

R512, Determination of Resident Status¹

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. **“Continuous Utah residency status for one full year”** means the student has resided in Utah for 12 continuous months prior to the term for which resident student status is being sought.

3.2. **“Domicile”** shall be defined consistent with general Utah law defining domicile, and, for purposes of determining resident student status, shall be determined by the student’s:

- (1) bodily presence, and
- (2) concurrent intent to reside permanently in that location.

All persons have a domicile somewhere. A person can have only one domicile. A domicile of choice is a domicile chosen by a person to replace his or her former domicile. To acquire a domicile of choice in a place, a person must intend to make that place his or her home for the time at least. A domicile, once established, continues until it is superseded by a new domicile. Also, once established, a domicile is not lost by an absence from it for months or even years, for the purpose of business or the like, if during such absence there exists an intent to resume residence in the place of domicile following the completion of the purpose of the absence.

3.3. **“Immediate family member”** means the spouse or dependent child of the individual requesting resident student status.

3.4. **“Military servicemember”** means an individual who is serving on active duty in the United States Armed Forces within the state of Utah; or an individual who is a member of a reserve component of the

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United States Armed Forces assigned in Utah; or an individual who is a member of the Utah National Guard; or an individual who maintains domicile in Utah, as described in Subsection 6.1.6., but is assigned outside of Utah pursuant to federal permanent change of station orders.

3.5. “Military veteran” means an individual who:

3.5.1. has served on active duty:

3.5.1.1. in the United State Armed Forces for at least 180 consecutive days or was a member of a reserve component and has been separated or retired with an honorable or general discharge; or

3.5.1.2. in the National Guard and has been separated or retired with an honorable or general discharge; or

3.5.1.3. incurred an actual service related injury or disability in the line of duty regardless of whether that person completed 180 days of active duty.

3.6. “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.

3.7. “Eligible person” means an individual entitled to benefits under Title 38 U. S. Code Chapter 30 Montgomery GI Bill- Active Duty Educational Assistance Program or Chapter 33 Post 9/11 Education Assistance Program.

3.8. “Preponderance of the evidence” means the existence of a fact is more probable than its nonexistence.

3.9. “Resident student status” means the condition of being a resident student for tuition purposes.

3.10. “Substantial evidence” means evidence that is more than a mere preponderance and is definite, clear, and convincing.

3.11. “Utah residency” means residing in Utah.

3.12. “USHE institution” means an institution within Utah’s system of higher education.

R512-4. Resident Student Status

4.1. Establishing Resident Student Status. A student will be granted resident student status after he or she

4.1.1. has acquired domicile in Utah; or

4.1.2. has satisfied one or more of the exceptions set forth in this policy.

4.2 Policies for Determining Resident Student Status.

- 4.2.1. **Policies for Students Enrolled in Credit-Bearing Degree Programs.** Each institution shall have the responsibility of determining resident student status according to the requirements of Utah Code Ann. §53B-8-102 and this policy. 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, provided the criteria implemented by the institution is more strict.
- 4.2.2. **Policies for Students Enrolled in 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.
- 4.2.3. **Exception to Establishing Resident Student Status:** 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 5.1.

4.3 **Rebuttable Presumption.** A student who has not previously acquired domicile in Utah and who enrolls at a USHE institution prior to residing in Utah for 12 continuous months will be presumed to not be domiciled in Utah and, therefore, will be classified as a nonresident student for tuition purposes. This presumption may be rebutted by substantial evidence.

4.4 **International Students:**

- 4.4.1. **Classification of International Students Who are in United States on Nonimmigrant Visas:** Students who are aliens and who are present in the United States 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.
- 4.4.2. **Classification of International Students Who are in United States on Immigrant Visas:** Students who are aliens and 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.
- 4.4.3. **International Students Who Have Obtained Asylum or Refugee Status:** An international student who has obtained asylum or refugee status under U.S. immigration law shall be classified for purposes of resident status according to the same criteria applicable to citizens.

4.5. **Marriage to Utah Resident:** A person who marries a Utah resident is eligible to be granted resident student status after he or she has acquired domicile in Utah.

4.6. **Burden of Proof:** The burden is on the student to prove that he or she is eligible for resident student status prior to the first day of classes for the term the student seeks to attend as a resident student.

