed three recommendations designed to clarify legislative intent, promote uniformity in the residency determination process, and improve the accuracy of residency determinations. This follow-up review assesses the State Board of Education, higher education institutions, and legislative efforts since our second follow-up review in July 2007. The State Board of Education's assessment of current efforts to address our recommendations is included in the appendix.

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<sup>1</sup> IDAHO CODE § 33-3717B(1).

## Legislature Has Clarified Statutory Requirements for Residency

*Recommendation 1: The Legislature should consider amending Idaho Code to clarify:*

- a. *Whether full-time, nonresident students are presumed to be in Idaho primarily for educational purposes—unless they clearly demonstrate they are primarily engaged in activities other than those of a student*
- b. *Whether nonresident students must establish and maintain a domicile in Idaho for 12 months in order to qualify for residency*
- c. *Whether students who are granted residency on the basis of their parents' Idaho domicile should be financially dependent upon their resident parents and be under a certain age*
- d. *The factors needed to show that domicile has been established primarily for purposes other than education, including any weighting of the factors*

During the 2008 legislative session, lawmakers passed House Bill 401 and House Bill 385; both clarified and strengthened Idaho's residency law. According to the Executive Director of the State Board of Education, legislation created an unintended consequence for students who are returning to Idaho to continue their education. Students are now required to be at least 50 percent financially dependent on their parent/guardian, which is a disadvantage to students who do not rely on their families for financial support.

**Status:** This recommendation has been **implemented**.

## The Board Has Established a Uniform Process for Residency Determinations

*Recommendation 2a: The State Board of Education should address the lack of uniformity in determining residency and other related issues by amending its administrative rules to provide a uniform residency determination process.*

Idaho Code states that “the State Board of Education...shall adopt *uniform and standard* rules...to determine resident status of any student and to establish procedures for the review of that status” [emphasis added].<sup>2</sup> In November 2008, the Board of Education adopted rules to strengthen residency determination procedures and to align with Idaho Code.<sup>3</sup>

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<sup>2</sup> IDAHO CODE § 33-3717B(4).

<sup>3</sup> IDAPA 08.01.04.

*Recommendation 2b: The State Board of Education should address the lack of uniformity in determining residency and other related issues by modifying the statewide Application for Admission form to conform to state law and rules.*

Following the 2008 legislative session, with input from all higher education institutions, board officials modified the application for admission to conform to state law and rules.

*Recommendation 2c: The State Board of Education should address the lack of uniformity in determining residency and other related issues by setting nonresident fees for part-time students in the same manner as for full-time students.*

In April 2008, the Board of Education set and approved higher education tuition and fees for the 2008–2009 academic year. With the exception of Lewis-Clark State College, higher education institutions are *now* requiring nonresident students, full-time or part-time, to pay higher tuition and fees than resident students.<sup>4</sup>

**Status:** All three parts of this recommendation have **been implemented**, with the exception of setting fees for nonresident students at Lewis-Clark State College.

## **Establishing Procedures to Ensure Accurate Residency Determinations**

*Recommendation 3a: Boise State University, Idaho State University, Lewis-Clark State College, and the University of Idaho should improve their residency determination process by implementing quality assurance measures that identify high-risk residency determination cases for further review.*

*Recommendation 3b: Boise State University, Idaho State University, Lewis-Clark State College, and the University of Idaho should improve their residency determination process by collecting information that addresses all residency factors listed in statute and rules, and basing residency determinations on full consideration of these factors.*

During the summer of 2008, board officials met with the institutions to create a uniform process that *all* institutions will follow when determining high-risk residency cases.<sup>5</sup> The board created a more detailed and standardized

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<sup>4</sup> Lewis-Clark State College charges a higher rate only for non-resident full-time students. Lewis-Clark officials say that this is because of competition with a neighboring state college.

<sup>5</sup> High-risk cases are those in which students claim residency although there are indicators (such as an out-of-state mailing address on the application form) that suggest they may be nonresidents.

supplemental application that *all* institutions will use. Board staff said that they are also finalizing a process to help institution staff identify high-risk cases.

**Status:** Both parts of this recommendation have been **implemented**.

***Appendix A***

**Update of Implementation Efforts**





## IDAHO STATE BOARD OF EDUCATION

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RECEIVED  
JAN 2 2009  
PERFORMANCE EVALUATIONS

January 2, 2009

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Re: Follow-up on Higher Education Residency Requirements

Dear Rakesh and Jared:

Thank you for the opportunity to inform you of the progress the State Board of Education (Board) has made toward accomplishing the goals outlined in the January 2004 Report on Higher Education Residency Requirements. The Board's progress is as follows:

1. *The Legislature should consider amending Idaho code to clarify:*
    - a. *Whether full-time, nonresident students are presumed to be in Idaho primarily for educational purposes – unless they clearly demonstrate they are primarily engaged in activities other than those of a student*
    - b. *Whether nonresident students must establish and maintain a domicile in Idaho 12 months in order to qualify for residency*
    - c. *Whether students who are granted residency on the basis of their parents' Idaho domicile should be financially dependent upon their resident parents and under a certain age*
    - d. *The factor needed to show that domicile has been established primarily for purposes other than education, including any weighting of the factors*
- a. – d. During the 2008 legislative session, HO401 and HO385 were passed. HO401 provided the legislative guidance recommended in the OPE 2004 Report on Higher Education Residency. HO385

includes members of the Idaho National Guard as qualifying for resident fees at the state's institutions of higher education.

