

R512, Resident Student Status¹

R512-1 Purpose: This policy establishes criteria Utah System of Higher Education (“USHE”) institutions shall use when determining resident student status, reviews exceptions, and provides minimum standards for an appeal of a denial of resident student status.²³

R512-2 References

- 2.1 Utah Code § 53B-8-102, Definitions – Resident Student Status
- 2.2 Utah Code § 41-1a-202, Definitions – Vehicles Exempt from Registration
- 2.3 Utah Code Title 53B, Chapter 8, Tuition Waiver and Scholarships
- 2.4 Utah Code § 59-10-502, Persons Required to File Returns
- 2.5 Utah Code § 53E-1-102, Public Education Code Definitions
- 2.6 Utah Code § 64-13-1, Definitions
- 2.7 United States Code Title 38, Veterans’ Benefits
- 2.8 Board Policy R134, Informal Adjudicative Proceedings under the Utah Administrative Procedures Act
- 2.9 Board Policy R510, Tuition
- 2.10 Board Policy R513, Tuition Waivers and Reductions

R512-3 Definitions

3.1 “Continuous Utah Residency for One Full Year” means the student has resided in Utah for 12 continuous months prior to the term for which the student is seeking resident student status.

3.2 “Domicile” is a term that is 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; (2) fixed permanent home and principal establishment to which if absent, the student intends to return; and (3) concurrent intent to voluntarily reside permanently in that location, not for a special or temporary purpose.

¹ *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; May 30, 2008; May 29, 2009; May 20, 2011; May 18, 2012; May 16, 2014; November 14, 2014; May 15, 2015; May 20, 2016; May 15, 2020; September 16, 2022; December 1, 2023; and June 6, 2024.*

² Tuition waivers are covered by Board Policy R513, *Tuition Waivers and Reductions*.

³ *Technical edits August 30, 2024.*

3.3 “Immediate Family Member” means the spouse or unmarried dependent child of the individual requesting resident student status.

3.4 “Military Service member” means an individual who is:

3.4.1 Serving active duty in the United States Armed Forces within the state of Utah;

3.4.2 A member of a reserve component of the United States Armed Forces assigned in Utah;

3.4.3 A member of the Utah National Guard; or

3.4.4 Maintaining domicile in Utah, as described in subsection 5.3.2.6, 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 in the United States Armed Forces for at least 180 days: (1) on active duty; or (2) in a reserve component, to include the National Guard; or

3.5.2 Has incurred an actual service-related injury or disability while in the United States Armed Forces regardless of whether the individual completed 180 days and was separated or retired under conditions characterized as honorable or general.

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 United States Code - Veterans’ Benefits.

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

3.9 “Resident Student Status” means a designation that makes a student a resident student for tuition purposes at a USHE institution.

3.10 “Substantial Evidence” means clear and convincing evidence.

3.11 “Utah Residency” means residing or living in Utah.

3.12 “USHE Institution” means a higher education institution in the Utah System of Higher Education. *See* Utah Code section 53B-1-102(1)(a)-(b).

R512-4 Institution Policies for Determining Resident Student Status

4.1 Policies for Students Enrolled in Degree Programs: Institutions shall be responsible to determine resident student status under Utah Code section 53B-8-102 and this policy. Except as provided in subsection 5.3, each institution may, at the recommendation of its President, implement an institutional policy that deviates from this policy, provided that the policy is stricter. The institution’s policy shall require at least a one-year waiting period for a student who has come to Utah for the purpose of attending an institution of higher education.

4.2 Policies for Students Enrolled in Non-Credit Programs: Because most non-credit programs are short-term, i.e., require less than a year to complete, a USHE institution offering non-credit courses or programs may implement a policy that a resident student status determination or classification need not be required for students enrolled in non-credit courses or programs.

4.3 Policies for Students Enrolled at Technical Colleges: Because most technical education programs are short-term, i.e., require less than a year to complete, a USHE technical college or degree-granting institution with a technical college role, may implement a policy that a resident student status determination or classification for students enrolled in technical education courses or programs is not required.