Except as set forth in section 4.3 of this policy, the standard for establishing resident student status is by a preponderance of the evidence. 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 institution shall review all relevant evidence that is submitted by the student and shall make the residency determination based on the totality of the circumstances. The evidence submitted by the student shall include the evidence that is specifically required by the applicable section of this policy. In addition, a student may be required to file any or all of the following evidence within applicable timelines established by the institution.

- 4.6.1. A statement from the student describing employment and expected sources of support;
- 4.6.2. A statement from the student's employer;
- 4.6.3. Supporting statements from persons who might be familiar with the family situation;
- 4.6.4. Birth certificate;
- 4.6.5. Marriage certificate;
- 4.6.6. Documentation of eligibility for state social or rehabilitation services;
- 4.6.7. Documentation of immigration status and placement as political refugee;
- 4.6.8. 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.

4.7. 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 is immediately eligible to apply for resident student status. The state aid must, at a minimum, cover the full cost of resident tuition. Upon the termination of such government agency support, the person is governed by the standards applicable to other persons. Any time spent residing in Utah during the time the individual received government aid shall count towards any applicable waiting period for Utah residency for tuition purposes upon termination of the government aid.

4.8. Reciprocity: The determination to grant residency to a student at a USHE institution shall be honored at other USHE institutions, unless:

- 4.8.1. the student obtained resident student status under false pretenses, or
- 4.8.2. the facts existing at the time of the granting of resident student status have significantly changed.

4.9. 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.

4.10. Procedures for Determining Resident Student Status: If a student desires to be granted resident student status, he or she must comply with the following procedures:

- 4.10.1. Application Deadline:** Students must meet institutional application deadlines for each term. Institutions may establish a 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.
- 4.10.2. Initial Classification:** Each institution shall initially classify all applicants as either resident or nonresident. If there is doubt concerning resident status, the applicant shall be classified as a nonresident.
- 4.10.3. Application for Reclassification:** Every student classified as a nonresident shall retain that status until he or she is officially reclassified to resident status.
- 4.10.4. Refund:** A decision 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.
- 4.10.5. Hearings:** Each institution shall be responsible for providing a process for students who have been denied resident student status to be heard. Each institution shall adopt procedures that fit the local campus situation, but the following guidelines shall be followed:
- 4.10.5.1.** Procedures for a hearing shall be set out in writing by the institution, subject to approval by the Office of the Commissioner.
 - 4.10.5.2.** 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.
 - 4.10.5.3.** The student appealing the decision shall have the responsibility of providing evidence that proves that he or 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.
 - 4.10.5.4.** Both the student and the administration's representative are entitled to representation by counsel.
 - 4.10.5.5.** 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.

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

4.10.5.7. Decisions of the hearing officer or hearing committee must be in writing and must give reasons for the decision.

4.11. Declaration of Financial Independence: In addition to submitting objective evidence of domicile, a person seeking resident student status 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.

4.12. 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.

4.13. 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 under Regents' Policy R513; however, these students may not use time spent in Utah as a student on any of these programs toward any waiting period that may be required for resident tuition status. For more information on all tuition waivers, please see Regents' Policy R513.

4.13.1. 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. (See Regents' Policy R513-8 for further details regarding WUE.)

4.13.2. 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.

4.13.3. Professional Student Exchange Program/WICHE Students: A student attending a USHE institution under the Professional Student Exchange Program/WICHE Program is considered to be domiciled in his/her home state. (See Regents' Policy R513-8 for further details regarding WICHE.)

4.13.4. Exemption for Alumni Legacy Scholarships: The students attending a USHE institution under this scholarship are considered to be domiciled in his/her home state. (See Regents' Policy R513-17 for further details regarding Alumni Legacy Scholarships.)

4.13.5. Dixie State University's Good Neighbor Students: The students attending DSU under this scholarship are considered to be domiciled in his/her home state. (See Regents' Policy R513-4.2. for further details regarding Good Neighbor Students.)

R512.5. "Student Who Has Come to Utah For the Purpose of Attending an Institution of Higher Education" Exception to Establishing Resident Student Status.

