

RESIDENCY REQUIREMENTS FOR IN-STATE

TUITION

2007 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill amends the definition of a resident student for tuition purposes within the state system of higher education.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ repeals the requirements for a nonresident student to complete 60 semester hours or have three years of residency prior to registration as a resident student;
- ▶ requires a nonresident student to maintain continuous Utah residency status for one full year prior to registration as a resident student;
- ▶ modifies the provisions that require objective evidence to be submitted that the student has taken overt steps to establish permanent residency in Utah;
- ▶ allows exceptions to the general residency rules for:
 - a person who marries a Utah resident;
 - a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months;

31 • a person who has established domicile in Utah based on an employer requested
32 transfer to Utah, recruitment by a Utah employer, or a comparable work-related
33 move for full-time permanent employment in Utah;

34 • a person who is in residence in Utah to participate in a United States Olympic
35 athlete training program; or

36 • a person who has established domicile in Utah for reasons related to divorce, the
37 death of a spouse, or long-term health care responsibilities for an immediate
38 family member;

39 ▶ exempts certain students from paying the nonresident portion of total tuition; and

40 ▶ makes technical corrections.

41 **Monies Appropriated in this Bill:**

42 None

43 **Other Special Clauses:**

44 This bill takes effect on July 1, 2007.

45 **Utah Code Sections Affected:**

46 AMENDS:

47 **53B-8-102**, as last amended by Chapters 244 and 311, Laws of Utah 2006



49 *Be it enacted by the Legislature of the state of Utah:*

50 Section 1. Section **53B-8-102** is amended to read:

51 **53B-8-102. Definition of resident student.**

52 (1) As used in this section, "parent" means a student's biological or adoptive parent.

53 ~~[(+)]~~ (2) The meaning of "resident student" is determined by reference to the general
54 law on the subject of domicile, except as provided in this section.

55 ~~[(2)(a) A person]~~ (3) (a) Institutions within the state system of higher education may
56 grant resident student status to any student who has come to Utah and established residency for
57 the purpose of attending an institution of higher education ~~[shall]~~, and who, prior to registration
58 as a resident student:

- 59 (i) ~~[maintain]~~ has maintained continuous Utah residency status[;] for one full year;
60 ~~[(A) while completing 60 semester credit hours at a regionally accredited Utah higher~~
61 ~~education institution or an equivalent number of applicable contact hours at the Utah College~~
62 ~~of Applied Technology; or]~~
63 ~~[(B) for three years regardless of the number of credit hours earned; and]~~
64 ~~[(ii) demonstrate by additional objective evidence, including]~~
65 (ii) has signed a written declaration that the student has relinquished residency in any
66 other state; and
67 (iii) has submitted objective evidence that the student has taken overt steps to establish
68 permanent residency in Utah and that the student does not maintain a residence elsewhere.
69 (b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:
70 (i) a Utah high school transcript issued in the past year confirming attendance at a Utah
71 high school in the past 12 months;
72 (ii) a Utah voter registration[;] dated a reasonable period prior to application;
73 (iii) a Utah ~~[drivers]~~ driver license[;] or identification card with an original date of
74 issue or a renewal date several months prior to application;
75 (iv) a Utah vehicle registration[;] dated a reasonable period prior to application;
76 (v) evidence of employment in Utah[;] for a reasonable period prior to application;
77 (vi) proof of payment of Utah resident income taxes[; and Utah banking connections;
78 the establishment of a domicile in Utah and that the student does not maintain a residence
79 elsewhere.] for the previous year;
80 ~~[(b) A member of the Utah National Guard who performs active duty service shall be~~
81 ~~considered to maintain continuous Utah residency under this Subsection (2).]~~
82 (vii) a rental agreement showing the student's name and Utah address for at least 12
83 months prior to application; and
84 (viii) utility bills showing the student's name and Utah address for at least 12 months
85 prior to application.
86 (c) A student who is claimed as a dependent on the tax returns of a person who is not a

87 resident of Utah is not eligible to apply for resident student status.

