



UTAH SYSTEM OF
HIGHER EDUCATION

MEMORANDUM

December 1, 2023

Board Policy Updates

Background

As outlined below, the Commissioner recommends approving amendments to four Board policies and a new Board policy based on requests from institutions and statutory updates or requirements.

R209. Evaluation of Presidents

The following amendments to Board Policy R209 are recommended based on feedback from Boards of Trustees and presidents:

- Changing the date presidents must submit their KPIs and progress reports to the Office of the Commissioner of Higher Education each year from July 31 to October 31.
- Adding September 1 of the prior year through August 31, the current year, as the time period that an annual KPI report should cover.

R255. Scheduling and Authorizing Use of Campus Facilities

The following amendments to Board Policy R255 are recommended based on [legislation](#) passed in the 2023 Utah General Legislative Session:

- Adding “political parties” as a group that has the right to access campus facilities. The institution may charge for the use of space for political parties consistent with [Utah Code section 20A-8-404](#).
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared the proposed changes with institution Policy Analysts, General Counsels, and Finance Vice Presidents for feedback.

R512. Resident Student Status

The following amendments to Board Policy R512 are recommended based on [legislation](#) passed in the 2023 Utah General Legislative Session:

- Additional resident student status exceptions for students who are:
 - Granted a special immigrant visa;
 - Granted refugee status or submitted in good faith an application for refugee status;
 - Granted humanitarian parole or submitted in good faith an application for humanitarian parole;

- Granted temporary protected status or submitted in good faith an application for temporary protected status;
- Granted asylum status or submitted in good faith an application for asylum status or
- Applied for permanent resident status; and
- Non-substantive edits for clarity and consistency with other Board policies.

The Office of the Commissioner shared the proposed changes with institution Residency Officers, Admission Officers, and General Counsels for feedback.

R608. Opportunity Scholarship

The following amendments to Board Policy R608 are recommended to clarify that there is only one track to attain scholarship eligibility for individuals who graduate from high school after 2022 and to promote clear understanding and consistency for students who apply for the scholarship:

- Removing “or later” after 2022 throughout the policy; and
- Non-substantive edits to grammar.

R264. Student Religious Accommodations

Board Policy R264, *Student Religious Accommodations*, is recommended as a new Board Policy based on the requirement of [Utah Code section 53B-27-405](#) that the Board establish a policy for student religious accommodations. The new Board Policy:

- Defines religious accommodations to course schedules;
- Explains how a student may request a religious accommodation;
- Outlines the circumstances under which an instructor must grant a religious accommodation for a student;
- Explains institution responsibilities (e.g., designate a point of contact, establish a grievance process, publish certain information on the institution’s website); and
- Requires the Board to distribute to USHE institutions a list of the dates of major religious holidays observed for the subsequent two years.

The Office of the Commissioner shared the proposed changes with institution Student Affairs Officers, Chief Diversity Officers, Policy Analysts, and General Counsels for feedback.

Interim Commissioner’s Recommendation

Interim Commissioner Landward recommends the Board approve revisions to Board Policies R209, R255, R512, and R608 and adopt new Board Policy R264.

Attachments

R264, Student Religious Accommodations¹

R264-1 The following policy has been codified as Utah Administrative Code R765-264.²

R264-2 References

- 2.1** Utah Code § 53B-1-102, Utah System of Higher Education
- 2.2** Utah Code § 53B-27-405, Student Religious Accommodations
- 2.3** Family Educational Rights and Privacy Act

R264-3 Policy

R765. Higher Education (Utah Board of) Administration.

R765-264. Student Religious Accommodations.

R765-264-1. Purpose.

This rule defines religious accommodations made to the schedule of a student's course at a Utah System of Higher Education institution, establishes how a student seeking an accommodation shall provide notice, and outlines the circumstances under which an institution must grant an accommodation. This policy does not cover religious accommodations for employees or religious accommodation requests beyond scheduling.

R765-264-2. Authority.

This rule is authorized by Section 53B-27-405.

R765-264-3. Definitions.

(1) "Designated Employee" means the person designated by an institution to handle requests for religious accommodations. At a degree-seeking institution, the designated employee is the instructor for the course for which a student seeks a religious accommodation. At a technical college the designated employee may be someone given responsibility to work with instructors to address requests for religious accommodations.

(2) "Religious Accommodation" means a schedule modification of an examination or academic requirement because of the student's faith, conscience, or participation in an organized activity under the student's religious tradition or religious organization. A religious accommodation may include, but is not limited to, rescheduling or providing a make-up exam, rescheduling a student's in-class presentation, allowing a make-up assignment to substitute for missed class work, changing a course assignment's due date, or excusing an absence from the course.

(3) "Religious Tradition" includes a religious, non-religious, theistic, or non-theistic moral or ethical tradition.

(4) "Sincerely Held Belief" includes a religious, non-religious, theistic, or non-theistic moral or ethical belief.

(5) "Undue Hardship" means significant difficulty.

¹ Adopted XXX.

² This administrative rule must also be approved by the Utah Office of Administrative Rules and minor, non-substantive edits to conform with the Utah Administrative Code style guide may be made.

R765-264-4. Religious Accommodations.

(1) Each institution shall reasonably accommodate a student's absence from an examination or other academic requirement if the student provides a written notice to the designated employee that the date and time that an examination or academic requirement is scheduled creates an undue hardship for the student due to the student's sincerely held belief based on the student's:

(a) faith or conscience; or

(b) participation in an organized activity conducted under the student's religious tradition or organization.

(2) Each designated employee who receives a student's written notice requesting a religious accommodation may:

(a) provide an alternative examination time before or after the regularly scheduled examination;

or

(b) make scheduling accommodations for other academic requirements related to the accommodation.

