

# ADMINISTRATIVE MEMORANDUM

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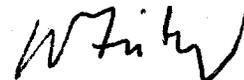
**SUBJECT** Implementation of State Residence  
Committee Procedures

**NUMBER** 21

**DATE** October 8, 1973

I assume that by now each campus has taken all steps necessary for implementation of those portions of the Residence Manual (adopted by the Board of Governors on July 13, 1973) which control campus disposition of questionable residence classification cases; to recapitulate the requirements of the Manual, these steps should include dissemination of information to all interested members of the academic community about the new residence law and regulations; adoption of appropriate questionnaires and forms for developing informational files on which residence decisions can be reliably based; identification of officers or offices within the campus which are responsible for initial classification decisions; and establishment of an appeals committee or appeals official by the Chancellor for the processing of any appeals from the initial classification decision.

I transmit herewith information relative to appellate procedures beyond the campus level. As you will recall, the Manual specifies that any person aggrieved by a final residence determination at the campus level may request appellate review of the case by the State Residence Committee. That Committee has now produced procedural guidelines on the subject; a copy of the guidelines is enclosed. While these guidelines will not be adopted officially by the Committee until November, there apparently is general consensus among the membership of the Committee about the contents of the enclosed document, and accordingly this information is being shared with you at this time prior to official adoption in the interest of insuring the consistent processing of any appellate cases which may now be pending from the campus or which may soon arise. Will you please cause this information to be transmitted to the responsible campus officials who are charged with the task of supervising residence-classification matters. Obviously, this information must be shared also with any student who becomes involved in an appellate proceeding which may necessitate action by the State Residence Committee.



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William Friday

Enclosure

## POLICIES AND PROCEDURES OF THE STATE RESIDENCE COMMITTEE

The functions of the State Residence Committee, as prescribed in A Manual to Assist the Public Higher Education Institutions of North Carolina in the Matter of Student Residence Classification for Tuition Purposes, are:

- a. To decide appellate cases appropriately referred to it from an institution;
- b. To evaluate the administrative practices and substantive rules associated with implementation of State law relating to residential classification for tuition purposes and to make recommendations, respectively, to the Board of Governors of The University of North Carolina and to the State Board of Education concerning any perceived need for changes in applicable law or administrative policies and procedures associated with the responsibility of classifying students by residence for tuition purposes; and
- c. To serve as a source of general advice to and sharing of information with and among affected institutions of higher education concerning residence questions.

The following policies and procedures are adopted by the State Residence Committee to effectuate the discharge of those responsibilities prescribed by the Manual.

### A. MEMBERSHIP.

The membership of the State Residence Committee, as prescribed in the Manual, shall consist of one individual appointed by the President of The University of North Carolina from the staff of the Office of General Administration; one individual appointed by the President of the Community College

System from the staff of the System; six campus representatives appointed by the President of the University; six campus representatives appointed by the President of the Community College System; and, ex officio, a representative appointed by the Attorney General from his staff. The terms of the members shall be of indefinite duration, until such time as successors are appointed, respectively, by the President of the University and the President of the Community College System.

B. OFFICERS.

The State Residence Committee shall be co-chaired by two individuals, one designated from the membership by the President of the University and one designated from the membership by the President of the Community College System. In addition, the membership shall select a secretary to the State Residence Committee.

C. MEETINGS AND BYLAWS.

1. Meetings.

a. Regular meetings.

Regular meetings of the State Residence Committee shall be held at the Office of General Administration in Chapel Hill on the second Wednesday of the months of September, November, January and March.

b. Special meetings.

Special Meetings shall be held at the call of the co-chairmen at such times and at such places as the co-chairmen shall designate; provided, that notice of special meetings shall be

provided to the membership at least ten days in advance of such meetings.

2. Conduct of business.

a. Quorum.

A quorum for the conduct of business by the Committee shall consist of a majority of the authorized membership; provided, that such majority shall include, for purposes of a quorum, at least two Committee representatives of the Community College System and at least two Committee representatives of the University.

b. Votes.

All matters put to a vote of the Committee shall be resolved by simple majority. All members of the Committee shall be eligible to vote, except as otherwise specified herein. No vote concerning any matter under consideration by the Committee may be cast in absentia, by mail, telegraph, telephone, or proxy.

c. Rules of order.

Except as modified by regulations adopted by the Committee, Robert's Rules of Order (latest edition) shall constitute the rules of procedure applicable to all meetings of the Committee.

d. Minutes.

