

**R512-1. Purpose:** To define “resident” student for purposes of tuition in the Utah System of Higher Education (USHE).

## R512-2. References

- 2.1. Utah Code Ann. §53B-8-102, Definition of Resident Student
- 2.2. Utah Code Ann. §23-13-2, Definition of Domicile
- 2.3. Utah Code Ann. §31A-29-103, Definition of Domicile
- 2.4. Utah Code Ann. §41-1a-202, Definition of Domicile
- 2.5. Utah Code Ann. §53B-8-101 et seq., Tuition Waivers & Scholarships
- 2.6. Policy and Procedure R510, Tuition and Fee Policy
- 2.7. Policy and Procedure R513, Tuition Waivers & Reductions

## R512-3. Definitions

- 3.1. **“Domicile”:** For purposes of this policy, the term “domicile” shall be defined consistent with general Utah law defining domicile, and shall mean the place
  - 3.1.1. where an individual has a fixed permanent home and principal establishment;
  - 3.1.2. to which the individual if absent, intends to return; and
  - 3.1.3. in which the individual, and the individual's family, voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home.
- 3.2. **“Parent”:** As used in this policy, the term “parent” means the biological or adoptive parent of the student, regardless of whether the parent has legal custody of the student or whether the parent claims the student as a dependent.
- 3.3. **“Resident Student”:** An individual who
  - 3.3.1. can prove by substantial evidence, based on the totality of the circumstances, that, prior to the first day of classes for the term the student seeks to attend as a resident student, he or she has established domicile in Utah and satisfied relevant waiting periods and other criteria, where applicable; or
  - 3.3.2. meets one or more of the other criteria defining “resident student” set forth in this policy.

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<sup>1</sup> Adopted July 22, 1975; amended April 11, 1987, April 17, 1992, May 5, 1995, January 12, 2001, October 19, 2001, July 12, 2002, April 16, 2004, December 9, 2004, April 22, 2005, April 21, 2006, June 8, 2007, and May 30, 2008. Revisions approved by the Board of Regents on May 29, 2009.

## R512-4. Resident Student Status—Waiting Period Required If Residence in Utah Was Established for Educational Reasons

### 4.1. Institutional Discretion to Set Policy for Resident Student Status

4.1.1. **Policies for Students Enrolled in Credit-Bearing Degree Programs:** Each institution may, at its discretion, and at the recommendation of the president, implement its own policy regarding the criteria for resident student status for either undergraduate students or graduate students, or both, in credit-bearing degree programs, that deviates from the criteria set forth in this policy. Such a policy shall not be more lenient than requiring a one-year waiting period as set forth here in 4.3.

4.1.2. **Policies for Non-Credit Programs:** Because most non-credit applied technology programs are short-term (require less than a year to complete), USHE institutions offering non-credit courses or programs may, at their discretion, implement a policy that does not require residency classification for students enrolled in non-credit courses or programs.

4.2. **General Rule:** A person who comes to Utah for the purpose of attending a USHE institution must satisfy one of the following criteria in order to be eligible for resident student status.

4.3. **Establishing Utah Domicile and Maintaining Continuous Utah Residency for One Year (12 continuous months) and Declaring Financial Independence:** Unless otherwise stipulated by institutional policy, any person who has come to Utah and established residency for the purpose of attending an institution of higher education may establish resident student status prior to the first day of classes of the term the student seeks to attend as a resident student by

4.3.1. demonstrating by objective evidence that he or she has established domicile in Utah and maintained continuous Utah residency for one year (12 continuous months prior to the term for which residency is being sought) beginning July 1, 2007 or any date thereafter (an individual will not jeopardize his/her status as a "continuous" resident solely by absence from the state for less than 30 total days during the 12-month period the individual seeks to count as the requisite waiting period); and,

4.3.2. submitting a declaration of financial independence to include documentation that the student is not claimed as a dependent on the tax returns of any person who is not a resident of Utah.

4.4. **Creating Utah Domicile:** In determining whether an individual has established domicile in Utah, and is therefore a bona fide resident eligible for resident student tuition, USHE institutions will review all relevant documentation submitted by the student, and make the residency determination based on the totality of the evidence. Students applying for resident student status are expected to submit as much of the following documentation as possible.