R765-264-5. Institution Requirements for the Religious Accommodations Process.

Each institution shall:

(1) identify an employee at the institution from whom students can seek information about student religious accommodations;

(2) establish a process for a student to request a religious accommodation that complies with Section 53B-27-405; and

(3) establish a process for a student to grieve the denial of a request for a religious accommodation.

R765-264-6. Institution's Website.

Each institution shall publish the following information on its website and update the information annually:

(1) this policy;

(2) the name and contact information of the employee at the institution from whom a student can seek information about student religious accommodations;

(3) the list of major religious holidays described in R765-264-9;

(4) a description of the general procedures for a student to request a religious accommodation;

and

(5) the grievance process described in R765-264-5.

R765-264-7 Confidentiality.

Each institution shall require its employees to keep a student's request for a religious accommodation and the student's beliefs and practices confidential and only share the information needed to evaluate or grant the request, or to process a grievance of a denial of a request.

R765-264-8 Retaliation Prohibited.

Under the institution's antidiscrimination policies, each institution shall prohibit its employees and students from engaging in retaliation against a student who has requested or is receiving a religious accommodation.

R765-264-9 Religious Holidays.

By December 1, 2023 and July 1 every year after, the Utah Board of Higher Education shall distribute to USHE institutions a list of the dates of religious holidays for the subsequent two years. A student may seek, and an institution may grant, a religious accommodation for a holiday that is not on the list.

R209, Evaluation of Presidents¹

R209-1 Purpose: The purpose of this policy is to establish procedures for the comprehensive performance evaluation of presidents in the Utah System of Higher Education. The comprehensive evaluation process will reflect the full scope of the president’s duties, general institutional oversight, and provide meaningful, substantive feedback from key constituents regarding the president’s efforts and areas of strength as well as areas that need improvement.

R209-2 References

- 2.1 Utah Code § 53B-2-102, Board to Appoint President of Each Institution
- 2.2 Board Policy R208, Institutional Liaisons

R209-3 Definitions

- 3.1 “**Key Performance Indicators**” mean indicators of progress toward the institution’s and the Board of Higher Education’s (“Board”) strategic plans.
- 3.2 “**Institutional Liaison**” means a Board member appointed under Board Policy R208, Institutional Liaisons, to serve as a liaison between the president and the Board.

R209-4 Annual Key Performance Indicators: Each year, each president shall meet with their institutional liaison(s) and executive leadership of the Board of Trustees to develop at least three key performance indicators (“performance indicators”) on which to focus that align with the Board’s strategic plan.

- 4.1 Except for new presidents who shall submit their first performance indicators within the first four months of their hire date, presidents shall submit their performance indicators and progress reports to the Office of the Commissioner of Higher Education (“OCHE”) no later than October 31 of each year.
- 4.2 The performance indicators must be approved by the Board through the institutional liaison(s), and either the institutional liaison(s) or the Commissioner of Higher Education (“Commissioner”) may require the president to reconsider some or all the performance indicators.
- 4.3 Upon approval of the key performance indicators, the Commissioner will notify the president and the Board of Trustees Chair.
- 4.4 Presidents in their first year of service shall develop the performance indicators within the first three months of their hire date.
- 4.5 Beginning the year after they have first developed performance indicators, each president shall annually file a report with the Board outlining their progress on the prior year’s performance indicators from September 1 of the prior year through August 31 of the current year.

R209-5 Comprehensive Evaluation: At least every fourth year, each president shall undergo a comprehensive evaluation of the prior three years of their performance. The evaluation will assess the president’s performance of the criteria outlined in subsection 5.2 and their progress toward the key performance indicators under section R209-4. The Board will retain a qualified consultant to conduct the

¹ Adopted April 26, 1977; amended July 27, 1977; May 17, 1983; September 11, 1987; July 21, 1989; November 4, 1994; November 3, 1995, April 22, 2005, April 3, 2009, April 1, 2010, March 29, 2013, March 28, 2014, February 9, 2018, May 18, 2023, and XXX.

evaluation including seeking information about the president's performance from the president, the institutional liaison(s), and relevant internal and external stakeholders which may include students, faculty, staff, administration, Trustees, donors, and/or lawmakers. Evaluations will begin in the fall of the third year and will be completed in the spring. To ensure adequate time and resources to conduct a meaningful evaluation of each president, the Board may adjust the schedules of individual presidents to provide for a relatively equal number of presidential evaluations each year. Either the Board or the president may request more frequent comprehensive evaluations, and the Board may request a follow-up to a performance evaluation at any time.

5.1 Guidelines for Evaluation: To make the evaluation process fair, meaningful, and effective, the comprehensive evaluation shall adhere to the following guidelines:

5.1.1 Objectivity: Objectivity extends to the criteria to be assessed, the use of verifiable data wherever possible, the process for completion of the evaluation, and the selection of persons who will participate in the evaluation.

5.1.2 Clearly Defined Criteria Related to the Institution's Missions and Goals: The criteria for evaluation must encompass an appropriate scope. The criteria shall include outcome standards that relate the actions of the president to the mission and goals of the institution as well as process criteria that describe the critical behaviors of effective leaders.

5.1.3 Meaningful Evaluation: Appraisal of a president's job performance should be made only by those in a position to observe that performance or who are directly impacted by the president's performance. Opinions concerning the president's performance will be limited to the president and those faculty, students, staff, and others in positions that afford them sufficient interaction with the president to make meaningful judgments.

5.1.4 Well Planned Implementation Schedule: The consultant shall establish a reasonable timetable for evaluation to provide an adequate period for collecting data, interviews, review, and feedback.

