

# South Carolina Code of Laws Unannotated

## Title 59 - Education

### CHAPTER 112

#### Determination of Rates of Tuition and Fees

##### **SECTION 59-112-10.** Definitions.

As used in this chapter:

A. The words "state institution" mean those post- secondary educational institutions under the jurisdiction of:

- (1) the Board of Trustees, Clemson University;
- (2) the Board of Trustees, Medical University of South Carolina;
- (3) the Board of Trustees, South Carolina State University;
- (4) the Board of Trustees, College of Charleston;
- (5) the Board of Trustees, Lander University;
- (6) the Board of Trustees, Francis Marion University;
- (7) the Board of Visitors, The Citadel;
- (8) the Board of Trustees, the University of South Carolina;
- (9) the Board of Trustees, Winthrop University;
- (10) the Board of Trustees, Coastal Carolina University;
- (11) the State Board for Technical and Comprehensive Education.

B. The word "student" shall mean any person enrolled for studies in any State Institution.

C. The word "residence" or "reside" shall mean continuous and permanent physical presence within this State, provided, that temporary absences for short periods of time shall not affect the establishment of a residence.

D. The word "domicile" shall mean a person's true, fixed, principal residence and place of habitation; it shall indicate the place where such person intends to remain, and to which such person expects to return upon leaving without establishing a new domicile in another state. For purposes of this section one may have only one legal domicile; one is presumed to abandon automatically an old domicile upon establishing a new one. Housing provided on an academic session basis for students at State Institutions shall be presumed not to be a place of principal residence, as residency in such housing is by nature temporary.

E. The words "in-state rates" shall mean charges for tuition and fees established by State Institutions for persons who are domiciled in South Carolina in accordance with this chapter; the words "out-of-state rates" shall mean charges for tuition and fees established by State Institutions for persons who are not domiciled in South Carolina in accordance with this chapter.

F. The words "independent person" shall mean a person in his majority, or an emancipated minor, whose predominant source of income is his own earnings or income from employment, investments, or payments from trusts, grants, scholarships, loans or payments of alimony or separate maintenance made pursuant to court order.

G. The words "dependent" or "dependent person" mean:

(1) one whose financial support is provided not through his own earnings or entitlements, but whose predominant source of income or support is payments from a parent, spouse, or guardian, and who qualifies as a dependent or an exemption on the federal tax return of the parent, spouse, or guardian; or

(2) one for whom payments are made, under court order, for child support and the cost of his college education by an independent person meeting the provisions of Section 59-112-20 A or B.

The words "dependent" or "dependent person" do not include a spouse or former spouse who is the recipient of alimony or separate maintenance payments made pursuant to court order.

H. The word "minor" shall mean a person who has not attained the age of eighteen years; and the words "emancipated minor" shall mean a minor whose parents have entirely surrendered the right to the care, custody and earnings of such minor and are no longer under any legal obligation to support or maintain such minor.

I. The word "parent" shall mean a person's natural or adoptive father or mother; or if one parent has custody of the child, the parent having custody; or if there is a guardian or other legal custodian of such person, then such guardian or legal custodian; provided, however, that where circumstances indicate that such guardianship or custodianship was created primarily for the purpose of conferring South Carolina domicile for tuition and fee purposes on such child or dependent person, it shall not be given such effect.

J. The word "spouse" shall mean the husband or wife of a married person.

HISTORY: 1978 Act No. 466, Section 1; 1988 Act No. 510, Section 10; 1988 Act No. 578, Section 1; 2000 Act No. 254, Section 4.

**SECTION 59-112-20.** South Carolina domicile defined for purposes of rates of tuition and fees.

South Carolina domicile for tuition and fee purposes shall be established as follows in determinations of rates of tuition and fees to be paid by students entering or attending State Institutions:

A. Independent persons who reside in and have been domiciled in South Carolina for a period of no less than twelve months with an intention of making a permanent home therein, and their dependents, may be considered eligible for in-state rates.