R512-5 Determining Resident Student Status

5.1 Establishing Resident Student Status: A student will be granted resident student status at a USHE institution after they have:

5.1.1 Acquired domicile in Utah; or

5.1.2 Satisfied one or more of the exceptions set forth in this policy.

5.2 Procedures for Determining Resident Student Status: A student shall comply with the following procedures to apply for resident student status:

5.2.1 Application Deadline: Students must meet institutional application deadlines for each term. Institutions may establish a policy for accepting late resident student status 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.

5.2.2 Initial Classification: Institutions shall initially classify all applicants as either resident or nonresident. If there is doubt regarding residency, the institution shall classify the student as a nonresident.

5.2.3 Determining Resident Student Status: The burden is on the student to prove that they are eligible for resident student status prior to the first day of classes for the term for which the student seeks resident tuition. Except as set forth in subsections 5.2.3.3, 5.4.1, and 5.4.2, the standard for establishing resident student status is by a preponderance of the evidence. The institution, through its 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 determination based on the totality of the circumstances. The student shall submit evidence that is required by applicable section(s) of this policy.

5.2.3.1 Additionally, a student may be required to file any or all the following evidence within applicable timelines established by the institution:

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

5.2.3.1.2 A statement from the student's employer;

5.2.3.1.3 Supporting statements from persons who are familiar with the family situation;

5.2.3.1.4 The student's birth certificate;

5.2.3.1.5 The student's marriage certificate;

5.2.3.1.6 Documentation of the student's eligibility for state social or rehabilitation services;

5.2.3.1.7 Documentation of the student's nonimmigrant or immigrant visa; and

5.2.3.1.8 Indicia of Utah domicile, including the student's 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.

5.2.3.2 In addition to submitting objective evidence of domicile, a student seeking resident student status must also submit a declaration of financial independence, which must include, at a minimum, evidence that the student 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.

5.2.3.3 Rebuttable Presumption of Domicile: A student who has not previously acquired domicile in Utah and who enrolls at a USHE institution prior to residing in Utah for one full year will be presumed to be not domiciled in Utah and, therefore, will be classified as a nonresident student for tuition purposes. This presumption may be rebutted by substantial evidence.

5.3 Exceptions to Obtain Resident Student Status: Notwithstanding section 5.2, institutions shall grant resident student status at USHE institutions to students who meet one of the exceptions outlined in section 5.3.

5.3.1 International Student

5.3.1.1 Classification of International Students in the United States on a Nonimmigrant Visa: A student who is an alien and provides evidence that they: (1) are a special immigrant visa recipient; (2) have been granted refugee status, humanitarian parole, temporary protected status or asylum; or (3) have submitted in good faith an application for refugee status, humanitarian parole, temporary protected status, or asylum under United States immigration law shall be classified for purposes of resident student status according to the same criteria applicable to U.S. citizens.

5.3.1.1.1 Other Nonimmigrant Visas: A student who is an alien and who is present in the United States on a visitor, student, or other visa not listed in subsection 5.3.1.1, which authorizes only temporary presence in the United States, does not have the capacity to intend to reside in Utah for an indefinite period and therefore must be classified as a nonresident.

5.3.1.2 Immigrant Visa: A student who is an alien and has been granted or has applied for permanent resident status in the United States shall be classified for purposes of resident student status according to the same criteria applicable to U.S. citizens.

5.3.2 Military Service

5.3.2.1 A military service member who provides:

5.3.2.1.1 The military service member's current United States military identification card, and:

5.3.2.1.2 A statement from the military service member's current commander, or equivalent, stating that the military service member is assigned to Utah; or

5.3.2.1.3 Evidence that the military service member is domiciled in Utah, as described in subsection 5.3.2.6.

5.3.2.2 A military service member's immediate family member who provides:

5.3.2.2.1 The military service member's current United States military identification card; or

5.3.2.2.2 The immediate family member's current United States military identification card, and:

5.3.2.2.3 A statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah; or

5.3.2.2.3 Evidence that the military service member is domiciled in Utah, as described in subsection 5.3.2.6; or

5.3.2.2.4 Evidence that the immediate family member completed at least one year of grades 9 through 12 within the state at a local education agency, as defined in Utah Code section 53E-1-102 while the military service member was assigned in Utah, regardless of the service member's current assignment.