4.4.1. A Utah high school transcript issued in the previous year (12 months) confirming attendance at a Utah high school in the previous 12 months;

4.4.2. Utah voter registration dated at least three (3) months (90 days) prior to the first day of class of the term for which the student is seeking resident status;

4.4.3. Utah driver license or identification card with an original date of issue or renewal date at least three (3) months (90 days) prior to the first day of class of the term for which the student is seeking resident status;

4.4.4. Utah vehicle registration dated at least three (3) months (90 days) prior to the first day of class of the term for which the student is seeking resident status;

4.4.5. Evidence of employment in Utah for at least three (3) months (90 days) prior to the first day of class of the term for which the student is seeking resident status;

4.4.6. Proof of payment of Utah state income tax for the previous year;

4.4.7. A rental agreement or mortgage document showing the student's name and Utah address for at least 12 months prior to application for resident student status; and

4.4.8. Utility bills showing the student's name and Utah address for at least 12 months prior to application for resident student status;

4.5. **Continuous Residency:** Having established domicile in Utah as outlined in 4.3., an individual will not jeopardize his/her status as a "continuous" Utah resident solely by absence from the state. For example:

4.5.1. After establishing domicile, a student may be absent from the state for purposes such as temporary employment, education, or religious, charitable, or military service and continue to be considered a resident for tuition purposes provided he or she has not taken action to establish domicile elsewhere during his/her absence from Utah.

4.5.2. A student with long term ties to Utah, who is 18 years of age or older, who has graduated from a Utah high school, and who has been absent from the state for a period of less than 12 months, may be considered a resident for tuition purposes if evidence can be presented showing that the student has maintained or reestablished a Utah domicile.

4.6. **Declaration of Financial Independence:** In addition to submitting objective evidence of domicile, a person seeking resident student status following 12 months of continuous residence in Utah must also submit a declaration of financial independence, which must include, at a minimum, evidence that the person is not claimed as a dependent on the most recently filed federal tax returns of any person who is not a resident of Utah. Institutional residency officers shall require such documentation at the time of initial application for resident student status.

4.7. **International Students without U.S. Residency Status:** Aliens who are present in the U.S. on visitor, student, or other visas which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore must be classified as nonresident. Aliens who have been granted immigrant or permanent resident status in the U.S. shall be classified for purposes of resident status according to the same criteria applicable to citizens.

4.8. **Exemption of Nonresident Tuition for Certain Foreign Nationals:** A student shall be exempt from paying the nonresident portion of total tuition if the student

4.8.1. is a foreign national legally admitted to the United States;

4.8.2. attended a Utah high school in Utah for three or more years; and

- 4.8.3. graduated from a Utah high school or received the equivalent of a high school diploma in Utah.

#### **R512-5. Resident Student Status Based on Evidence of Residence in Utah for Non-educational Reasons—No Waiting Period Required If Presumption of Nonresident Status Is Rebutted**

**5.1. Rebuttable Presumption of Nonresident Status:** A person who enrolls as a postsecondary student at a USHE institution prior to living in Utah for more than 12 continuous months, and who has therefore not met the waiting period criteria set forth in R512-4, will ordinarily be deemed a nonresident student for tuition purposes unless he or she presents evidence demonstrating that he or she moved to Utah and established domicile for non-educational reasons. A student may rebut the presumption of nonresident status and seek resident student status immediately, without satisfying the one-year continuous residency requirement, but still satisfying the financial independence and domiciliary evidence set forth in R512-4, by submitting evidence of Utah residence arising from one or more of the following circumstances.

**5.2. United States Armed Forces Personnel Who are Utah Residents Prior to Active Duty Assignment or Deployment Outside Utah:** Personnel of the U.S. Armed Forces who had Utah residency immediately prior to their deployment to active duty outside of Utah, and who reestablish residency in Utah no later than 90 days after the termination of active duty status, are immediately eligible, together with the immediate members of their families residing with them in Utah, to apply for resident student status for tuition purposes.

**5.2.1. Prior Utah Residency:** For purposes of this section, an individual will be deemed to have prior Utah residency if he or she can show, in the year immediately prior to active duty deployment, indicia of Utah domicile, such as the filing of a Utah tax return in the year prior to deployment; Utah voter registration; possession of a Utah driver's license; and establishment of Utah banking connections.

**5.2.2. Immediate Family Member:** For purposes of this section, the term "immediate family member" means the spouse or unmarried dependent child of the individual in the Armed Forces.