B. Independent persons who reside in and have been domiciled in South Carolina for fewer than twelve months but who have full-time employment in the State, and their dependents, may be considered eligible for in-state rates for as long as such independent person is employed on a full-time basis in the State.

C. Where an independent person meeting the provisions of Section 59-112-20 B above, is living apart from his spouse, or where such person and his spouse are separated or divorced, the spouse and dependents of such independent person shall have domiciliary status for tuition and fee purposes only under the following circumstances:

(1) if the spouse requesting domiciliary status for tuition and fee purposes remains domiciled in South Carolina although living apart or separated from his or her employed spouse;

(2) if the dependent requesting domiciliary status for tuition and fee purposes is under the legal custody or guardianship, as defined in Section 59-112-10 I above, of an independent person who is domiciled in this State; or if such dependent is claimed as an income tax exemption by the parent not having legal custody but paying child-support, so long as either parent remains domiciled in South Carolina.

D. The residence and domicile of a dependent minor shall be presumed to be that of the parent of such dependent minor.

E. Independent persons who reside in and are domiciled in Chatham-Effingham and Bryan County Georgia, and their dependents, may be considered eligible for in-state rates for as long as the Georgia Board of Regents offers its Georgia Tuition Program by which it grants in-state tuition to students residing in the Beaufort and Jasper county area.

HISTORY: 1978 Act No. 466, Section 2; 2008 Act No. 353, Section 2, Pt 1F, eff July 1, 2009.

Effect of Amendment

The 2008 amendment added E, effective July 1, 2009.

**SECTION 59-112-30.** Effect of change of residency.

When the domicile of a student or of the person upon whom a student is financially dependent changes after enrollment at a State Institution, tuition charges shall be adjusted as follows:

A. Except as provided in Section 59-112-20 B above, when domicile is taken in South Carolina, a student shall not become eligible for in-state rates until the beginning of the next academic session after expiration of twelve months from date of domicile in this State.

B. When South Carolina domicile is lost, eligibility for in-state rates shall end on the last day of the academic session in which the loss occurs; however, application of this subsection shall be at the discretion of the institution involved.

C. Notwithstanding the other provisions of this section, any dependent person who has been domiciled with his family in South Carolina for a period of not less than three years immediately prior to his enrollment may enroll in a state-supported institution of higher learning at the in-state rate and may continue to be enrolled at such rate even if the parent, spouse or guardian upon whom he is dependent moves his domicile from this State.

HISTORY: 1978 Act No. 466, Section 3; 1979 Act No. 130, Section 1.

**SECTION 59-112-40.** Effect of marriage.

Except as provided in Section 59-112-20 above, marriage shall effect determinations of domicile for tuition and fee purposes only insofar as it operates to evince an intention by the parties to make a permanent home in South Carolina.

HISTORY: 1978 Act No. 466, Section 4.

**SECTION 59-112-50.** Tuition rates for military personnel and their dependents.

(A) Notwithstanding another provision of law, during the period of their assignment to duty in South Carolina, members of the Armed Services of the United States stationed in South Carolina and their dependents are eligible for in-state tuition rates. When these armed service personnel are ordered away from the State, their dependents are eligible for in-state tuition rates as long as they remain continuously enrolled at the state institution in which they are enrolled at the time the assignment ends or transfer to an eligible institution during the term or semester, excluding summer terms, immediately following their enrollment at the previous institution. In the event of a transfer, the receiving institution shall verify the decision made by the student's previous institution in order to certify the student's eligibility for in-state tuition rates. It is the responsibility of the transferring student to ensure that all documents required to verify both the previous and present residency decisions are provided to the institution. These persons and their dependents are eligible for in-state tuition rates after their discharge from the armed services even though they were not enrolled at a state institution at the time of their discharge, if they have evidenced an intent to establish domicile in South Carolina and if they have resided in South Carolina for a period of at least twelve months immediately preceding their discharge. Active duty military personnel may be charged less than the undergraduate tuition rate for South Carolina residents for courses that are presented on a distance basis, regardless of residency.

