

# ADMINISTRATIVE MEMORANDUM

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**SUBJECT** In-State tuition status for certain  
minors under new G. S. 116-143.1(k)

**NUMBER** 119

**DATE** June 15, 1979

By action on June 7, 1979, the General Assembly amended G. S. 116-143.1 for a second time in the 1979 Session and again addressed the residency status for tuition purposes of a particular group of minors. The first amendment concerning minors is the subject of Administrative Memorandum Number 117 (dated May 2, 1979). The second amendment, codified as G. S. 116-143.1(k), is attached to this Administrative Memorandum in its form as ratified Senate Bill 824 (Chapter 836, 1979 Session Laws). It is effective upon its ratification, June 7, 1979, and its first possible application would be for second summer session 1979.

New subsection (k) confers in-State tuition status on a minor for any enrolled term immediately prior to which the minor had lived for five or more consecutive years in North Carolina in the home of an adult relative, other than a parent, and during that time the adult was a legal resident of North Carolina and functioned as a de facto (in fact but not under law) guardian of the minor.

The legislative history of new subsection (k) suggests that a proper interpretation of its provisions would allow a minor to satisfy the five-year requirement by demonstrating consecutive periods of the requisite guardianship (as with two or more relatives) each of less than five years but in total equalling or exceeding five years.

This amendment also contains provisions for allowing unbroken enjoyment of in-State status by a person who as a minor had received or qualified for resident tuition status under subsection (k) but then become an adult (an 18-year-old), thus acquiring the legal capacity to establish legal residence in his or her own right. Subsection (k) accomplishes this by statutorily declaring that a person deemed a resident for tuition purposes while a minor qualifying under the act, is on his or her eighteenth birthday deemed a legal resident of at least 12 months duration. Therefore, achieving majority either before initial enrollment or after it does not of itself remove enjoyment of in-State status under subsection (k); only by abandonment of North Carolina domicile does the adult beneficiary of subsection (k) cease to receive that benefit. (The benefit, even then, may not cease if the 12-month grace period of subsection (i) has application.)

The invocation of subsection (k) may prove not to be frequent, as few minors live apart from their parents for five years without acquiring some other basis for assignment of domicile. For instance, most such minors would have acquired new legal parents or court-appointed guardian of the person with whom they would live and derive their domicile, or be found legally abandoned or otherwise emancipated so as to acquire their own domiciliary capacity. Nevertheless, G. S. 116-143.1(k) is responsive to concerns expressed by several constituent institutions for the residentiary claim of the minor long present in this State and neither abandoned nor currently embraced by the minor's nonresident parents.

As with implementation of subsection (j) there will be a period of time before the residence Manual can be amended to reflect G. S. 116-143.1(k). In the meantime insertion of this Administrative Memorandum into the Manual and distribution of the memorandum among appropriate staff should accomplish proper notice of the new law.

Questions from University staff concerning this Administrative Memorandum may be addressed to Mr. David Edwards, Special Assistant to the President.

  
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William Friday

Attachment

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1979  
RATIFIED BILL

CHAPTER 836

SENATE BILL 824

AN ACT TO CONFER RESIDENT STATUS FOR TUITION PURPOSES ON A MINOR WHO HAD LIVED FOR FIVE OR MORE CONSECUTIVE YEARS IN THE NORTH CAROLINA HOME OF AN ADULT RELATIVE ACTING AS A DE FACTO PARENT. The General Assembly of North Carolina enacts:

Section 1. G.S. 116-143.1 is amended by adding a new subsection to read as follows:

"(k) Notwithstanding other provisions of this section, a minor who satisfies the following conditions immediately prior to commencement of an enrolled term at an institution of higher education, shall be accorded resident tuition status for that term:

(1) the minor has lived for five or more consecutive years continuing to such term in North Carolina in the home of an adult relative, other than a parent, domiciled in this State; and

(2) the adult relative has functioned during those years as a de facto guardian of the minor and exercised day-to-day care, supervision, and control of the minor.

A person who immediately prior to his or her eighteenth birthday qualified for or was accorded resident status for tuition purposes pursuant to this subsection shall be deemed upon achieving majority to be a legal resident of North Carolina of at least 12 months duration; provided, that the legal residence of such an adult person shall be deemed to continue in North

Carolina only so long as the person does not abandon legal residence in this State."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7<sup>th</sup> day of June, 1979.

JAMES C. GREEN

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James C. Green

President of the Senate

CARL J. STEWART, JR.

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Carl J. Stewart, Jr.

Speaker of the House of Representatives