5.3.2.3 A military veteran, regardless of whether the military veteran served in Utah, who provides:

5.3.2.3.1 Evidence of the military veteran's honorable or general discharge;

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

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

5.3.2.3.3.1 A Utah voter registration card;

5.3.2.3.3.2 A Utah driver license or identification card;

5.3.2.3.3.3 A Utah vehicle registration;

5.3.2.3.3.4 Evidence of employment in Utah;

5.3.2.3.3.5 A rental agreement showing the military veteran's name and Utah address; or

5.3.2.3.3.6 Utility bills showing the military veteran's name and Utah address.

5.3.2.4 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:

5.3.2.4.1 Evidence of the military veteran's honorable or general discharge;

5.3.2.4.2 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

5.3.2.4.3 Objective evidence, as described in subsection 5.3.2.3.3, that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah.

5.3.2.5 An eligible person who provides:

5.3.2.5.1 Evidence of eligibility under Title 38 United States Code – Veterans' Benefits;

5.3.2.5.2 A signed written declaration that the eligible person will utilize Veteran Benefits under Title 38 U.S.C.; and

5.3.2.5.3 Objective evidence, as described in subsection 5.3.2.3.3, that the eligible person has demonstrated an intent to establish residency in Utah.

5.3.2.6 Evidence of domicile includes:

5.3.2.6.1 A current Utah voter registration card;

5.3.2.6.2 A valid Utah driver license or identification card;

5.3.2.6.3 A current Utah vehicle registration;

5.3.2.6.4 A copy of a Utah income tax return, in the military service member's or military service member's spouse's name, filed as a resident in accordance with Utah Code section 59-10-502; or

5.3.2.6.5 Proof that the military servicemember or military service member's spouse owns a home in Utah, including a property tax notice for property owned in Utah.

5.3.3 Foreign Service Member

5.3.3.1 A foreign service member as defined in the Foreign Service Family Act of 2021 who is either domiciled in Utah, recognizing the individual may not be physically present in Utah due to an assignment or assigned to a duty state in Utah if the foreign serve member provides:

5.3.3.1.1 Evidence of the foreign service member's status; and

5.3.3.1.2 A statement from the foreign service member's current commander, or equivalent, stating that the foreign service member is assigned in Utah; or

5.3.3.1.3 Evidence that the foreign service member is domiciled in Utah.

5.3.3.2 A foreign service member's immediate family member if the foreign service member is either domiciled in Utah, recognizing the individual may not be physically present in Utah due to an assignment or assigned to a duty state in Utah if the foreign serve family member provides:

5.3.3.2.1 Evidence of the foreign service family member's status; and

5.3.3.2.2 A statement from the foreign service member's current commander, or equivalent, stating that the foreign service member is assigned in Utah; or

5.3.3.2.3 Evidence that the foreign service member is domiciled in Utah.

5.3.3.3 A foreign service member or the foreign service member's immediate family member deemed eligible for resident student status under subsections 5.3.3.1 or 5.3.3.2 shall retain eligibility for resident student status if the foreign service member or immediate family member maintains continuous enrollment even in the case of a change in domicile or duty station.

5.3.4 Inmate: An inmate, as defined by Utah Code section 64-13-1, during the time the inmate is enrolled in a course at a USHE institution and for one year after the day on which the inmate is release from a correctional facility as defined in Utah Code section 63-13-1.

5.3.5 Marriage to Utah Resident: A student may immediately apply for resident student status when they marry a Utah resident and have established domicile in Utah as demonstrated by objective evidence described in subsection 5.3.7.1.

5.3.6 Receipt of State Social Services Benefits: A student 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 at the USHE institution. Upon the termination of such

government agency support, the student shall be subject to the requirements of subsection 5.2.3. The time spent residing in Utah during the time the student received government aid shall count towards any applicable waiting period for resident student status upon termination of the government aid.