(B)(1) Active duty military personnel may be charged less than the undergraduate tuition rate for South Carolina residents for courses that are presented on a distance basis, regardless of residency.

(2) For purposes of this section, "active duty military personnel" includes, but is not limited to, active duty guardsmen and active duty reservists.

(C)(1) Notwithstanding any other provision of law, a covered individual enrolled in a public institution of higher education and receiving educational assistance under Chapter 30 and Chapter 33, Title 38 of the United States Code are entitled to pay in-state tuition and fees without regard to the length of time the covered individual has resided in this State.

(2) For purposes of this subsection, a covered individual is defined as:

(a) a veteran who served ninety days or longer on active duty in the Uniformed Service of the United States, their respective

Reserve forces, or the National Guard and who enrolls within three years of discharge;

(b) a person who is entitled to and receiving assistance under Section 3319, Title 38 of the United States Code by virtue of the person's relationship to the veteran described in subitem (a) who enrolls within three years of the veteran's discharge;

(c) a person using transferred benefits under Section 3319, Title 38 of the United States Code while the transferor is on active duty in the Uniformed Service of the United States, their respective Reserve forces, or the National Guard; or

(d) a person who is entitled to and receiving assistance under Section 3311(b)(9), Title 38 of the United States Code.

(3) A covered individual must live in this State while enrolled at the in-state institution.

(4) At the conclusion of the applicable three year period in subsection (C)(2)(a) or (C)(2)(b), a covered individual shall remain eligible for in-state rates as long as he remains continuously enrolled in an in-state institution or transfers to another in-state institution during the term or semester, excluding summer terms, immediately following his enrollment at the previous in-state institution. In the event of a transfer, the in-state institution receiving the covered individual shall verify the covered individual's eligibility for in-state rates with the covered individual's prior in-state institution. It is the responsibility of the transferring covered individual to ensure all documents required to verify both the previous and present residency decisions are provided to the in-state institution.

HISTORY: 1978 Act No. 466, Section 5; 2008 Act No. 299, Section 1, eff June 11, 2008; 2010 Act No. 246, Section 4, eff July 1, 2010; 2012 Act No. 133, Section 1, eff April 2, 2012; 2015 Act No. 11 (S.391), Section 1, eff July 1, 2015; 2017 Act No. 22 (H.3034), Section 1, eff May 9, 2017.

#### Editor's Note

2010 Act 246, Section 5, provides as follows:

"This act takes effect July 1, 2010, contingent upon available funding and agreement by the Interstate Commission to SECTION 3 of this act."

#### Effect of Amendment

The 2008 amendment, in the second sentence, substituted "are eligible for in-state tuition rates so long as they remain continuously enrolled at" for "may continue for an additional twelve months to have this eligibility at", in the third sentence deleted "for a period of twelve months" following "in-state rates" and substituted "evidenced" for "evinced", and made nonsubstantive amendments throughout.

The 2010 amendment rewrote this section.

The 2012 amendment added the subsection (A) designator before the first paragraph; added language permitting active duty military personnel to be charged less than in-state tuition for distance learning classes at the end of subsection (A); and added subsection (B), regarding the definition of "active duty military personnel".

2015 Act No. 11, Section 1, in (B), added (1), and redesignated former (B) as (B)(2); and added (C).

2017 Act No. 22, Section 1, in (C)(2)(a), substituted "or the National Guard" for "and the National Guard" and deleted "or" at the end; in (C)(2)(b), deleted "3319(b)(9) or" following "Section" and added "who enrolls within three years of the veteran's discharge;"; added (C)(2)(c) and (d), relating to a transferor on active duty, and assistance under 38 U.S.C.A. §331(b)(9); and in (C)(4), inserted "or (C)(2)(b)".