**5.2.3. Residing With:** For purposes of this section, an immediate family member will be considered to be "residing with" an individual in the Armed Forces so long as the family member's domicile, or permanent address, is the same as that of the individual in the Armed Forces. If an "immediate family member" meets the domiciliary requirement, he or she may attend, with resident tuition rates at, any public college or university in Utah.

**5.3. Marriage to Utah Resident:** A person who marries a Utah resident eligible to be a resident student under this policy and establishes his/her domicile in Utah as demonstrated by objective evidence as provided in 4.4 is immediately eligible to apply for resident student status.

**5.4. Full-time, Permanent Employment in Utah:** A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification as provided in subsection 5.1 of this policy by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah. All relevant evidence concerning the motivation for the move should be considered, including, but not limited to, such factors as: (a) the person's employment and educational history; (b) the dates when Utah employment was first considered, offered, and accepted; (c) when the person moved to Utah; (d) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student; (e) whether the person applied for admission to a USHE institution sooner than four months from the date of moving to Utah; (f)

evidence that the person is an independent person (at least 24 years of age, or not listed as a dependent on someone else's tax forms); and (g) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education. As with all such applications, the burden of proof is on the applicant to rebut the presumption of nonresident status. Furthermore, if an applicant applies for admission to a USHE institution prior to the application for employment, prior to the offer of employment, prior to the commencement of employment, or within four months of moving to Utah, absent extraordinary evidence to the contrary, it shall be strongly presumed that the person came to Utah for the purpose of attending an institution of higher education, and shall be subject to the requirements of section 4 of this policy.

**5.5. Spouse's or Parent's Full-time Work:** A spouse or dependent child of an individual who moves to Utah for full-time permanent employment, and establishes Utah domicile on that basis, is eligible to apply for resident student status. In determining the residency status of the enrolling spouse or dependent child, the institution shall consider all relevant evidence related to the individual's intent and domicile, including but not limited to, documentation set forth in section 5.10 of this policy.

**5.6. Parent Domiciled in Utah for at Least 12 Months:** A dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the first day of class of the term for which the student is seeking resident status is eligible for immediate resident student status, upon submission of the documentation identified in section 4.4 of this policy demonstrating that the parent has established Utah domicile..

**5.7. Extenuating Circumstances:** A person who has established domicile in Utah for child care obligations or extenuating financial or health reasons related to his/her divorce, the death of a spouse, or long-term health care needs or responsibilities related to the person's own health, or the health of an immediate family member, including the person's spouse, parent, sibling, or child, may apply for immediate resident student status upon submitting evidence that the move to Utah was, in good faith, based on such extenuating circumstances. All relevant evidence concerning the motivation for the move shall be considered, including:

5.7.1. the person's employment and educational history;

5.7.2. the dates when the long-term health care or child care responsibilities in Utah were first considered, offered, and accepted;

5.7.3. when the person moved to Utah;

5.7.4. the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

5.7.5. whether the person applied for admission to a USHE institution sooner than four (4) months from the date of moving to Utah;

5.7.6. evidence that the person is an independent person who is

5.7.6.1. at least 24 years of age; or

5.7.6.2. not claimed as a dependent on someone else's tax returns;

5.7.7. any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an USHE institution.

**5.8. Receipt of State Social Services Benefits:** A person who has been determined by a Utah governmental social or rehabilitation services agency to be a Utah resident for purposes of receiving state aid to attend a USHE institution and demonstrates objective evidence of domiciliary intent as provided in 4.4 is immediately eligible to register as a resident student. Upon the termination of such government agency support, the person is governed by the standards applicable to other persons. Any time spent domiciled in Utah during the time the individual received government aid shall count towards the one-year time period for Utah residency for tuition purposes upon termination of the government aid.

**5.9. Immigrant Placed in Utah as Political Refugee:** An immigrant, not otherwise qualified as a resident, is immediately eligible, upon establishment of Utah domicile, to apply for resident student status, if he or she is placed involuntarily in Utah as part of a United States or Utah government relocation program for foreign refugees fleeing civil war, religious or racial persecution, political oppression, or other legitimate reason. This section does not apply to refugees who are originally placed in another state and subsequently move to Utah voluntarily.

**5.10. Documentation Required to Rebut Presumption of Nonresident Status:** The institution, through its registrar, or designated person, is authorized to require written documents, affidavits, verifications, or other evidence deemed necessary to determine why a student is in Utah. The burden of rebutting the presumption that the student is in Utah for educational reasons, and of establishing that he or she is in Utah for other than educational purposes, is upon the student. A student may be required to file any or all of the following within applicable timelines established by the institution.