2. *The State Board of Education should address the lack of uniformity in determining residency and other related issues by:*

- a. *Amending its administrative rules to provide a uniform residency determination process.*

The Board approved the temporary/proposed rule in June 2008 and, following the comment period, approved pending rules in November 2008 (see attachment A).

- b. *Modifying the statewide Application for Admission form to conform to state law and rule.*

Board staff, in cooperation with Idaho institutions, modified the Application for Admission to conform to state law and rules (see attachment B). In addition, Board staff, in cooperation with Idaho institutions, completed a common Residency Determination Worksheet (see attachment C) that is used when residency status is questioned by students. The institutions, in conjunction with Board staff, developed the form and continue working together to assure consistent use of this document among institutions. Both of these forms will be reviewed at least annually and any changes made will remain consistent among institutions.

- c. *Setting nonresident fees for part-time students in the same manner as for full-time students*

The Board approved fee increases at the April Board meeting. Agenda materials presented to the Board ensured that resident and non-resident fees are set in the same manner. Three institutions have fee structures which are based upon higher rates for non-residents students. Lewis-Clark State College (LCSC) has full-time fees differentiated based upon residency status. For the FY09 academic year, LCSC did not charge different rates for part-time students based upon their residency. All institutions must request part-time and full-time fee changes yearly at the board meeting held in April.

3. *Boise State University, Idaho State University, Lewis-Clark State College, and the University of Idaho should improve their residency determination process by:*

- a. *Implementing quality assurance measures that identify high-risk residency determination cases for further review*
- b. *Collecting Information that addresses all residency factors listed in statute and rules, and basing residency determinations on full consideration of these factors*

a. – b. Idaho institutions and Board staff have worked cooperatively to assure that implementation is consistent among institutions. The Residency Determination Worksheet (see attachment C) noted above has formed the basis of the process. The working group continues to meet as needed to clarify information and documentation that should be considered in a consistent manner. The working group brings to Board staff and other group members concerns over the implementation of the existing statute and rule. These activities will continue to be coordinated by Board staff throughout the next year to assure common procedures among all institutions regarding residency determinations.

The largest concern to date for the working group relates to changes in statute and resulting rule regarding documentation of financial dependency status. It continues to be difficult for students and institution staff to provide and evaluate levels of financial dependency.

An additional issue relates to the OPE recommendation, "Whether students who are granted residency on the basis of their parents' Idaho domicile should be financially dependent upon their resident parents and be under a certain age." While the new statute and rule does not contain an age requirement, it does require the student to be financially dependent upon their parent domiciled in Idaho. Idaho students who initially choose to attend an institution out of state and who do not need to rely on their families for financial support (working, trusts, etc.) may be disadvantaged if they later choose to return to an Idaho institution, or if they wish to apply for professional programs partially funded by the State of Idaho.

Please let me know if you have any further questions or if I can be of any assistance.

Sincerely,



Dr. Mike Rush, Executive Director  
Idaho State Board of Education

## Office of Performance Evaluations Reports Completed 2007–Present

Publication numbers ending with “F” are follow-up reports of previous evaluations. Publication numbers ending with three letters are federal mandate reviews—the letters indicate the legislative committee that requested the report.

<u>Pub. #</u>	<u>Report Title</u>	<u>Date Released</u>
07-01	Use of Average Daily Attendance in Public Education Funding	February 2007
07-02	Virtual School Operations	March 2007
07-03F	Higher Education Residency Requirements	July 2007
07-04F	State Substance Abuse Treatment Efforts	July 2007
07-05F	Idaho School for the Deaf and the Blind	July 2007
07-06F	Public Education Technology Initiatives	July 2007
07-07	Health Insurance Coverage in Idaho: A Profile of the Uninsured and Those with Coverage	July 2007
07-08	Options for Expanding Access to Health Care for the Uninsured	July 2007
07-09F	Child Welfare Caseload Management	December 2007
07-10F	Management in the Department of Health and Welfare	December 2007
07-11F	School District Administration and Oversight	December 2007
07-12	Cataloging Public Health Expenditures in Idaho	December 2007
07-13	Estimating Private Health Expenditures in Idaho	December 2007
07-14	Trends in and Drivers of Health Expenditures in Idaho	December 2007
08-01	Governance of Information Technology and Public Safety Communications	March 2008
08-02F	State Substance Abuse Treatment Efforts	March 2008
08-03F	Virtual School Operations	March 2008
09-01	Public Education Funding in Idaho	January 2009
09-02F	Higher Education Residency Requirements	January 2009

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