**SECTION 59-112-60.** Faculty, administrative employees and dependents; eligibility to attend classes and receive tuition assistance.

(A) Except as provided in this section, full-time faculty and administrative employees of State Institutions and their spouses and children are excluded from the provisions of this chapter.

(B) Employees of public colleges, universities, and technical colleges may attend classes at an institution of higher learning and

receive tuition assistance in accordance with State Fiscal Accountability Authority guidelines and regulations.

HISTORY: 1978 Act No. 466, Section 6; 2002 Act No. 356, Section 1, Part II.G.

#### Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 59-112-70.** Abatement of rates for nonresidents on scholarship. waiver for students participating in international Sister-State agreement or student exchange programs.

(A) Notwithstanding other provisions of this chapter, the governing boards listed in Section 59-112-10A, are authorized to adopt policies for the abatement of any part or all of the out-of-state rates for students who are recipients of scholarship aid.

(B) State-supported colleges and universities, including the technical colleges, may waive the nonresident portion of tuition and fees for those students who are participating in an international Sister-State agreement program which the Governor and the General Assembly have entered to promote the economic development of South Carolina. The nonresident fee waiver for the students is applicable only for those Sister-State agreements where South Carolina students receive reciprocal consideration. The Commission on Higher Education, through coordination with the State Fiscal Accountability Authority, will annually notify institutions of the Sister-State agreements eligible for the nonresident fee waiver. The credit hours generated by these students must be included in the Mission Resource Requirement for funding.

(C) State-supported colleges and universities that have an established and ongoing relationship in one or more degree programs with an international institution, the terms of which have been formally approved by the institution's board of trustees, and a relationship that includes regular arrangements for the enrollment of qualified students and the exchange of faculty between the institutions, although not necessarily in equal exchange numbers, may waive the nonresident portion of tuition and fees for nonresident students enrolled in the program.

HISTORY: 1978 Act No. 466, Section 7; 2002 Act No. 356, Section 1, Part II.F; 2008 Act No. 353, Section 2, Pt 1.E.1, eff July 1, 2008.

#### Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

#### Effect of Amendment

The 2008 amendment added subsection (C) relating to foreign student exchange programs.

**SECTION 59-112-80.** Administration of chapter; burden of proving eligibility on students.

Each State Institution shall designate an official to administer the provisions of this chapter. Students making application to pay tuition and fees at in-state rates shall have the burden of proving to the satisfaction of the aforesaid officials of State Institutions that they have fulfilled the requirements of this chapter before they shall be permitted to pay tuition and fees at such rate.

HISTORY: 1978 Act No. 466, Section 8.

**SECTION 59-112-90.** Penalties for willful misrepresentations.

Where it appears to the satisfaction of officials charged with administration of these provisions that a person has gained domiciliary status improperly by making or presenting willful misrepresentations of fact, such persons shall be charged tuition

and fees past due and unpaid at the out-of-state rate, plus interest at a rate of eight percent per annum, plus a penalty amounting to twenty-five percent of the out-of-state rate for one semester; and until these charges have been paid no such student shall be allowed to receive transcripts or graduate from any State Institution.

HISTORY: 1978 Act No. 466, Section 9.

**SECTION 59-112-100.** Regulations.

The Commission on Higher Education may prescribe uniform regulations for application of the provisions of this chapter and may provide for annual review of such regulations.

HISTORY: 1978 Act No. 466, Section 10.

**SECTION 59-112-110.** University of South Carolina's Aiken Campus and Aiken Technical College; in-state tuition for certain Georgia residents.

The University of South Carolina's Aiken Campus and Aiken Technical College may offer in-state tuition to a student whose legal residence is in the Richmond/Columbia County area of the State of Georgia as long as the Georgia Board of Regents continues its Georgia Tuition Program by which in-state tuition is offered to students residing in the Aiken/Edgefield/McCormick County area of the State of South Carolina, or students residing in the Aiken/Edgefield County area of the State of South Carolina if the Georgia Board of Regents does not include McCormick County residents in its Georgia Tuition Program.