5.10.1. A statement from the student describing employment and expected sources of support;

5.10.2. A statement from the student's employer;

5.10.3. Supporting statements from persons who might be familiar with the family situation;

5.10.4. Birth certificate;

5.10.5. Marriage certificate;

5.10.6. Documentation of eligibility for state social or rehabilitation services;

5.10.7. Documentation of immigration status and placement as political refugee;

5.10.8. Indicia of Utah domicile, including Utah voter registration, Utah vehicle registration, Utah driver's license or identification card, Utah state income tax return, rental contract or mortgage documents, bank records, and utility bills.

**5.11. Penalties for Giving Incorrect or Misleading Information:** A student who gives incorrect or misleading information to evade payment of nonresident fees shall be subject to serious disciplinary action and must also pay the applicable nonresident fees for each term previously attended.

#### **R512-6. Exceptions to Requirements of Domicile—Resident Student Status Based on Special Circumstances**

**6.1. Job Corps Students:** A Job Corps student is entitled to resident student status if the student: (A) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and (B) submits verification that the student is a current Job Corps student. Upon the termination of Job Corps enrollment/participation, the individual is governed by the standards applicable to non-Job

Corps persons. The time spent residing in Utah during Job Corps enrollments counts toward the one-year time period required for Utah residency for tuition purposes upon termination of Job Corp status.

**6.2. Participation in Olympic Training Program:** An athlete who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be immediately eligible for resident status for tuition purposes. Upon the termination of the athlete's participation in such training program, the athlete shall be subject to the same residency standards applicable to other persons under this policy. The time spent residing in Utah during the Olympic athlete training program in Utah counts toward the one-year time period required for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

**6.3. Membership of an American Indian Tribe**

**6.3.1.** An American Indian, not otherwise qualified as a resident, shall be entitled to resident student status if he/she is

**6.3.1.1.** enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah; or

**6.3.1.2.** a member of a federally recognized or known Utah tribe and has graduated from a Utah high school.

**6.3.2.** A list of recognized tribes will be maintained by the Office of the Commissioner of Higher Education and distributed to all campus residency officers.

**6.4. Member of Utah National Guard:** A person is entitled to resident student status if the person: (a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and (b) submits verification, in the form of either an enlistment contract or "orders of unit assignment," that he or she is an active member of the Utah National Guard. Upon the termination of Utah National Guard enlistment or duty, the individual is governed by the standards applicable to non-Utah National Guard persons. Any time spent residing in Utah counts toward the one-year time period required for Utah residency for tuition purposes upon termination of Utah National Guard status.

**6.4.1.** A member of the Utah National Guard shall be considered to maintain continuous Utah residency under this section for the length of time that he or she maintains membership in the Utah National Guard.

**6.4.2.** A member of the Utah National Guard who performs active duty service outside the state of Utah shall be considered to maintain continuous Utah residency under this section.

**6.5. Active Duty United States Armed Forces Personnel Who are Residents of Other States but Stationed in Utah:** Personnel of the U.S. Armed Forces, who are residents of another state, but who are assigned to active duty in Utah, together with the immediate members of their families residing with them in Utah, are entitled to resident student status for tuition purposes during the time they are stationed in Utah on active duty. Upon the termination of active duty status, the military personnel and their family members are governed by the standards applicable to nonmilitary persons. Any time spent residing in Utah during the period of active duty in Utah counts toward the one-year time period required for Utah residency for tuition purposes upon termination of active duty status in Utah.

#### **R512-7. Waivers of Nonresident Tuition—Nonresident Students Exempt from Nonresident Portion of Tuition.**

The following students who attend a USHE institution may receive a waiver of nonresident tuition. However, these students may not use time spent in Utah as a student on any of these programs toward the waiting period required for resident tuition status.

**7.1. Exemption of Nonresident Tuition as Athletic Scholarships:** In addition to the waivers of nonresident tuition available to each institution under Utah Code Ann. § 53B-8-101 et seq., and Policy R513, each institution may, at its discretion, grant as athletic scholarships full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference, and as recommended by the president of each institution.

**7.2. Exemption of Nonresident Tuition Under Tuition Waiver Policy:** A nonresident student may be eligible for a full or partial waiver of nonresident tuition according to the applicable provisions of Policy R513 (Tuition Waivers and Scholarships).