5.3.7 Student Who Has Come to Utah for the Purpose of Attending an Institution of Higher Education: 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 for which the student seeks resident student status, the student has: (1) maintained continuous Utah residency for one full year; (2) submitted a written declaration that the student has relinquished residency in any other state; (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 (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* subsection 5.2.3.2).

5.3.7.1 Evidence Required: A student applying for resident student status under this section is 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:

5.3.7.1.1 A Utah high school transcript issued in the past year confirming attendance at a Utah high school in the previous 12 months;

5.3.7.1.2 A Utah voter registration dated a reasonable period (generally at least 90 days) prior to the first day of class of the term for which the student is seeking resident student status;

5.3.7.1.3 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 student status;

5.3.7.1.4 A Utah vehicle registration dated a reasonable period (generally at least 90 days) prior to the first day of class of the term for which the student is seeking resident student status;

5.3.7.1.5 Evidence of employment in Utah for a reasonable period (generally at least 90 days) prior to the first day of class of the term for which the student is seeking resident student status;

5.3.7.1.6 Proof of payment of Utah resident income tax for the previous year;

5.3.7.1.7 A rental agreement or mortgage document showing the student's name and Utah address for at least one full year prior to the first day of class of the term for which the student is seeking resident student status; and

5.3.7.1.8 Utility bills showing the student's name and Utah address for at least one full year prior to the first day of class of the term for which the student is seeking resident student status.

5.3.7.2 Absence from State: A student will not jeopardize their resident student status under this section solely by absence from the state for a period of less than 30 total days during the one year period. 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, then the time spent out of state will not count as an absence for purposes of this exception. Once a student has been granted resident student status, any future absence from the state will not negatively affect their resident student status.

5.3.7.3 Domicile following Resident Student Status: 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 classified as resident student status provided they have not taken action to establish domicile elsewhere during their absence from Utah.

5.3.8 Tribal Membership: Any American Indian who is either: (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 (2) 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.

5.3.8.1 The Office of the Commissioner of Higher Education ("OCHE") will maintain and distribute to all USHE institution residency officers a list of recognized tribes.

5.3.9 Job Corps Student: A Job Corps student is entitled to resident student status if the student:

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

5.3.9.2 Submits verification that the student is a current Job Corps student.

5.3.9.3 Upon termination of the student's Job Corps enrollment/participation, the student shall be subject to the requirements of subsection 5.2.3. The time the student spent residing in Utah as a Job Corps student shall count towards any applicable waiting period for resident student status.

5.3.10 Participation in Olympic Training Program: 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. The student shall certify their participation in the Olympic training program through a supporting letter from the United States Olympic Committee verifying eligibility.

5.3.10.1 Upon termination of the student's participation in an Olympic athlete training program, the student shall be subject to the requirements of subsection 5.2.3. The time spent residing in Utah during the time the individual qualified for this status shall count towards any applicable waiting period for resident student status .

5.3.11 Parent Domiciled in Utah for at Least One Full Year: A dependent student is eligible for resident student status who has at least one parent domiciled in Utah for at least one full year prior to the first day of class of the term for which the student is seeking resident student status. The student is responsible to submit the documentation identified in subsection 5.2.3.1 demonstrating that their parent has established domicile in Utah.

5.4 Rebuttable Presumptions

5.4.1 Full-time, Permanent Employment in Utah: A student who has established domicile in 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.

5.4.1.1 All relevant evidence concerning the motivation for the move should be considered, including, but not limited to:

5.4.1.1.1 The employee's employment and educational history;

5.4.1.1.2 The dates when Utah employment was first considered, offered, and accepted;

5.4.1.1.3 When the person moved to Utah;

5.4.1.1.4 The dates when the student applied for admission, was admitted, and was enrolled as a postsecondary student;

5.4.1.1.5 Whether the student applied for admission to a USHE institution sooner than four months from the date of moving to Utah;

5.4.1.1.6 Evidence that the student is an independent person who is:

5.4.1.1.6.1 At least 24 years of age; or

5.4.1.1.6.2 Not claimed as a dependent on someone else's tax returns; and

5.4.1.1.7 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.