HISTORY: 2002 Act No. 356, Section 1, Part II.B.

**SECTION 59-112-115.** Vote on tuition change.

When the governing board of a public institution of higher learning, excluding technical colleges, adopts a change to the tuition or fees imposed on students, the change may be implemented by the institution only after a public vote with the number of trustees voting for and against the change being counted. A majority vote is required to implement any change to the tuition or fees. For technical colleges, when the local area commission of a technical college adopts a change to the tuition or fees imposed on students, the change may be implemented by the technical college only after a public vote with the number of local area commissioners voting for and against the change being counted. A majority vote is required to implement any change to the tuition or fees. A change to tuition or fees adopted by the local area commission must be reported to the State Board for Technical and Comprehensive Education within five business days.

HISTORY: 2011 Act No. 74, Pt VI, Section 11, eff August 1, 2011.

**SECTION 59-112-120.** In-state tuition at technical colleges for bordering state residents.

The South Carolina Technical Colleges may offer in-state rates to residents of bordering North Carolina and Georgia communities if a reciprocal agreement is in effect with the two-year colleges in these neighboring regions or when students from these out-of-state communities are employed by South Carolina employers who pay South Carolina taxes.

HISTORY: 2008 Act No. 353, Section 2, Pt 1.G.1, eff July 1, 2008.

**SECTION 59-112-130.** Institutions with law schools; fee waivers.

A public institution of higher learning with a law school may offer fee waivers to no more than four percent of the law school student body. This waiver does not affect the capacity of the fee waivers for four percent of the undergraduate student body. This waiver must not be applied to fees for out-of-state students.

HISTORY: 2008 Act No. 353, Section 2, Pt 1.H, eff July 1, 2009.

**SECTION 59-112-140.** Caterpillar Dealer Academy.

The area commission for the Florence-Darlington Technical College may waive the requirements of this chapter for student participants in the Caterpillar Dealer Academy operated by Florence-Darlington Technical College.

HISTORY: 2011 Act No. 74, Pt VI, Section 15, eff August 1, 2011.

**SECTION 59-112-150.** School tuition; boundary clarification.

(A) Notwithstanding any other provision of law, independent persons and their dependents formerly domiciled in South Carolina counties who are residing in North Carolina counties as a result of the clarified North Carolina-South Carolina boundary as contained in the amendments in Section 1-1-10, effective January 1, 2017, may be considered eligible for instate tuition rates for a period of up to ten years from January 1, 2017. To be eligible for instate tuition rates, these persons must have been domiciled and reside on property in South Carolina in accordance with this chapter immediately prior to January 1, 2017, and must maintain residence and domicile on that same property within North Carolina.

(B) Notwithstanding any other provision of law, independent persons and their dependents previously domiciled on property in North Carolina which is located in South Carolina as a result of the North Carolina-South Carolina boundary clarification, for a period of two years from January 1, 2017, are eligible for instate tuition rates without the requirement of residency and domicile for twelve months in this State provided these independent persons have evidenced the intent to establish domicile in South Carolina in accordance with this chapter. To be eligible under this section, these persons must reside on the same property that was in North Carolina immediately prior to January 1, 2017. To maintain eligibility for instate tuition rates longer than the two years permitted under this section, the independent persons and their dependents must satisfy the requirements of Section 59-112-20.

(C) The provisions established under subsections (A) and (B) are not transferable to persons other than those independent persons and their dependents falling within the scope of those provisions.

(D) Should the domicile and residence of independent persons and their dependents change from the property affected by the boundary clarification, maintenance of eligibility for instate tuition rates must be determined as provided in Section 59-112-20.

(E) Persons eligible for instate tuition rates pursuant to this section may be eligible for state-supported scholarships and grants provided all other eligibility requirements are met.

HISTORY: 2016 Act No. 270 (S.667), Section 22, eff January 1, 2017.