5.1.5 Self-Report: The president shall prepare a confidential self-evaluation based upon the evaluation criteria outlined in subsection 5.2 of this policy and the annual key performance indicators and shall submit the self-report to the evaluation consultant.

5.1.6 Confidentiality: Participants in the evaluation process shall maintain confidentiality. The consultant will assure those being interviewed that their responses will remain confidential and that only a composite of responses will be made available to the Board and the president.

5.1.7 Interviews: The Commissioner, the Board, the Board of Trustees, and the president may make recommendations to the consultant of relevant internal and external stakeholders the consultant should interview or seek comment from as part of the evaluation.

5.1.8 Responsibility for Cost: Although the Board will contract with the consultant, the president's institution shall be responsible for paying for the evaluation.

5.2 Evaluation Criteria: The consultant shall use the following criteria to evaluate the president's performance.

5.2.1 Vision, Mission, Strategic Planning, and Goals

5.2.1.1 The president has established a clear vision for the institution in line with its statutory mission, for the good of the System of Higher Education and tied to the Board's strategic goals, and the president understands their role in implementing that vision. The president's vision includes modeling and fostering

safety and belonging for students, staff, and faculty, closing attainment gaps for underrepresented students, and creating equal opportunity for faculty and staff.

5.2.1.2 The president has established long-range and short-range strategic goals around the mission and vision. The president has established baseline measurements for the strategic goals and is tracking measurable outcomes to assess the institution's progress toward achieving those goals.

5.2.1.3 The president has established strategies, tactics, benchmarks, and timelines to accomplish the strategic goals, and has effectively delegated responsibility for those goals.

5.2.1.4 The president has clearly and effectively communicated the strategic plan and its goals to the campus community and has kept the community informed about the institution's progress made toward those goals.

5.2.2 Campus Safety: The president creates a safe campus environment and programs and activities in which sexual misconduct and discrimination are unacceptable. The president ensures adequate resources for campus safety, and sexual misconduct and discrimination training, prevention, and grievance processes.

5.2.3 Belonging: The president prioritizes belonging and fosters an optimal environment that meets each student's needs.

5.2.4 Free Expression: The president encourages free expression and diversity of thought.

5.2.5 Federal and State Legal and Regulatory Compliance: The president is aware of legal, regulatory, and grant requirements applicable to their institution and is responsible for ensuring the institution's compliance with such requirements.

5.2.6 Institutional Fiscal Health

5.2.6.1 The president oversees and ensures the institution's fiscal health, including setting budget priorities that require efficient, effective, and appropriate use of resources.

5.2.6.2 The president establishes priorities for fiscal resources in a manner that is conducive to achieving institutional goals and objectives.

5.2.6.3 The president evaluates fiscal and budget matters as often and rigorously as is necessary to properly oversee their budget and finance officers' performances.

5.2.7 Academic/Instructional Leadership and Planning

5.2.7.1 The president's strategic planning, priorities, and goals support the critical roles of scholarship, intellectual diversity, and academic freedom under Board Policy R481, *Academic Freedom, Professional Responsibility, Tenure, Termination, and Post-Tenure Review*.

5.2.7.2 In overseeing the institution's academic/instructional mission, the president has appropriately prioritized teaching quality and focused on students and curriculum to ensure student success.

5.2.7.3 The president has directed their academic staff to maintain an effective academic program review procedure designed to serve as a basis for allocating staff, evaluating the quality of instruction, and implementing the institution's strategic goals.

5.2.7.4 The president has fostered collaboration with businesses, industries, and government to identify workforce needs and adjusted program offerings to support workforce needs.

5.2.7.5 In addition to the criteria listed in this section, the Board, in consultation with the president, may establish review criteria that is specific to the institution's mission and role, such as research, teaching, outreach, public engagement, or technical education.

5.2.8 Personnel

5.2.8.1 The president's leadership fosters a positive work environment for faculty and staff.

5.2.8.2 The president holds their executive team members and direct reports accountable for their performance through regular performance evaluations and takes corrective action when necessary to address misconduct and further enhance the institution's effectiveness.

5.2.8.3 The president seeks the counsel of their executive team and ensures they are focused on the institution's strategic priorities.

5.2.8.4 The president effectively determines which issues are the proper responsibility of their executive team and which issues require the action by the president, and appropriately delegates responsibility.

5.2.8.5 The president utilizes the data outlined in *Board Policy R805, Gender, Race, and Ethnicity Representation within the Utah System of Higher Education Workforce* to narrow faculty and staff representation and compensation gaps, including increasing recruitment and retention of underrepresented staff and faculty.

5.2.9 Decision Making and Problem Solving

5.2.9.1 The president assumes responsibility for their decisions and endeavors to fully understand issues prior to making a decision.

5.2.9.2 The president effectively prioritizes to ensure the most important issues are adequately resourced and addressed.

5.2.9.3 The president shows an ability to identify potential areas of conflict and proactively find solutions before problems escalate.

5.2.9.4 The president demonstrates an understanding of how the interrelated natures of budgeting, curriculum, equity, social and political realities, group interests and pressures, and laws and regulations impact the management of the institution.

5.2.9.5 The president initiates new ideas and embraces change when necessary to meet the institution's strategic goals and vision. The president seeks to obtain support from stakeholders and sees new ideas to completion.

5.2.10 External Relations and Fundraising

5.2.10.1 The president establishes positive relationships with the community in which the institution is located.

5.2.10.2 The president oversees and encourages a robust alumni program.

5.2.10.3 The president oversees a fundraising/development program that has clear goals and strategies. The president actively cultivates relationships with donors, effectively promotes the institution’s vision, and shows successful fundraising efforts.