88 (4) An institution within the state system of higher education may establish stricter
89 criteria for determining resident student status, so long as the criteria do not require nonresident
90 students to do more than complete 60 credit hours while maintaining continuous Utah
91 residency, or maintain continuous Utah residency for 3 years, whichever comes first.

92 (5) (a) An institution within the state system of higher education may require students
93 transferring from another institution within the state system of higher education to demonstrate
94 completion of a minimum number of credit hours as a condition of receiving resident student
95 status, so long as those credit-hour policies do not require transferring students to complete
96 more than 60 credit hours prior to transferring.

97 (b) In the absence of a minimum credit-hour requirement, an institution shall honor the
98 decision of another institution within the state system of higher education to grant a student
99 resident student status, unless:

100 (i) the student obtained resident student status under false pretenses; or

101 (ii) the facts existing at the time of the granting of resident student status have changed.

102 (6) Within the limits established in Title 53B, Chapter 8, Tuition Waivers and
103 Scholarships, each institution within the state system of higher education may, regardless of its
104 policy on obtaining resident student status, waive nonresident tuition either in whole or in part,
105 but not other fees.

106 (7) In addition to the waivers of nonresident tuition under Subsection (6), each
107 institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to
108 the maximum number allowed by the appropriate athletic conference as recommended by the
109 president of each institution.

110 ~~[(3)]~~ (8) (a) (i) Personnel of the United States Armed Forces assigned to active duty in
111 Utah, and the immediate members of their families residing with them in this state are entitled
112 to resident status for tuition purposes.

113 (ii) Except as provided in Subsection ~~[(3)]~~ (8)(b), upon the termination of active duty
114 status, the military personnel and their family members are governed by the standards

115 applicable to nonmilitary persons.

116 (b) Military personnel who had Utah residency immediately prior to their active duty
117 status and who reestablish residency in Utah upon the termination of active duty status are
118 entitled to resident status for themselves and the immediate members of their families residing
119 with them for tuition purposes.

120 [~~(4)~~] (9) (a) Aliens who are present in the United States on visitor, student, or other
121 visas which authorize only temporary presence in this country, do not have the capacity to
122 intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

123 (b) Aliens who have been granted immigrant or permanent resident status in the United
124 States are classified for purposes of resident status according to the same criteria applicable to
125 citizens.

126 [~~(5) The board, after consultation with the institutions, shall make rules not~~
127 ~~inconsistent with this section:]~~

128 [~~(a) concerning the definition of resident and nonresident students;]~~

129 [~~(b) establishing procedures for classifying and reclassifying students;]~~

130 [~~(c) establishing criteria for determining qualifying credit hours and judging claims of~~
131 ~~residency or domicile;]~~

132 [~~(d) establishing appeals procedures; and]~~

133 [~~(e) other matters related to this section.]~~

134 [~~(6)~~] (10) Any American Indian who is enrolled on the tribal rolls of a tribe whose
135 reservation or trust lands lie partly or wholly within Utah or whose border is at any point
136 contiguous with the border of Utah, and any American Indian who is a member of a federally
137 recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled
138 to resident student status.

139 [~~(7)~~] (11) A Job Corps student is entitled to resident student status if the student:

140 (a) is admitted as a full-time, part-time, or summer school student in a program of
141 study leading to a degree or certificate; and

142 (b) submits verification that the student is a current Job Corps student.

143 ~~[(8)]~~ (12) (a) A member of the Utah National Guard is entitled to resident student
144 status if the student:

145 ~~[(a)]~~ (i) is admitted as a full-time, part-time, or summer school student in a program of
146 study leading to a degree or certificate; and

147 ~~[(b)]~~ (ii) submits verification that the student is a member of the Utah National Guard.

148 (b) A member of the Utah National Guard who performs active duty service shall be
149 considered to maintain continuous Utah residency under this section.

150 (13) A person is entitled to resident student status and may immediately apply for
151 resident student status if the person:

152 (a) marries a Utah resident eligible to be a resident student under this section; and

153 (b) establishes his or her domicile in Utah as demonstrated by objective evidence as
154 provided in Subsection (3).

