

Residency Appeal Committee – Petition Reviews: Dependent Student

A Dependent student must:

1. Provide objective evidence of domicile in Arizona, and
2. Provide objective evidence that student's parents (or parent) are domiciled in Arizona, and,
3. Provide evidence that parent is entitled to claim the student as a dependent child for tax purposes.

This is an exception to the 12-month requirement – neither parent nor student is required to be domiciled in Arizona for 12 months.

Reviewing an Dependent Student petition

1. **Read the decision summary** – this is a summary of what was reviewed and why the petition was denied.
2. **Read the petition and view supporting documentation** – both can be accessed in PeopleSoft.
3. **Read the student's appeal** – this should include the reasons why the student felt the initial decision was erroneous.
4. **Review the relevant ABOR policies** – these are referenced in the decision summary.
5. **Prepare questions for the student** – questions should be relevant, meaningful and tied to policy.

Understanding the Requirements

Student Domicile

- 1) The student is required to provide evidence that Arizona is their true, fixed and permanent home.
 - a) Dependent petitions are seldom denied on this requirement alone; however, students are expected to provide evidence that they are both present in Arizona and doing what residents are expected to do.
 - b) We ask the student to provide a copy of their Driver's License, Voter Registration and Vehicle Registration as proof of domicile in Arizona. There are other documents that would suffice, but these are most common.
 - c) ABOR policy says the "domicile of an unemancipated person is that of either parent." Minors are automatically considered to be domiciled wherever their parent is domiciled.

Parent Domicile

- 1) One parent is required to provide evidence that Arizona is their true, fixed and permanent home.
 - a) The most common reason dependent petitions are denied is because the parent has not provided sufficient evidence to show that they have made Arizona their permanent.
 - b) Parents are asked to provide documents to support they are domiciled in Arizona and have the legal and customary ties that one would expect a resident to have, e.g., taxes, pay stubs, vehicle registrations, driver's license, bank statements, moving bills, etc.
 - c) Establishing a new domicile also requires the severance of ties to the former state of residence, i.e. the parent is no longer maintaining significant ties elsewhere, e.g., house, job, family, etc.
 - d) Moving from another state is generally easy to document; missing or insufficient evidence is often an indicator that the move is either not complete or is temporary in nature.
 - e) The move must be completed prior to the posted petition deadline for the term in question. Often moves are made over a period time, but eligibility for this exception does not commence until the move is complete.
 - f) The dependent exception does not apply if the parent's home in Arizona is a temporary or vacation home.
 - g) Property ownership is often a key indicator of where someone is domiciled, but owning property in Arizona would not be sufficient without other objective evidence of intent and presence.
 - h) Married parents can be domiciled in different states; however, it is fair to ask "why" if this is not clear otherwise.

Dependent Child

- 1) The parent must provide evidence that they are entitled to claim the student as a dependent child for federal and state tax purposes.
 - a) It is less common that a petition will be denied for not meeting this requirement; however, some are denied because the student does not meet one or more of the IRS guidelines used for determining eligibility:

- (1) **Relationship test:** ABOR policy narrows this definition to parent or legal guardian and child. Exception does not apply for other relationships or where student is considered a qualifying relative.
- (2) **Age Test:** Student must be under age 19 at the end of the year, or be a student under the age of 24 at the end of the year, or be permanently and totally disabled at any time during the year, regardless of age.
- (3) **Residency and Support:** The student must have lived with parent for more than half the year; and, the student can't have provided more than half of his or her own support for the year.
- (4) **Joint Return:** The student can't file a joint return for the year, e.g., student is married.

Making your decision

Committee Review

- 1) As an appellate body, your task is to determine if the decision made by the classification officer was erroneous, which includes:
 - a) Assessing whether or not the classification officer applied ABOR policies correctly.
 - b) Determining whether or not the student met their burden of proof.
 - c) Determining whether or not the correct standard of proof was applied.

Burden of Proof/Standard of Proof

- 1) The burden of proof belongs to the student and parent. There is no obligation for ASU to prove non-resident status or to prove the parent or student is domiciled elsewhere.
- 2) The standard of proof is a preponderance of the evidence, i.e., the sum of the evidence supports the conclusion that the claim in question is more likely to be true than not.

Why dependent petitions get denied

1. The parent has not established domicile in Arizona. The evidence does not support that Arizona is their *true, fixed and permanent place of habitation*.
2. Requested documentation is missing, incomplete or not credible.
3. The documentation provided doesn't support the narrative; their story just doesn't make sense.
4. The student doesn't meet the dependent child age requirement or the student is a qualifying *relative*, but not a qualifying child.
5. The parent is not the parent (or legal guardian).