5.2.10.4 The president successfully navigates relationships with legislators, the Governor’s office, other state and federal agencies, and with other public officials on matters affecting the institution. The president shows a strong understanding of the political environment’s impact on the institution and is able to properly adjust strategies in the face of those realities.

5.2.11 Relationship to the Institutional Board of Trustees and to the Board of Higher Education

5.2.11.1 The president must make progress toward System-wide priorities.

5.2.11.2 The president provides professional leadership to the Board of Trustees.

5.2.11.3 The president has presented a strategic plan and vision for the Board of Trustees to review and approve. The president regularly updates the Board of Trustees and Board of Higher Education about the institution’s progress towards its strategic goals and seeks counsel or assistance when issues arise that may prevent the institution from reaching a goal.

5.2.11.4 The president engages with the Board of Trustees regularly to report progress, involve the Trustees in decisions, and update the Trustees on institutional issues.

5.2.11.5 When serious challenges for the institution arise, the president engages the Board of Trustees and the Board of Higher Education appropriately and recommends the best course of action.

5.2.11.6 The president successfully oversees the institution’s day-to-day operations and is able to carry out duties which have been or may be delegated or assigned by the Board of Higher Education or the Board of Trustees.

5.2.12 Student Success: The president establishes expectations and goals for themselves, faculty, and staff regarding retention, completion rates, affordability, safety and mental health, student success and well-being, and career and academic counseling.

5.2.13 System Impact and Collaboration

5.2.13.1 The president promotes collegiality among presidents in the System.

5.2.13.2 The president collaborates with other presidents including through regional partnerships.

5.2.13.3 The president supports the Board’s strategic initiatives and seeks ways to improve the Utah System of Higher Education as a whole.

5.2.13.4 The president informs the Commissioner and Board Chair of major institutional issues or issues that may have an impact on the Utah System of Higher Education as a whole.

5.3 Evaluation Report

5.3.1 Report Content: The evaluation consultant shall compile information gathered during the evaluation in a confidential, written report, documenting the president’s strengths and areas for future focus and improvement.

5.3.2 Opportunity for Response: The consultant will submit the final report to the president and the president will have an opportunity to provide a written response to the report.

5.3.3 Review by Board of Higher Education: The consultant shall send the final report and the president's response and self-evaluation to the Commissioner and the Commissioner shall share the report with the Board.

5.3.4 Meeting with Commissioner and Board of Higher Education Officers: As soon as practical, the president will meet with the Commissioner, the Board Chair and Vice-Chair, and the Chair and Vice-Chair of the Board of Trustees to review the findings and recommendations.

5.3.5 Retention of Report in Personnel File: A copy of the evaluation report, together with a copy of the president's self-evaluation and response to the report, will be retained as a confidential record in the president's personnel file.

5.4 Supervision and Leadership Support: As directed by the Board, the Commissioner shall provide supervision, guidance, and support to presidents based on comprehensive performance evaluations and annual key performance indicators. Presidents may seek leadership support and guidance from the Board as needed through the Commissioner and OCHE.

5.5 Corrective Action: Presidents are at will and serve at the pleasure of the Board. Due to a president's at will status, the Board may terminate a president with or without cause. However, at any point during a president's tenure, including immediately following a performance evaluation, the Board Chair and Vice-Chair have discretion to take corrective action against a president. A president may be terminated only upon approval of the Board.

5.6 Confidentiality: The evaluation report, including all interviews, notes, drafts, records of meetings conducted during the course of the evaluation, all recommendations and responses, are private personnel records protected from disclosure under Utah Code section 63G-2-302(2)(a).

R209-6 Professional Development: The Office of the Commissioner will invest in institution presidents by connecting them with and providing management and leadership resources and professional development opportunities related to the evaluation criteria outlined in subsection 5.2. These resources and opportunities may be funded by the institution(s).

R209, Evaluation of Presidents¹

R209-1 Purpose: The purpose of this policy is to establish procedures for the comprehensive performance evaluation of presidents in the Utah System of Higher Education. The comprehensive evaluation process will reflect the full scope of the president's duties, general institutional oversight, and provide meaningful, substantive feedback from key constituents regarding the president's efforts and areas of strength as well as areas that need improvement.

R209-2 References

- 2.1 Utah Code § 53B-2-102, Board to Appoint President of Each Institution
- 2.2 Board Policy R208, Institutional Liaisons

R209-3 Definitions

- 3.1 **“Key Performance Indicators”** mean indicators of progress toward the institution's and the Board of Higher Education's (“Board”) strategic plans.
- 3.2 **“Institutional Liaison”** means a Board member appointed under Board Policy R208, Institutional Liaisons, to serve as a liaison between the president and the Board.

R209-4 Annual Key Performance Indicators: Each year, each president shall meet with their institutional liaison(s) and executive leadership of the Board of Trustees to develop at least three key performance indicators (“performance indicators”) on which to focus that align with the Board's strategic plan.

- 4.1 Except for new presidents who shall submit their first performance indicators within the first four months of their hire date, presidents shall submit their performance indicators and progress reports to the Office of the Commissioner of Higher Education (“OCHE”) no later than ~~October~~July 31 of each year.
- 4.2 The performance indicators must be approved by the Board through the institutional liaison(s), and either the institutional liaison(s) or the Commissioner of Higher Education (“Commissioner”) may require the president to reconsider some or all the performance indicators.
- 4.3 Upon approval of the key performance indicators, the Commissioner will notify the president and the Board of Trustees Chair.
- 4.4 Presidents in their first year of service shall develop the performance indicators within the first three months of their hire date.
- 4.5 Beginning the year after they have first developed performance indicators, each president shall annually file a report with the Board outlining their progress on the prior year's performance indicators from September 1 of the prior year through August 31 of the current year.