5.4.2 Divorce, Death of Spouse, and Long-Term Health Care Responsibilities

of Family Members: A student who has established domicile 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 long-term health care responsibilities.

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

5.4.2.1.1 The student's employment and educational history;

5.4.2.1.2 The dates when the long-term health care or childcare responsibilities in Utah were first considered, offered, and accepted;

5.4.2.1.3 When the student moved to Utah;

5.4.2.1.4 The dates when the student applied for admission, was admitted, and was enrolled as a postsecondary student;

5.4.2.1.5 Whether the student applied for admission to a USHE institution sooner than four months from the date of moving to Utah;

5.4.2.1.6 Evidence that the student is an independent person who is:

5.4.2.1.6.1 At least 24 years of age; or

5.4.2.1.6.2 Not claimed as a dependent on someone else's tax returns; and

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

R512-6 Reclassification

6.1 A student classified as a nonresident by the institution shall retain that status until they are officially reclassified as resident student status.

6.2 If a student is classified as resident student status by the institution, the institution may initiate a reclassification inquiry and 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 institution.

R512-7 Appeal of a Classification Decision: Institutions shall provide a process for students who have been denied resident student status to be heard. Institutions shall adopt procedures that fit the local campus situation, but the following guidelines shall be followed:

7.1 Procedures for an appeal hearing shall be set out in writing by the institution. OCHE may review an institution's appeal procedures for compliance with this policy.

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

7.3 The student appealing the resident student status decision shall be responsible to provide evidence that proves that they have met the resident student status requirements. The institution shall give the appealing student a copy of this policy and shall also give the student an explanation of the rationale of the decision-maker who initially classified the student as a nonresident.

7.4 Both the student and the institution's representative may choose, but are not required, to be accompanied by an attorney. The institution is not required to provide an attorney for the student.

7.5 The student and the institution's representative may provide oral or written evidence for the appeal hearing. The institution shall provide a written summary of the relevant information and determination of the appeal hearing to the student. The institution is not required to provide a formal, written, verbatim record of the appeal hearing.

7.6 The institution may use administrative hearing rules rather than formal rules of evidence. The institution's procedures shall state the rules that will apply to the appeal hearing.

7.7 The appeal hearing officer/hearing committee's decision must be in writing and give reasons for the determination.

7.8 A decision that finds the student is entitled to resident student status shall be retroactive to the semester or term for which the student first sought resident student status and shall require a refund of the nonresident portion of any tuition charges the student paid for that and subsequent academic periods.

R512-8 Reciprocity: The determination to grant resident student status to a student at a USHE institution shall be honored at other USHE institutions, unless:

8.1 The student obtained resident student status under false pretenses; or

8.2 The facts existing at the time the student was granted resident student status have significantly changed.

R512-9 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 the student previously attended.

R512-10 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 according to Board Policy R513, *Tuition Waivers and Reductions*; 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 student status.

10.1 Western Undergraduate Exchange (“WUE”) Students: A student attending a USHE institution under the WUE program is considered to be domiciled in their home state.

10.2 Western Regional Graduate Program (“WRGP”) Students: A student attending a USHE institution under WRGP is considered to be domiciled in their home state.

10.3 Professional Student Exchange Program/Western Interstate Commission for Higher Education (“WICHE”) Students: A student attending a USHE institution under the Professional Student Exchange Program/WICHE Program is considered to be domiciled in their home state. *See Board Policy R628, WICHE Professional Student Exchange Program* for further details regarding WICHE.

10.4 Alumni Legacy Scholarships: A student attending a USHE institution on an Alumni Legacy Scholarship is considered to be domiciled in their home state. *See Board Policy R513, Tuition Waivers and Reductions* subsection 5.7 for further details regarding Alumni Legacy Scholarships.

10.5 Utah Tech University’s Good Neighbor Students: A student attending Utah Tech University on a Good Neighbor scholarship is considered to be domiciled in their home state. *See Board Policy R513, Tuition Waivers and Reductions* subsection 5.3.2 for further details regarding Good Neighbor scholarships.