

HIGHER EDUCATION RESIDENCY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

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22

23 LONG TITLE

24 General Description:

25 This bill amends higher education residency provisions.

26 Highlighted Provisions:

27 This bill:

- 28 ▶ requires an institution within the state system of higher education to grant residency

29 status to an individual who is not a citizen of the United States but has been granted or has
30 applied for certain immigration status.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **53B-8-102**, as last amended by Laws of Utah 2020, Chapter 37



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

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

41 **53B-8-102. Definitions -- Resident student status -- Exceptions.**

42 (1) As used in this section:

43 (a) "Eligible person" means an individual who is entitled to post-secondary educational
44 benefits under Title 38 U.S.C., Veterans' Benefits.

45 (b) "Immediate family member" means an individual's spouse or dependent child.

46 (c) "Military servicemember" means an individual who:

47 (i) is serving on active duty in the United States Armed Forces within the state of Utah;

48 (ii) is a member of a reserve component of the United States Armed Forces assigned in
49 Utah;

50 (iii) is a member of the Utah National Guard; or

51 (iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned
52 outside of Utah pursuant to federal permanent change of station orders.

53 (d) "Military veteran" has the same meaning as veteran in Section **68-3-12.5**.

54 (e) "Parent" means a student's biological or adoptive parent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

85 (a) the student obtained resident student status under false pretenses; or
86 (b) the facts existing at the time of the granting of resident student status have changed.
87 (6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and
88 Scholarships, each institution within the state system of higher education may, regardless of its
89 policy on obtaining resident student status, waive nonresident tuition either in whole or in part,
90 but not other fees.

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

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

97 (a) a military servicemember, if the military servicemember provides:
98 (i) the military servicemember's current United States military identification card; and
99 (ii) (A) a statement from the military servicemember's current commander, or
100 equivalent, stating that the military servicemember is assigned in Utah; or

101 (B) evidence that the military servicemember is domiciled in Utah, as described in
102 Subsection (9)(a);

103 (b) a military servicemember's immediate family member, if the military
104 servicemember's immediate family member provides:
105 (i) (A) the military servicemember's current United States military identification card;
106 or

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

109 (ii) (A) a statement from the military servicemember's current commander, or
110 equivalent, stating that the military servicemember is assigned in Utah; or
111 (B) evidence that the military servicemember is domiciled in Utah, as described in
112 Subsection (9)(a);

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

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

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

118 (iii) objective evidence that the military veteran has demonstrated an intent to establish
119 residency in Utah, which may include any one of the following:

120 (A) a Utah voter registration card;

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

122 (C) a Utah vehicle registration;

123 (D) evidence of employment in Utah;

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

125 (F) utility bills showing the military veteran's name and Utah address;

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

128 (i) evidence of the military veteran's honorable or general discharge;

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

131 (iii) objective evidence that the military veteran's immediate family member has
132 demonstrated an intent to establish residency in Utah, which may include any one of the items
133 described in Subsection (8)(c)(iii); or

134 (e) an eligible person who provides:

135 (i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;

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

137 and

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

140 (f) an alien who provides:

- 141 (i) evidence that the alien is a special immigrant visa recipient;
142 (ii) evidence that the alien has been granted refugee status, humanitarian parole,
143 temporary protected status, or asylum; or
144 (iii) evidence that the alien has submitted in good faith an application for refugee
145 status, humanitarian parole, temporary protected status, or asylum under United States
146 immigration law.
- 147 (9) (a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:
148 (i) a current Utah voter registration card;
149 (ii) a valid Utah driver license or identification card;
150 (iii) a current Utah vehicle registration;
151 (iv) a copy of a Utah income tax return, in the military servicemember's or military
152 servicemember's spouse's name, filed as a resident in accordance with Section 59-10-502; or
153 (v) proof that the military servicemember or military servicemember's spouse owns a
154 home in Utah, including a property tax notice for property owned in Utah.
- 155 (b) Aliens who are present in the United States on visitor, student, or other visas not
156 listed in Subsection (8)(f) or (9)(c), which authorize only temporary presence in this country,
157 do not have the capacity to intend to reside in Utah for an indefinite period and therefore are
158 classified as nonresidents.
- 159 (c) Aliens who have been granted [~~immigrant or~~] or have applied for permanent
160 resident status in the United States are classified for purposes of resident student status
161 according to the same criteria applicable to citizens.
- 162 (10) Any American Indian who is enrolled on the tribal rolls of a tribe whose
163 reservation or trust lands lie partly or wholly within Utah or whose border is at any point
164 contiguous with the border of Utah, and any American Indian who is a member of a federally
165 recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled
166 to resident student status.
- 167 (11) A Job Corps student is entitled to resident student status if the student:
168 (a) is admitted as a full-time, part-time, or summer school student in a program of

169 study leading to a degree or certificate; and

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

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

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

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

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

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

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

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

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

188 (iii) when the person moved to Utah;

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

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

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

194 (A) at least 24 years [~~of age~~] old; or

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

196 (vii) any other factors related to abandonment of a former domicile and establishment

197 of a new domicile in Utah for purposes other than to attend an institution of higher education.

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

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

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

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

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

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

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

217 (iii) when the person moved to Utah;

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

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

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

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

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

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

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

- 229 (a) concerning the definition of resident and nonresident students;
- 230 (b) establishing procedures for classifying and reclassifying students;
- 231 (c) establishing criteria for determining and judging claims of residency or domicile;
- 232 (d) establishing appeals procedures; and
- 233 (e) other matters related to this section.

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

- 236 (a) is a foreign national legally admitted to the United States;
- 237 (b) attended high school in this state for three or more years; and
- 238 (c) graduated from a high school in this state or received the equivalent of a high
239 school diploma in this state.