R209-5 Comprehensive Evaluation: At least every fourth year, each president shall undergo a comprehensive evaluation of the prior three years of their performance. The evaluation will assess the president's performance of the criteria outlined in subsection 5.2 and their progress toward the key performance indicators under section R209-4. The Board will retain a qualified consultant to conduct the

¹ Adopted April 26, 1977; amended July 27, 1977; May 17, 1983; September 11, 1987; July 21, 1989; November 4, 1994; November 3, 1995, April 22, 2005, April 3, 2009, April 1, 2010, March 29, 2013, March 28, 2014, February 9, 2018, ~~and~~ May 18, 2023, ~~and~~ XXX.

evaluation including seeking information about the president's performance from the president, the institutional liaison(s), and relevant internal and external stakeholders which may include students, faculty, staff, administration, Trustees, donors, and/or lawmakers. Evaluations will begin in the fall of the third year and will be completed in the spring. To ensure adequate time and resources to conduct a meaningful evaluation of each president, the Board may adjust the schedules of individual presidents to provide for a relatively equal number of presidential evaluations each year. Either the Board or the president may request more frequent comprehensive evaluations, and the Board may request a follow-up to a performance evaluation at any time.

5.1 Guidelines for Evaluation: To make the evaluation process fair, meaningful, and effective, the comprehensive evaluation shall adhere to the following guidelines:

5.1.1 Objectivity: Objectivity extends to the criteria to be assessed, the use of verifiable data wherever possible, the process for completion of the evaluation, and the selection of persons who will participate in the evaluation.

5.1.2 Clearly Defined Criteria Related to the Institution's Missions and Goals: The criteria for evaluation must encompass an appropriate scope. The criteria shall include outcome standards that relate the actions of the president to the mission and goals of the institution as well as process criteria that describe the critical behaviors of effective leaders.

5.1.3 Meaningful Evaluation: Appraisal of a president's job performance should be made only by those in a position to observe that performance or who are directly impacted by the president's performance. Opinions concerning the president's performance will be limited to the president and those faculty, students, staff, and others in positions that afford them sufficient interaction with the president to make meaningful judgments.

5.1.4 Well Planned Implementation Schedule: The consultant shall establish a reasonable timetable for evaluation to provide an adequate period for collecting data, interviews, review, and feedback.

5.1.5 Self-Report: The president shall prepare a confidential self-evaluation based upon the evaluation criteria outlined in subsection 5.2 of this policy and the annual key performance indicators and shall submit the self-report to the evaluation consultant.

5.1.6 Confidentiality: Participants in the evaluation process shall maintain confidentiality. The consultant will assure those being interviewed that their responses will remain confidential and that only a composite of responses will be made available to the Board and the president.

5.1.7 Interviews: The Commissioner, the Board, the Board of Trustees, and the president may make recommendations to the consultant of relevant internal and external stakeholders the consultant should interview or seek comment from as part of the evaluation.

5.1.8 Responsibility for Cost: Although the Board will contract with the consultant, the president's institution shall be responsible for paying for the evaluation.

5.2 Evaluation Criteria: The consultant shall use the following criteria to evaluate the president's performance.

5.2.1 Vision, Mission, Strategic Planning, and Goals

5.2.1.1 The president has established a clear vision for the institution in line with its statutory mission, for the good of the System of Higher Education and tied to the Board's strategic goals, and the president understands their role in implementing that vision. The president's vision includes modeling and fostering

safety and belonging for students, staff, and faculty, closing attainment gaps for underrepresented students, and creating equal opportunity for faculty and staff.

5.2.1.2 The president has established long-range and short-range strategic goals around the mission and vision. The president has established baseline measurements for the strategic goals and is tracking measurable outcomes to assess the institution's progress toward achieving those goals.

5.2.1.3 The president has established strategies, tactics, benchmarks, and timelines to accomplish the strategic goals, and has effectively delegated responsibility for those goals.

5.2.1.4 The president has clearly and effectively communicated the strategic plan and its goals to the campus community and has kept the community informed about the institution's progress made toward those goals.

5.2.2 Campus Safety: The president creates a safe campus environment and programs and activities in which sexual misconduct and discrimination are unacceptable. The president ensures adequate resources for campus safety, and sexual misconduct and discrimination training, prevention, and grievance processes.

5.2.3 Belonging: The president prioritizes belonging and fosters an optimal environment that meets each student's needs.

5.2.4 Free Expression: The president encourages free expression and diversity of thought.

5.2.5 Federal and State Legal and Regulatory Compliance: The president is aware of legal, regulatory, and grant requirements applicable to their institution and is responsible for ensuring the institution's compliance with such requirements.

5.2.6 Institutional Fiscal Health

5.2.6.1 The president oversees and ensures the institution's fiscal health, including setting budget priorities that require efficient, effective, and appropriate use of resources.

5.2.6.2 The president establishes priorities for fiscal resources in a manner that is conducive to achieving institutional goals and objectives.

5.2.6.3 The president evaluates fiscal and budget matters as often and rigorously as is necessary to properly oversee their budget and finance officers' performances.

5.2.7 Academic/Instructional Leadership and Planning

5.2.7.1 The president's strategic planning, priorities, and goals support the critical roles of scholarship, intellectual diversity, and academic freedom under Board Policy R481, *Academic Freedom, Professional Responsibility, Tenure, Termination, and Post-Tenure Review*.

5.2.7.2 In overseeing the institution's academic/instructional mission, the president has appropriately prioritized teaching quality and focused on students and curriculum to ensure student success.