**7.3. Western Undergraduate Exchange (WUE) Students:** A student attending a USHE institution under the Western Undergraduate Exchange program is considered to be domiciled in his/her home state.

**7.4. Western Regional graduate Program (WRGP):** A student attending a USHE institution under the Western Regional Graduate Program is considered to be domiciled in his/her home state.

**7.5. Professional Student Exchange/WICHE Students:** A student attending a USHE institution under the Professional Student Exchange/WICHE Program is considered to be domiciled in his/her home state.

**7.6. Exemption for Alumni Legacy Scholarships:** The president of an institution may waive an amount up to the full nonresident portion of the tuition for alumni legacy nonresident scholarships. The students attending a USHE institution under this scholarship are considered to be domiciled in his/her home state and time spent in Utah on Legacy Scholarship cannot count towards the required twelve continuous months to attain Utah residency.

**7.7. Dixie State College of Utah's Good Neighbor Students:** DSC may waive an amount up to the nonresident portion of the tuition for residents of counties located within 70 miles of DSC's main campus. The students attending DSC under this scholarship are considered to be domiciled in his/her home state.

#### **R512-8. General Provisions**

**8.1. Reclassification by the Institution:** If a student is classified as a resident, or granted residency by a USHE institution, the USHE institution may initiate a reclassification inquiry and in fact reclassify the student, based on any facts, error, or changes in facts or status which would justify such an inquiry, even if the error was on the part of the USHE institution.

**8.2. Reciprocity:** A determination to grant residency to a student at a USHE institution shall be honored at other USHE institutions, unless the student obtained residency under false pretenses, or the facts existing at the time of the granting of residency have significantly changed.

#### **R512-9. Procedures for Determining Resident Status**

**9.1. Application Deadline:** Students must meet institutional application deadlines for each term. Institutions may establish policy regarding acceptance of late residency applications for current term consideration. Unless institutional policy allows otherwise, institutions may not accept applications for resident student status or supporting documentation after the third week of the semester or term for which

the student seeks resident student status. Ordinarily applications or supporting documentation received after the third week should be considered for the following semester.

**9.2. Initial Classification:** Each institution shall classify all applicants as either resident or nonresident. If there is doubt concerning resident status, the applicant shall be classified as a nonresident.

**9.3. Application for Reclassification:** Every student classified as a nonresident shall retain that status until he/she is officially reclassified to resident status.

**9.4. Informal Discussion with Responsible Officer:** If a written application for a change from nonresident to resident classification is denied, the applicant shall have the right to meet with the responsible officer for the purpose of submitting additional information and discussing the merits of his/her application.

**9.5. Appeals:** An applicant for resident status may appeal an adverse ruling in accordance with procedures approved by the institutional Board of Trustees. The appeal tribunal shall make an independent determination of the issues presented upon the basis of such oral and written proofs as may be presented, and shall finally determine the status of the applicant consistent with the law and these policies.

**9.6. Due Process:** In order to provide due process to students who may want to appeal decisions made concerning nonresident status, each institution shall be responsible for providing a means for appeals to be made. Each institution shall adopt procedures that fit the local campus situation, but the following guidelines shall be followed.

**9.6.1.** Procedures for appeal shall be set out in writing by the institution, subject to approval by the Office of the Commissioner.

**9.6.2.** The institution shall provide a hearing officer or hearing committee with appropriate clerical and other services as necessary to the effective function of the hearing process.

**9.6.3.** The student appealing the decision shall have the responsibility of providing evidence that proves that he/she has met the residency requirements. Students shall be given copies of the Regents' policies pertaining to determination of residency. The student shall also be given an explanation of the rationale of the decision-maker who previously ruled that the student was classified as a nonresident.

**9.6.4.** Both the student and the administration's representative are entitled to representation by counsel.

**9.6.5.** Oral and written evidence may be presented. It is not required that a formal, written, verbatim record of the proceedings be kept, but a written summary of the significant assertions and findings of the hearing shall be prepared.

**9.6.6.** It is not required that formal rules of evidence be followed; administrative hearing rules may be used.

**9.6.7.** Decisions of the appeals tribunal must be in writing and must give reasons for the decision.

**9.6.8. Refund:** A ruling favorable to the applicant shall be retroactive to the beginning of the academic period for which application for resident status was made, and shall require a refund of the nonresident portion of any tuition charges paid for that and subsequent academic periods.