5.1. General Rule: A student who has come to Utah for the purpose of attending an institution of higher education may be granted resident student status if, prior to the first day of classes of the term the student seeks to attend as a resident student, the student has:

- 5.1.1. maintained continuous Utah residency status for one full year;
- 5.1.2. submitted a written declaration that the student has relinquished residency in any other state;
- 5.1.3. submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere; and
- 5.1.4. submitted 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 (see section 4.12 above).

5.2 Evidence Required: Students applying for resident student status under this section are expected to submit as much objective evidence as possible, including, but not limited to, providing evidence of, or explanation of the lack of evidence of, each of the following:

- 5.2.1. A Utah high school transcript issued in the past year confirming attendance at a Utah high school in the previous 12 months;
- 5.2.2. A Utah voter registration dated a reasonable period (generally meaning within the past 90 days) prior to the first day of class of the term for which the student is seeking resident status;
- 5.2.3. A Utah driver license or identification card with an original date of issue or renewal date several months prior to the first day of class of the term for which the student is seeking resident status;
- 5.2.4. A Utah vehicle registration dated a reasonable period (generally meaning within the past 90 days) prior to the first day of class of the term for which the student is seeking resident status;
- 5.2.5. Evidence of employment in Utah for a reasonable period (generally meaning within the past 90 days) prior to the first day of class of the term for which the student is seeking resident status;
- 5.2.6. Proof of payment of Utah resident income tax for the previous year;
- 5.2.7. A rental agreement or mortgage document showing the student's name and Utah address for at least 12 months prior to the first day of class of the term for which the student is seeking resident status ; and
- 5.2.8. Utility bills showing the student's name and Utah address for at least 12 months prior to the first day of class of the term for which the student is seeking resident status resident student status.

5.3. Absence from state: A student will not jeopardize his or her status under this section solely by absence from the state for a period of less than 30 total days during the 12-month period. See *Frame v. Residency Appeals Committee*, 675 P2d. 1157 (Utah 1983). If a student leaves the state for the purpose of satisfying the requirements for institutional internships, institutional courses, study abroad programs, or athletic training, required by the institution the student will not be deemed to be absent from the state for purposes of this section for the period of time that he or she can establish that these purposes were being met. Once a student has been granted resident student status, any future absence from the state will not negatively affect his or her resident student status.

Example: A student who comes to a Utah school on an athletic scholarship and who, during his or her first 12 months in Utah, is required to attend a training camp out of state, will be able to count the time out of state at the training camp as part of the 12-month waiting period that is requisite to being granted resident tuition status.

Example: After being granted resident student status, a student may be absent from the state for purposes such as temporary employment, education, 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 or her absence from Utah.

R512.6. "Military Service" Exception to Establishing Resident Student Status.

6.1. A USHE institution shall grant resident student status for tuition purposes to:

6.1.1. a military servicemember, if the military servicemember provides:

6.1.1.1. the military servicemember's current United States military identification card; and

6.1.1.2. a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah; or

6.1.1.3. evidence that the military servicemember is domiciled in Utah, as described in Subsection 6.1.6

6.1.2. a military servicemember's immediate family member, if the military servicemember's immediate family member provides:

6.1.2.1. the military servicemember's current United States military identification card or the immediate family member's current United States military identification card; and

6.1.2.2. a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah; or

6.1.2.3. the military servicemember's current United States military identification card or the immediate family member's current United States military identification card, and evidence that the military servicemember is domiciled in Utah, as described in Subsection 6.1.6.

6.1.3. a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

6.1.3.1. evidence of an honorable or general discharge;

6.1.3.2. a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

6.1.3.3. objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:

6.1.3.3.1. a Utah voter registration card;

6.1.3.3.2. a Utah driver license or identification card;

6.1.3.3.3. a Utah vehicle registration;

6.1.3.3.4. evidence of employment in Utah;

6.1.3.3.5. a rental agreement showing the military veteran's name and Utah address; or

6.1.3.3.6. utility bills showing the military veteran's name and Utah address.

6.1.4. a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

6.1.4.1. evidence of the military veteran's honorable or general discharge within the last five years;

6.1.4.2. a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

6.1.4.3. objective evidence that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah which may include any one of the items described in section 6.1.3.3. above.

