

MILITARY EDUCATION AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill amends resident student state status definitions.

Highlighted Provisions:

This bill:

- defines an eligible person and the criteria for establishing resident student status.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-8-102, as last amended by Laws of Utah 2014, Chapter 216

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

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

53B-8-102. Definitions -- Resident student status -- Exceptions.

(1) As used in this section:

(a) "Eligible person" means an individual who is entitled to benefits under 38 U.S.C., Chapter 30, Montgomery G.I. Bill - Active Duty Educational Assistance Program, or Chapter 33, Post 9/11 Educational Assistance Program.



28 ~~[(a)]~~ (b) "Immediate family member" means an individual's spouse or child.

29 ~~[(b)]~~ (c) "Military servicemember" means:

30 (i) an individual who is serving on active duty in the United States Armed Forces
31 within the state of Utah;

32 (ii) an individual who is a member of a reserve component of the United States Armed
33 Forces assigned in Utah; or

34 (iii) an individual who is a member of the Utah National Guard.

35 ~~[(c)]~~ (d) "Military veteran" means an individual who:

36 (i) has served on active duty:

37 (A) in the United States Armed Forces for at least 180 consecutive days or was a
38 member of a reserve component and has been separated or retired with an honorable or general
39 discharge; or

40 (B) in the National Guard and has been separated or retired with an honorable or
41 general discharge; or

42 (ii) incurred an actual service-related injury or disability in the line of duty regardless
43 of whether that person completed 180 days of active duty.

44 ~~[(d)]~~ (e) "Parent" means a student's biological or adoptive parent.

45 (2) The meaning of "resident student" is determined by reference to the general law on
46 the subject of domicile, except as provided in this section.

47 (3) (a) Institutions within the state system of higher education may grant resident
48 student status to any student who has come to Utah and established residency for the purpose of
49 attending an institution of higher education, and who, prior to registration as a resident student:

50 (i) has maintained continuous Utah residency status for one full year;

51 (ii) has signed a written declaration that the student has relinquished residency in any
52 other state; and

53 (iii) has submitted objective evidence that the student has taken overt steps to establish
54 permanent residency in Utah and that the student does not maintain a residence elsewhere.

55 (b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

56 (i) a Utah high school transcript issued in the past year confirming attendance at a Utah
57 high school in the past 12 months;

58 (ii) a Utah voter registration dated a reasonable period prior to application;

59 (iii) a Utah driver license or identification card with an original date of issue or a
60 renewal date several months prior to application;

61 (iv) a Utah vehicle registration dated a reasonable period prior to application;

62 (v) evidence of employment in Utah for a reasonable period prior to application;

63 (vi) proof of payment of Utah resident income taxes for the previous year;

64 (vii) a rental agreement showing the student's name and Utah address for at least 12
65 months prior to application; and

66 (viii) utility bills showing the student's name and Utah address for at least 12 months
67 prior to application.

68 (c) A student who is claimed as a dependent on the tax returns of a person who is not a
69 resident of Utah is not eligible to apply for resident student status.

70 (4) Except as provided in Subsection (8), an institution within the state system of
71 higher education may establish stricter criteria for determining resident student status.

72 (5) If an institution does not have a minimum credit-hour requirement, that institution
73 shall honor the decision of another institution within the state system of higher education to
74 grant a student resident student status, unless:

75 (a) the student obtained resident student status under false pretenses; or

76 (b) the facts existing at the time of the granting of resident student status have changed.