Minutes of each meeting of the Committee shall be taken by the secretary and, following approval at the next succeeding meeting, shall be maintained on file by the Committee through its secretary.

e. Referral to Subcommittees.

Any matter of business coming before the Committee may be referred to such subcommittee or subcommittees as may be established by the Committee.

D. FUNCTIONS.

1. Appellate proceedings.

a. Jurisdiction.

The jurisdiction of the State Residence Committee to hear and resolve residence classification cases appealed from institutional determinations is based on the following Manual provision:

III.D. Appeals

Any student aggrieved by the decision of the official or office of the institution responsible for residence classification decisions, concerning either initial classification or reclassification, may appeal the decision as follows:

1. To the chief administrative official of the institution, or his delegate (either an individual official or a committee designated by the chief administrative official), pursuant to such rules and procedures as may be prescribed by the chief administrative official; if not satisfied with the disposition of his complaint, the grievant may appeal

2. To the State Residence Committee, pursuant to such rules and procedures as may be prescribed by the Committee; provided, that the State Residence Committee shall entertain appeals only in those cases in which it is alleged that the prior disposition of the case was violative of State or Federal law or inconsistent with the provisions of this Manual; and provided, further, that disposition of the complaint by the State Residence Committee shall be deemed to exhaust the administrative appellate remedies available to the grievant.

b. Bases for appeal to the State Residence Committee.

Consistent with the general restrictive language of the Manual concerning bases for appeal to the State Residence Committee, appeals will be entertained by the Committee only in those instances where the Committee concludes, on the basis of the statement of appeal and the supporting record, that one or more of the following substantial questions is presented:

- (1) Review of decisions where disregard of or mistake with reference to the requirements of law or Manual policy is asserted;
- (2) Review of cases where the adoption or modification of Manual policy arguably is necessary in order to resolve definitively a particular case or class of cases; for example, if Manual policy provisions as originally stated do not purport to address a subsequently discovered type of legal issue or a Manual provision is shown to be at variance with subsequently developed case law;
- (3) Review of decisions in which clear abuse of discretion in interpreting and weighing data is alleged, i. e., where there appears in the evidentiary record no substantial basis for the conclusion reached. Such a situation is to be contrasted with situations in which reasonable persons could reasonably differ as to the correct inferences and

conclusions to be drawn on the basis of total evidentiary record. In the latter situation, normally the institutional decision will be honored on appeal.

- c. Legal effect of disposition by the State Residence Committee. As prescribed by the Manual, disposition of an appeal by the State Residence Committee shall be deemed to exhaust the administrative appellate procedures available within the University or the Community College System; no further appeal is available. An aggrieved party may, of course, seek judicial relief from the disposition rendered by the State Residence Committee. Final disposition by the Committee shall be understood to mean either a ruling in which the Committee affirms, modifies, or reverses an institutional decision or a ruling in which the Committee declines to entertain an appeal because of insufficient showing of proper bases for appellate review by the Committee. Any ruling or disposition by the Committee which causes a case to be remanded to the institutional level for further inquiry shall not constitute final disposition of that case, and such case may be appealed if such further inquiry gives rise to a basis of appeal as described in Section b., above.
- d. Filing appeals with the State Residence Committee.
  - (1) Following final disposition of a case at the institutional level, notice of the decision shall be given to the petitioner through "certified mail-return receipt requested." A petitioner who remains dissatisfied with the disposition of the case may

file notice of appeal to the State Residence Committee.

Such notice must be in writing, must be addressed to the chief administrative official of the institution or his delegate within ten days of the date of receipt by the petitioner of notice of final disposition of the case at the institutional level, and must contain a simple declaration of intention to process an appeal before the State Residence Committee.

- (2) Following receipt of notice of appeal, it shall be the responsibility of the chief administrative official of the institution or his delegate to compile the record on appeal; The record on appeal shall consist of:

(a) A written statement of appeal prepared and furnished by the petitioner within ten days of the filing of the notice of appeal and setting forth clearly and concisely the reasons for requesting appellate review beyond the institutional level; Such statement shall be limited in scope to the evidence and issues developed in the proceedings from which the appeal is taken and any arguments addressed thereto. It shall not include any factual allegations or assertions which were not made by the petitioner in the proceedings at the institutional level;

(b) All written materials which constituted a part of and on which the institutional inquiry was based, including the

common residence form (questionnaire), any materials submitted by the petitioner to the institution, and any materials generated by the institution in connection with the inquiry;

(c) At the option of the institution, a written statement by the responsible campus official setting forth the basis for the previous institutional disposition of the case, which shall be limited in scope to the evidence and issues developed in the proceedings from which the appeal is taken and any arguments addressed thereto.