6.1.5. an eligible person who provides:

6.1.5.1. evidence of eligibility under Title 38 U. S. Code Chapter 30 Montgomery GI Bill- Active Duty Educational Assistance Program or Chapter 33 Post 9/11 Education Assistance Program; and

6.1.5.2. a signed written declaration that the eligible person will utilize GI Bill benefits; and

6.1.5.3. objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include any one of the items described in section 6.1.3.3. above.

6.1.6. Evidence of domicile as described in sections 6.1.1.3 and 6.1.2.3 includes:

6.1.6.1. a current Utah voter registration card;

6.1.6.2. a valid Utah driver license or identification card;

6.1.6.3. a current Utah vehicle registration

6.1.6.4. a copy of a Utah income tax return, in the military servicemembers's or military servicemember's spouse's name, filed as a resident in accordance with Utah Code Section 59-10-502; or

6.1.6.5. proof that the military servicemember or military servicemember's spouse owns a home in Utah, including a property tax notice for property owned in Utah.

R512.7 "Membership of an American Indian Tribe" Exception to Establishing Resident Student Status.

7.1. Any American Indian who is 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 is entitled to be granted resident student status.

7.2. Any American Indian who is a member of a federally recognized or known Utah tribe and has graduated from a Utah high school is entitled to be granted resident student status.

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

R512.8 "Job Corps Student" Exception to Establishing Resident Student Status.

8.1. A Job Corps student is entitled to resident student status if the student:

8.1.1. is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

8.1.2. submits verification that the student is a current Job Corps student.

8.2. Upon termination of the student's Job Corps enrollment/participation, the student shall be subject to the same residency standards applicable to other persons under this policy. The time spent residing in Utah during the Job Corps enrollments will count towards the time period set forth in section 4.3 of this policy.

R512.9 "Participation in Olympic Training Program" Exception to Establishing Resident Student Status.

9.1. A Student who is residing 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 student status for tuition purposes. The student shall certify his or her participation in the Olympic training program through a supporting letter from the United States Olympic Committee verifying eligibility.

9.2. Upon the termination of the Student's participation in such training program, the student 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 time period set forth in section 4.3 of this policy.

R512.10 “Parent Domiciled in Utah for at Least 12 Months” Exception to Establishing Resident Student Status.

10.1. A dependent student who has at least one parent who has been domiciled in Utah for least 12 months prior to the first day of class of the term for which the student is seeking resident status is eligible for resident student status. The student is responsible to submit the documentation identified in section 4.7 of this policy demonstrating that the parent has established domicile in Utah.

R512.11 “Full-time, Permanent Employment in Utah” as Basis for Rebutting Presumption of Nonresident Student.

11.1 A student who has come to Utah for full-time permanent employment, or who is an immediate family member of an individual who has come to Utah for full-time permanent employment, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the 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.

11.2. All relevant evidence concerning the motivation for the move should be considered, including, but not limited to, such factors as:

- 11.2.1. the employee's employment and educational history;
- 11.2.2. the dates when Utah employment was first considered, offered, and accepted;
- 11.2.3. when the person moved to Utah;
- 11.2.4. the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;
- 11.2.5. whether the person applied for admission to a USHE institution sooner than four months from the date of moving to Utah;
- 11.2.6. 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
- 11.2.7. 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 institution of higher education.

R512.12 “Divorce, Death of Spouse and Long-Term Health Care Responsibilities of Family Members” as Basis for Rebutting Presumption of Nonresident Student.

12.1. A student who resides in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for the student's spouse, parent, sibling, or child, may rebut the presumption of nonresident status by providing substantial evidence that the reason for the student's move to Utah was, in good faith, based on the long-term health care responsibilities.

12.2. All relevant evidence concerning the motivation for the move shall be considered, including:

- 12.2.1.** the student's employment and educational history;
- 12.2.2.** the dates when the long-term health care or child care responsibilities in Utah were first considered, offered, and accepted;
- 12.2.3.** when the student moved to Utah;
- 12.2.4.** the dates when the student applied for admission, was admitted, and was enrolled as a postsecondary student;
- 12.2.5.** whether the student applied for admission to a USHE institution sooner than four (4) months from the date of moving to Utah;
- 12.2.6.** evidence that the student is an independent person who is
 - 13.2.6.1.** at least 24 years of age; or
 - 13.2.6.2** not claimed as a dependent on someone else's tax returns; and
- 12.2.7.** 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.