5.2.7.3 The president has directed their academic staff to maintain an effective academic program review procedure designed to serve as a basis for allocating staff, evaluating the quality of instruction, and implementing the institution's strategic goals.

5.2.7.4 The president has fostered collaboration with businesses, industries, and government to identify workforce needs and adjusted program offerings to support workforce needs.

5.2.7.5 In addition to the criteria listed in this section, the Board, in consultation with the president, may establish review criteria that is specific to the institution's mission and role, such as research, teaching, outreach, public engagement, or technical education.

5.2.8 Personnel

5.2.8.1 The president's leadership fosters a positive work environment for faculty and staff.

5.2.8.2 The president holds their executive team members and direct reports accountable for their performance through regular performance evaluations and takes corrective action when necessary to address misconduct and further enhance the institution's effectiveness.

5.2.8.3 The president seeks the counsel of their executive team and ensures they are focused on the institution's strategic priorities.

5.2.8.4 The president effectively determines which issues are the proper responsibility of their executive team and which issues require the action by the president, and appropriately delegates responsibility.

5.2.8.5 The president utilizes the data outlined in *Board Policy R805, Gender, Race, and Ethnicity Representation within the Utah System of Higher Education Workforce* to narrow faculty and staff representation and compensation gaps, including increasing recruitment and retention of underrepresented staff and faculty.

5.2.9 Decision Making and Problem Solving

5.2.9.1 The president assumes responsibility for their decisions and endeavors to fully understand issues prior to making a decision.

5.2.9.2 The president effectively prioritizes to ensure the most important issues are adequately resourced and addressed.

5.2.9.3 The president shows an ability to identify potential areas of conflict and proactively find solutions before problems escalate.

5.2.9.4 The president demonstrates an understanding of how the interrelated natures of budgeting, curriculum, equity, social and political realities, group interests and pressures, and laws and regulations impact the management of the institution.

5.2.9.5 The president initiates new ideas and embraces change when necessary to meet the institution's strategic goals and vision. The president seeks to obtain support from stakeholders and sees new ideas to completion.

5.2.10 External Relations and Fundraising

5.2.10.1 The president establishes positive relationships with the community in which the institution is located.

5.2.10.2 The president oversees and encourages a robust alumni program.

5.2.10.3 The president oversees a fundraising/development program that has clear goals and strategies. The president actively cultivates relationships with donors, effectively promotes the institution's vision, and shows successful fundraising efforts.

5.2.10.4 The president successfully navigates relationships with legislators, the Governor's office, other state and federal agencies, and with other public officials on matters affecting the institution. The president shows a strong understanding of the political environment's impact on the institution and is able to properly adjust strategies in the face of those realities.

5.2.11 Relationship to the Institutional Board of Trustees and to the Board of Higher Education

5.2.11.1 The president must make progress toward System-wide priorities.

5.2.11.2 The president provides professional leadership to the Board of Trustees.

5.2.11.3 The president has presented a strategic plan and vision for the Board of Trustees to review and approve. The president regularly updates the Board of Trustees and Board of Higher Education about the institution's progress towards its strategic goals and seeks counsel or assistance when issues arise that may prevent the institution from reaching a goal.

5.2.11.4 The president engages with the Board of Trustees regularly to report progress, involve the Trustees in decisions, and update the Trustees on institutional issues.

5.2.11.5 When serious challenges for the institution arise, the president engages the Board of Trustees and the Board of Higher Education appropriately and recommends the best course of action.

5.2.11.6 The president successfully oversees the institution's day-to-day operations and is able to carry out duties which have been or may be delegated or assigned by the Board of Higher Education or the Board of Trustees.

5.2.12 Student Success: The president establishes expectations and goals for themselves, faculty, and staff regarding retention, completion rates, affordability, safety and mental health, student success and well-being, and career and academic counseling.

5.2.13 System Impact and Collaboration

5.2.13.1 The president promotes collegiality among presidents in the System.

5.2.13.2 The president collaborates with other presidents including through regional partnerships.

5.2.13.3 The president supports the Board's strategic initiatives and seeks ways to improve the Utah System of Higher Education as a whole.

5.2.13.4 The president informs the Commissioner and Board Chair of major institutional issues or issues that may have an impact on the Utah System of Higher Education as a whole.

5.3 Evaluation Report

5.3.1 Report Content: The evaluation consultant shall compile information gathered during the evaluation in a confidential, written report, documenting the president's strengths and areas for future focus and improvement.

5.3.2 Opportunity for Response: The consultant will submit the final report to the president and the president will have an opportunity to provide a written response to the report.

5.3.3 Review by Board of Higher Education: The consultant shall send the final report and the president's response and self-evaluation to the Commissioner and the Commissioner shall share the report with the Board.

5.3.4 Meeting with Commissioner and Board of Higher Education Officers: As soon as practical, the president will meet with the Commissioner, the Board Chair and Vice-Chair, and the Chair and Vice-Chair of the Board of Trustees to review the findings and recommendations.

5.3.5 Retention of Report in Personnel File: A copy of the evaluation report, together with a copy of the president's self-evaluation and response to the report, will be retained as a confidential record in the president's personnel file.

5.4 Supervision and Leadership Support: As directed by the Board, the Commissioner shall provide supervision, guidance, and support to presidents based on comprehensive performance evaluations and annual key performance indicators. Presidents may seek leadership support and guidance from the Board as needed through the Commissioner and OCHE.

5.5 Corrective Action: Presidents are at will and serve at the pleasure of the Board. Due to a president's at will status, the Board may terminate a president with or without cause. However, at any point during a president's tenure, including immediately following a performance evaluation, the Board Chair and Vice-Chair have discretion to take corrective action against a president. A president may be terminated only upon approval of the Board.