(3) Following compilation, copies of the record on appeal must be transmitted by the responsible administrative official of the institution to:

(a) The petitioner, and

(b) The Office of General Administration of The University of North Carolina (in the case of appeals from an institution which is a component of the University) or the Department of Community Colleges, North Carolina State Board of Education (in the case of appeals from an institution which is a component of the Community College System).

Such transmission shall be made within ten days of receipt by the institution of the petitioner's written statement of appeal.

(4) If, following receipt of a copy of the record on appeal, the petitioner believes that the record is incomplete or defective (in that it either omits written materials which were a part of the institutional inquiry or that it includes written materials which were not a part of the institutional inquiry), the petitioner may within ten days of receipt of a copy of the record on appeal request modification of the record on appeal by addressing such request directly to the State Residence Committee, either, respectively, through the Office of General Administration or the Department of Community Colleges. In the absence of such objection during the period specified, the original transmission by the responsible administrative official of the institution shall be accepted by the State Residence Committee as the definitive and official record on appeal.

e. Initial staff processing of records on appeal.

With respect to each record on appeal transmitted, respectively, either to the Office of General Administration or the Department of Community Colleges, it shall be the responsibility of the co-chairmen:

- (1) To confirm that the record on appeal is definitive and official;
- (2) To determine whether the record on appeal presents a substantial question which complies with the prescribed bases of appeal set forth hereinbefore;

(3) To transmit to the membership of the State Residence Committee the complete records on appeal for all cases deemed by the staff to present substantial questions warranting appellate review by the Committee and, further, to furnish to the membership a list, with appropriate supporting explanation, of all cases with respect to which the co-chairmen recommend that no appeal be entertained because of the absence of substantial questions.

f. Consideration of appeals by the State Residence Committee.

- (1) No appellate case will be considered by the State Residence Committee at a scheduled meeting unless the record on appeal was received by the co-chairmen at least thirty days prior to the scheduled meeting date and, in turn, was received by the membership of the Committee from the co-chairmen at least fifteen days prior to the scheduled meeting date; provided, that by majority vote such time restrictions may be waived.
- (2) All appeals shall be considered and resolved on the basis of the written record on appeal, and no appearances shall be permitted by the petitioner, either personally or through a representative, or by the affected institution, No member of the State Residence

Committee who is a representative of an institution which is a party to an appeal being considered by the Committee shall participate in the deliberation or resolution of such case.

- (3) A recommendation by the co-chairmen that a particular case not be considered by the Committee on appeal because of the absence of substantial questions shall not constitute a ruling of the Committee until such time as the recommendation has been accepted and confirmed by majority vote of the Committee.
- (4) On motion of any member of the State Residence Committee, further preliminary analysis may be undertaken, by the full Committee, of a case with respect to which the co-chairmen have recommended that no appeal be entertained because of the absence of substantial questions. Following such further analysis, the Committee may by majority vote place the case on the agenda for appellate consideration.
- (5) Decisions of the State Residence Committee shall be forwarded in writing to the petitioner and the affected institution within ten days of the date of decision.

2. Advisory opinions.

The State Residence Committee will rule on and decide only actual appellate cases which are properly docketed with it and with respect to which it chooses to exercise jurisdiction consistent with the

prescribed bases of appeal. The Committee will not offer advisory opinions with respect to particular cases being considered at the institutional level and which could eventuate in an appeal from the institutional disposition to the State Residence Committee. However, in response to institutional requests, the Committee will, at its option, offer interpretive rulings with respect to the meaning of various Manual provisions and the requirements of various pertinent legal principles when such questions are framed in general terms designed to explicate general problem areas being encountered by an interested institution or institutions in connection with administration of applicable statutory and Manual requirements.

3. Informational function.

A summary of interpretive rulings, decisions and aspects of appellate activities having general value for the higher education community may be distributed by the Committee from time to time as the Committee deems appropriate to any interested party or institution. The purpose shall be to insure common understanding by all interested parties of evolving principles and practices, in the interest of appropriately uniform institutional disposition of questions encountered in residency determinations.

4. General review of policies and procedures.

The State Residence Committee shall maintain continuing oversight with respect to the administrative practices employed by institutions in the discharge of their statutory and Manual responsibilities and

shall assess the adequacy of existing statutory and Manual provisions. Any changes in policy or practice which would require action by the Board of Governors or the State Board of Education shall be the subject of recommendations from the State Residence Committee.