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

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

85 (8) Notwithstanding Subsection (3), an institution within the state system of higher
86 education shall grant resident student status for tuition purposes to:

87 (a) a military servicemember, if the military servicemember provides:

88 (i) the military servicemember's current United States military identification card; and

89 (ii) a statement from the military servicemember's current commander, or equivalent,

90 stating that the military servicemember is assigned in Utah;

91 (b) a military servicemember's immediate family member, if the military
92 servicemember's immediate family member provides:

93 (i) one of the following:

94 (A) the military servicemember's current United States military identification card; or

95 (B) the immediate family member's current United States military identification card;

96 and

97 (ii) a statement from the military servicemember's current commander, or equivalent,
98 stating that the military servicemember is assigned in Utah;

99 (c) a military veteran, regardless of whether the military veteran served in Utah, if the
100 military veteran provides:

101 (i) evidence of an honorable or general discharge;

102 (ii) a signed written declaration that the military veteran has relinquished residency in
103 any other state and does not maintain a residence elsewhere;

104 (iii) objective evidence that the military veteran has ~~[taken overt steps to relinquish~~
105 ~~residency in any other state and]~~ demonstrated an intent to establish residency in Utah, which
106 may include any one of the following:

107 (A) a Utah voter registration card;

108 (B) a Utah driver license or identification card;

109 (C) a Utah vehicle registration;

110 (D) evidence of employment in Utah;

111 (E) a rental agreement showing the military veteran's name and Utah address; or

112 (F) utility bills showing the military veteran's name and Utah address; ~~[and]~~

113 (d) a military veteran's immediate family member, regardless of whether the military
114 veteran served in Utah, if the military veteran's immediate family member provides:

115 (i) evidence of the military veteran's honorable or general discharge within the last five
116 years;

117 (ii) a signed written declaration that the military veteran's immediate family member
118 has relinquished residency in any other state and does not maintain a residence elsewhere; and

119 (iii) objective evidence that the military veteran's immediate family member has ~~[taken~~
120 ~~overt steps to relinquish residency in any other state and]~~ demonstrated an intent to establish

121 residency in Utah, which may include any one of the items described in Subsection
122 (8)(c)(iii)[-]; and

123 (e) an eligible person who provides:

124 (i) evidence of eligibility under 38 U.S.C. Chapter 30, Montgomery G.I. Bill - Active
125 Duty Educational Assistance Program;

126 (ii) a signed written declaration that the eligible person will use the G.I. Bill benefits;
127 and

128 (iii) objective evidence that the eligible person has demonstrated an intent to establish
129 residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii).

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

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

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

141 (11) A Job Corps student is entitled to resident student status if the student:

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

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

145 (12) A person is entitled to resident student status and may immediately apply for
146 resident student status if the person:

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

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

150 (13) Notwithstanding Subsection (3)(c), a dependent student who has at least one
151 parent who has been domiciled in Utah for at least 12 months prior to the student's application

152 is entitled to resident student status.

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

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

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

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

162 (iii) when the person moved to Utah;

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

165 (v) whether the person applied for admission to an institution of higher education
166 sooner than four months from the date of moving to Utah;

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

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

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

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

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

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

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

181 (16) (a) A person who has established domicile in Utah for reasons related to divorce,
182 the death of a spouse, or long-term health care responsibilities for an immediate family

183 member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a
184 nonresident classification by providing substantial evidence that the reason for the individual's
185 move to Utah was, in good faith, based on the long-term health care responsibilities.

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

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

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

191 (iii) when the person moved to Utah;

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

194 (v) whether the person applied for admission to an institution of higher education
195 sooner than four months from the date of moving to Utah;

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

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

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

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

201 (17) The board, after consultation with the institutions, shall make rules not
202 inconsistent with this section:

203 (a) concerning the definition of resident and nonresident students;

204 (b) establishing procedures for classifying and reclassifying students;

205 (c) establishing criteria for determining and judging claims of residency or domicile;

206 (d) establishing appeals procedures; and

207 (e) other matters related to this section.

208 (18) A student shall be exempt from paying the nonresident portion of total tuition if
209 the student:

210 (a) is a foreign national legally admitted to the United States;

211 (b) attended high school in this state for three or more years; and

212 (c) graduated from a high school in this state or received the equivalent of a high
213 school diploma in this state.

Legislative Review Note
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Office of Legislative Research and General Counsel