

1973 WL 27047 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 17, 1973

*1 James F. Michael
Assistant Commissioner and Supervisory Officer
S. C. Commission on Higher Education
Rulledge Building
1429 Senate Street
Columbia, South Carolina

Dear Commissioner Michael:

In answer to your request for an opinion on the residence status for tuition purposes of foreign (alien) students who do not receive scholarships, the Commission on Higher Education 'shall prescribe uniform rules of application of this section (establishment of student residency) . . . ' Section 22-2.2, Code of Laws of South Carolina as amended. In the absence of statutory law or case law in this state as is the case in this situation, the Commission itself has the rule—making authority to provide for said uniform application of this statute pursuant to the aforementioned section. In the Commission's deliberation it may wish to consider the reasoning of several out-of-state courts in [In Re Paich's Estates](#), 186 N.E. 2d, 755 (1962) and especially [Haleby v. Board of Directors of University of Cincinnati](#), 123 N.E. 2d 3 (1954), copies of which are enclosed. If the commission is unable to reach a determination, it may further wish to go to the Courts for a declaratory judgment on this matter pursuant to Sections 10-2001 et. seq., Code of Laws of South Carolina.

Sincerely,

Hardwick Stuart, Jr.
Assistant Attorney General

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