5.6 Confidentiality: The evaluation report, including all interviews, notes, drafts, records of meetings conducted during the course of the evaluation, all recommendations and responses, are private personnel records protected from disclosure under Utah Code section 63G-2-302(2)(a).

R209-6 Professional Development: The Office of the Commissioner will invest in institution presidents by connecting them with and providing management and leadership resources and professional development opportunities related to the evaluation criteria outlined in subsection 5.2. These resources and opportunities may be funded by the institution(s).



R255, Scheduling and Authorizing Use of Campus Facilities¹

R255-1 Purpose: This policy provides guidelines for institutional policy and standards for scheduling and authorizing use of campus facilities in the Utah System of Higher Education.

R255-2 References

- 2.1** Utah Code § 20A-8-404, Use of Public Meeting Buildings by Political Parties
- 2.2** Utah Code § 53B-1-102, Utah System of Higher Education
- 2.3** Utah Code § 53B-2-106, Duties and Responsibilities of the President
- 2.4** Utah Code Title 53B, Chapter 3, Enforcement of Regulations at Institutions
- 2.5** Utah Code Title 76, Chapter 8, Part 7, Colleges and Universities
- 2.7** Board Policy R253, Campus Discipline

R255-3 Definitions

- 3.1** “Institution” means an institution within the Utah System of Higher Education under Utah Code section 53B-1-102.

R255-4 Guidelines and Principles

4.1 Constitutional Authority to Schedule Campus Facilities: An institution authorizing and scheduling the use of its facilities and grounds for the work of the institution, its functions, their maintenance, and necessary use, does not impair in any way the constitutional right of individuals to petition and assemble. The right of assembly on campus facilities, whether by the public, political parties, alumni, faculty, staff, or students, is subject to the authority and responsibility of each institution to schedule the use of its facilities and an institution may charge for use of space. When charging a political party to use a campus facility, an institution must comply with Utah Code section 20A-8-404.

4.2 Convenient and Appropriate Scheduling: The Utah Board of Higher Education (“Board”) finds as a matter of fact and public policy that curricular and extracurricular matters have been successfully scheduled for many years on each campus, and, that unscheduled or unauthorized uses interfere with the disciplines of learning and free inquiry. The Board, therefore, directs that each institution in its regulations shall provide convenient and appropriate means for authorizing and scheduling the use of campus facilities as it deems appropriate for such

¹ *Adopted October 27, 1970; amended XXX.*

use. Unauthorized or unscheduled use of the campus facilities may be subject to such discipline as determined by the institution's regulations.

R255, Scheduling and Authorizing Use of Campus Facilities¹

R255-1 Purpose: ~~This policy~~ provides guidelines for ~~the establishment of~~ institutional policy and standards for scheduling and authorizing use of campus facilities in the Utah System of Higher Education.

R255-2 References

- 2.1 Utah Code § 20A-8-404, Use of Public Meeting Buildings by Political Parties
- 2.2 Utah Code § 53B-1-102, Utah System of Higher Education
- 2.3 Utah Code § 53B-2-106, (Duties and Responsibilities of the President)
- 2.4~~2~~ Utah Code Title 53B, Chapter 3, (Enforcement of Regulations at Institutions)
- 2.5~~3~~ Utah Code Title 76, Chapter 8, Part 7, (Criminal Offenses Against Colleges and Universities)
- 2.4 Policy and Procedures R120, Bylaws of the State Board of Regents; §3.3.3.1. (Responsibility of Presidents)
- 2.7~~5~~ Board Policy and Procedures R253, Campus Discipline

R255-3 Definitions

- 3.1 “Institution” means an institution within the Utah System of Higher Education under Utah Code section 53B-1-102.

R255-~~43~~ Guidelines and Principles

~~43.1~~ Constitutional Authority to Schedule Campus Facilities: An institution ~~a~~Authorizing and scheduling the use of ~~their-its respective~~ facilities and grounds for the work of the institution, its functions, their maintenance, and necessary use, does not impair in any way the constitutional right of individuals to petition and assemble. The right of assembly on campus facilities, whether by the public, political parties, alumni, faculty, staff, or students, is subject to the authority and responsibility of each institution to schedule the use of its facilities and an institution may in appropriate cases to require rental charge for use of space therefore. When charging a political party to use a campus facility, an institution must comply with Utah Code section 20A-8-404. ~~;~~

~~43.2~~ Convenient and Appropriate Scheduling: The Utah Board of Higher Education (“Board”) ~~of Regents~~ finds as a matter of fact and public policy that curricular and extracurricular matters have been successfully scheduled for many years on each campus, and, that unscheduled

¹ Adopted October 27, 1970; amended XXX.

or unauthorized uses interfere with the disciplines of learning and free inquiry. The Board, therefore, directs that each institution in its regulations shall provide convenient and appropriate means for authorizing and scheduling the use of campus facilities as it deems appropriate for such use. Unauthorized or unscheduled use of the ~~same-campus facilities shall may~~ be subject to such discipline as determined by ~~institutional~~ the institution's regulations.

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.²

R512-2 References

- 2.1 Utah Code § 53B-8-102, Definitions – Resident Student Status
- 2.2 Utah Code § 41-1a-202, Definitions
- 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 United States Code Title 38, Veterans’ Benefits
- 2.6 Board Policy R134, Informal Adjudicative Proceedings under the Utah Administrative Procedures Act
- 2.7 Board Policy R510, Tuition
- 2.8 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.

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:

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, and XXX.

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

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.

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.

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 GI Bill benefits; 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 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 5.3.5.1.

5.3.4 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.

5.3.5 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).