155 (14) Notwithstanding Subsection (3)(c), a dependent student who has at least one
156 parent who has been domiciled in Utah for at least 12 months prior to the student's application
157 is entitled to resident student status.

158 (15) (a) A person who has established domicile in Utah for full-time permanent
159 employment may rebut the presumption of a nonresident classification by providing substantial
160 evidence that the reason for the individual's move to Utah was, in good faith, based on an
161 employer requested transfer to Utah, recruitment by a Utah employer, or a comparable
162 work-related move for full-time permanent employment in Utah.

163 (b) All relevant evidence concerning the motivation for the move shall be considered,
164 including:

165 (i) the person's employment and educational history;

166 (ii) the dates when Utah employment was first considered, offered, and accepted;

167 (iii) when the person moved to Utah;

168 (iv) the dates when the person applied for admission, was admitted, and was enrolled
169 as a postsecondary student;

170 (v) whether the person applied for admission to an institution of higher education

171 sooner than four months from the date of moving to Utah;

172 (vi) evidence that the person is an independent person who is:

173 (A) at least 24 years of age; or

174 (B) not claimed as a dependent on someone else's tax returns; and

175 (vii) any other factors related to abandonment of a former domicile and establishment
176 of a new domicile in Utah for purposes other than to attend an institution of higher education.

177 (16) (a) A person who is in residence in Utah to participate in a United States Olympic
178 athlete training program, at a facility in Utah, approved by the governing body for the athlete's
179 Olympic sport, shall be entitled to resident status for tuition purposes.

180 (b) Upon the termination of the athlete's participation in the training program, the
181 athlete shall be subject to the same residency standards applicable to other persons under this
182 section.

183 (c) Time spent domiciled in Utah during the Olympic athlete training program in Utah
184 counts for Utah residency for tuition purposes upon termination of the athlete's participation in
185 a Utah Olympic athlete training program.

186 (17) (a) A person who has established domicile in Utah for reasons related to divorce,
187 the death of a spouse, or long-term health care responsibilities for an immediate family
188 member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a
189 nonresident classification by providing substantial evidence that the reason for the individual's
190 move to Utah was, in good faith, based on the long-term health care responsibilities.

191 (b) All relevant evidence concerning the motivation for the move shall be considered,
192 including:

193 (i) the person's employment and educational history;

194 (ii) the dates when the long-term health care responsibilities in Utah were first
195 considered, offered, and accepted;

196 (iii) when the person moved to Utah;

197 (iv) the dates when the person applied for admission, was admitted, and was enrolled
198 as a postsecondary student;

199 (v) whether the person applied for admission to an institution of higher education
200 sooner than four months from the date of moving to Utah;
201 (vi) evidence that the person is an independent person who is:
202 (A) at least 24 years of age; or
203 (B) not claimed as a dependent on someone else's tax returns; and
204 (vii) any other factors related to abandonment of a former domicile and establishment
205 of a new domicile in Utah for purposes other than to attend an institution of higher education.

206 (18) The board, after consultation with the institutions, shall make rules not
207 inconsistent with this section:

- 208 (a) concerning the definition of resident and nonresident students;
- 209 (b) establishing procedures for classifying and reclassifying students;
- 210 (c) establishing criteria for determining and judging claims of residency or domicile;
- 211 (d) establishing appeals procedures; and
- 212 (e) other matters related to this section.

213 ~~[(9) Other institutions within the system shall honor a determination by an institution~~
214 ~~that a person is a resident student unless the determination was obtained by false pretenses or~~
215 ~~the facts which existed at the time of the determination have materially changed.]~~

216 (19) A student shall be exempt from paying the nonresident portion of total tuition if
217 the student:

- 218 (a) is a foreign national legally admitted to the Unites States;
- 219 (b) attended high school in this state for three or more years;
- 220 (c) graduated from a high school in this state or received the equivalent of a high
221 school diploma in this state.

222 Section 2. **Effective date.**

223 This bill takes effect on July 1, 2007.