

FREQUENTLY ASKED QUESTIONS (FAQ)

Wis. Stats § 36.27(2) (cr), Exemption from Non-Resident Status

Wis. Stats § 36.27 (2) (cr) A person who is a citizen of a country other than the United States is entitled to the exemption under par. (a) if that person meets all of the following requirements:

1. The person graduated from a high school in this state or received a declaration of equivalency of high school graduation from this state.
2. The person was continuously present in this state for at least 3 years following the first day of attending a high school in this state or immediately preceding receipt of a declaration of equivalency of high school graduation.
3. The person enrolls in an institution and provides that institution with proof that the person has filed or will file an application for a permanent resident visa with U.S. Citizenship and Immigration Services as soon as the person is eligible to do so.

1. Can this exemption from non-resident tuition and fees apply to those who are in the United States without legal documentation, i.e. undocumented individuals?

Yes, persons from another country who meet all of the requirements stipulated in the statute are eligible for this exemption.

2. Can individuals in possession of a U.S. visa qualify under this exemption? If so, can this statute apply to international students and/or their dependents who are here legally?

It will be rare for individuals with a U.S. visa to qualify for this exemption because of the requirements of Wis § Stats 36.27 (2) (cr) that the individual graduate from a Wisconsin high school or receive the equivalent thereof, be continuously present in the state for at least three years, and provide proof of an intention to apply for permanent resident status in the U.S. Individuals should carefully consider visa regulations before signing an affidavit stating intent to apply for permanent residency. Intending to apply for permanent residency may be contrary to the non-immigrant intent to return to the student's home country that was required in order to receive the original visa to enter to U.S. (for example an F-1 or J-1 visa).

3. Does the applicant requesting the non-resident exemption need to verify that he or she is a citizen of another country?

In completing the application for admission, the individual will have indicated that he or she is a citizen of another country, provided the name of the country, and submitted the application, attesting to the veracity of the information provided. This is adequate documentation to meet this provision of the legislation.

4. Is information about an applicant's parents used in the determination to grant the exemption?

No. Only the applicant's information is used in determining eligibility for exemption from non-resident tuition under Wis. Stats § 36.27(2)(cr). The statute does not require information about the residency of an applicant's parents or that the applicant is financially independent or dependent.

5. What documentation is needed to determine that an applicant qualifies for the new exemption?

Individuals seeking to receive an exemption from non-resident tuition under Wis. Stats § 36.27(2) (cr) will need to submit the following documents to the institution:

- a. An application for admission indicating that the applicant is a citizen of another country, that he or she graduated from a Wisconsin high school or earned a certificate of general educational development (GED) or high school equivalency diploma (HSED) from Wisconsin, and that he or she was continuously present in Wisconsin for at least three years following the first date of high school attendance or immediately preceding receipt of a GED/HSED.
 - i. Additional documentation may be requested to establish the students' continuous presence in Wisconsin for three years following first enrollment in high school or preceding receipt of a GED/HSED, as stipulated in the statute.
- b. An original, signed, notarized affidavit stating that he or she has already filed for permanent residency or will apply for permanent residency as soon as he or she is eligible. (See question #6)

6. Where can a student get the required affidavit form?

Students can contact the Residency Office at the UW institution to inquire about this exemption and request an affidavit form. Residency Office contact information is available at <http://www.uwsa.edu/acss/residency/contacts.htm>. For some students, if the information provided on the application for admission suggests that this statute might apply, the UW institution will send the student the affidavit form with information about the process for requesting the exemption.

7. Can the student provide a copy of the notarized affidavit?

No, the affidavit must be a signed, notarized original using the affidavit form provided by the UW institution.

If the student was granted this exemption at one UW institution or Wisconsin Technical College (WTC) and subsequently transfers to another UW institution, he-or she can request that the prior institution send a copy of the originally filed affidavit to the transfer UW institution (see question #15).

8. What does it mean that the applicant was ‘continuously’ present in Wisconsin for at least three years following the first day of high school attendance?

Residing “continuously” means the applicant has lived in Wisconsin without interruption for three years following the first day of high school attendance in Wisconsin. This generally would not preclude the applicant having taken short vacations or trips out of the state, if the intent to reside in the state remains.

9. What constitutes appropriate “proof that the person has filed or will file an application for a permanent resident visa ... as soon as ... eligible”?

The signed, notarized affidavit from the applicant satisfies the requirement.

10. Does this exemption have any impact on eligibility for federal or state financial aid?

No. Receiving this exemption does not change a student’s eligibility for federal or state financial aid. Contact the Financial Aid Office at your institution if you have questions about financial aid eligibility requirements.

11. Do applicants need to have their residency re-assessed annually or periodically to determine if they subsequently became eligible or applied for permanent resident status?

Once an individual is determined to have qualified for this exemption, no additional or follow-up review is required. However, if new information comes to light that would cast doubt on a previous residency determination, the institution may elect to review the previous decision.

12. Can individuals outside the UW-institution get access to the affidavit submitted by an applicant seeking this exemption from non-resident tuition?

Perhaps. In accordance with applicable federal and state laws, UW institutions are committed to protecting the privacy of student records from disclosure to third parties. However, there may be circumstances, such as in the case of a court-ordered subpoena, where institutions may be compelled to release student records.

13. Does this statute apply to special/non-degree/guest students, as well as degree-seeking students?

Yes. It applies to any student enrolled at a UW institution.

14. What if a continuing or returning student has paid the non-resident tuition rate (or received a remission) in the past but believes his or her circumstances fit this new exemption? Can these students seek to have this exemption applied retroactively?

Currently enrolled students may seek a re-assessment of their residency status through the usual means of requesting a review of residency through the Residency Office at the institution. This non-resident exemption (Wis. Stats 36.27(cr)) cannot be applied retroactively. However, a student who has been previously enrolled as a non-resident is eligible to apply for change of status going forward.

15. Once a student receives this non-resident exemption, will it apply at other UW institutions or Wisconsin Technical Colleges if the student transfers?

In accordance with University of Wisconsin Administrative Code, Chapter 20 (UWS 20.03), the non-resident exemption applies if the student transfers to another UW institution. That section states: “A decision that a student is a resident for tuition purposes at one institution in the University of Wisconsin System shall require that the student be treated as a resident for tuition purposes in other institutions in the university of Wisconsin system, if the student transfers to another institution in the university of Wisconsin system and has maintained substantially the same determining factors.”

For students transferring from a Wisconsin Technical College (WTC), the Wisconsin Technical College System uses the identical affidavit form as UW institutions. Therefore, the student should submit a request to the UW institution or WTC where the student was first granted the exemption to send a copy of student’s initial, original, signed notarized affidavit to the transfer institution. The copy of the affidavit needs to be transmitted from institution to institution; it cannot be provided directly by the student. Receipt of a fully executed copy of the affidavit from the institution first granting the exemption will serve to satisfy that criteria of the statute.

16. Who can we contact with further questions regarding this exemption from non-resident status?

Each UW institution has an office that handles residency questions. Contact information for each UW Residency Office is available at <http://www.uwsa.edu/acss/residency/contacts.htm>.