5.3.5.1 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:

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

5.3.5.1.2 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;

5.3.5.1.3 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;

5.3.5.1.4 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;

5.3.5.1.5 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;

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

5.3.5.1.7 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

5.3.5.1.8 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.

5.3.5.2 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.

5.3.5.3 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.

5.3.6 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.

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

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

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

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

5.3.7.3 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.

5.3.8 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.

5.3.8.1 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 .

5.3.9 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](#); 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* 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, 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, subsection 5.3.2* for further details regarding Good Neighbor scholarships.

R512, ~~Determination of Resident~~ Student Status¹

R512-1 Purpose: ~~This policy define who qualifies for “resident” student status for purposes of tuition in theat Utah System of Higher Education (“USHE”) institutions, establishes criteria Utah System of Higher Education (“USHE”) institutions shall use when determining resident student status, reviews exceptions, and ,and provides minimum standards for an appeal of a denial of resident student status.address² hearing.~~

R512-2 References

~~2.1~~2.1 -Utah Code § 53B-8-102, Definitions ~~– of Resident Student~~ Status

~~2.2~~2.2 -Utah Code § 41-1a-202, Definitions ~~of Domicile~~

~~2.3~~ ~~2.3~~ -Utah Code Title 53B, Chapter 8§ 53B-8-1, Tuition Waivers and Scholarships

~~2.4~~ ~~2.4~~ -Utah Code § 59-10-502, Persons Required to File Returns

~~2.5~~ United States Code Title 38 U.S.C, Veterans’ Benefits

~~2.6~~ Board Policy R134, Informal Adjudicative Proceedings under the Utah Administrative Procedures Act

~~2.7~~ ~~2.64~~ -Board Policy R510, Tuition

~~2.8~~ ~~2.75~~ -Board Policy R513, Tuition Waivers and 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 the student is seeking resident student status ~~is being sought~~.

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, ~~and~~ September 16, 2022, and XXX.*

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

3.2 “Domicile” ~~is means a term that is 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) 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.

~~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 their former domicile. To acquire a domicile of choice in a place, a person must intend to make that place their 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 unmarried dependent child of the individual requesting resident student status.

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

3.4.1 ~~S~~erving ~~on~~ active duty in the United States Armed Forces within the state of Utah; ~~or an individual who is~~

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

3.4.3; ~~or an individual who is~~ A member of the Utah National Guard; ~~or an individual who maintains~~

3.4.4 Maintaining domicile in Utah, as described in subsection ~~5.3.2.6~~ **5.3.2.6.1.6**, 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;~~ 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. ~~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 United States Code - Veterans’ Benefits ~~Title 38 U. S. 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 ~~the condition of being 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 ~~that is more than a mere preponderance and is definite, clear, and convincing.~~

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

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

R512-4 Resident Student Status Institution Policies for Determining Resident Student Status

4.1 Establishing Resident Student Status: A student will be granted resident student status after they:

4.1.1 Have acquired domicile in Utah; or

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

4.1.2 Policies for Determining Resident Student Status

4.2.1 Policies for Students Enrolled in **Credit-Bearing Degree**

Programs: ~~Each I~~ institutions shall ~~have the responsibility of~~ be responsible to determining resident student status ~~according to the requirements of in under Utah Code sSection 53B-8-102 Utah Code section 53B-8-102~~ and this policy.

Except as provided in subsections 5.3.1 and 5.3.2, ~~e~~ Each institution may, ~~at its discretion, and~~ at the recommendation of ~~its the P~~ president, implement an institutional its own policy regarding the criteria for determining resident student status for either undergraduate students or graduate students, or both, in credit-bearing d degree programs, that deviates from ~~the criteria set forth in this~~

policy, provided ~~that the policy the criteria implemented by the institution is~~ stricter. ~~The institution's policy shall not be more lenient than require at least ing~~ a one-year waiting period for a student who has come to Utah for the purpose of attending an institution of higher education-USHE institutions as described in subsection 5.3.5.

4.2.2 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 institutions offering non-credit courses or programs may, ~~at their discretion,~~ implement a policy that ~~does not require~~ require a residency resident student status determination or classification need not be required for students enrolled in non-credit courses or programs.

4.2.3. Policies for Students Enrolled at Technical Colleges: Because most technical education ~~programs are~~ short-term, ~~(i.e., requires less than a year to complete), a~~ USHE technical colleges, ~~or~~ ~~and~~ ~~degree-granting institutions~~ with a technical college role, may, ~~at their discretion,~~ implement a policy that ~~does not require~~ a resident student status determination or classification for students enrolled in technical education courses or programs ~~to establish residency.~~

4.2.4 Exception to Establishing Resident Student Status: Each institution may, at its discretion, and at the recommendation of the ~~P~~president, ~~implement its own policy regarding the criteria for resident student status for either undergraduate students or graduate students, or both, in credit-bearing Ddegree 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 subsection 5.1.~~

R512-5 Determining Resident Student Status

5.1 Establishing Resident Student Status: A student will be granted resident student status ~~for tuition purposes~~ 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 ~~4.10~~ **Procedures for Determining Resident Student Status:** ~~If a student desires to be granted resident student status, they must~~ A student shall comply with the following procedures to apply for resident student status:

5.2.1 ~~5.4.102.1~~ **Application Deadline:** Students must meet institutional application deadlines for each term. Institutions may establish a policy regarding acceptance of for accepting late residency 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 ~~5.4.102.2~~ **Initial Classification:** Each institution Institutions shall initially classify all applicants as either as either resident ~~student status~~ or nonresident. If there is doubt concerning regarding residency ~~cyt student status~~, the applicant shall be classified institution shall classify the student as a nonresident.

~~of one full year~~

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 to attend 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 ~~specifically~~ required by ~~the~~ applicable section(s) of this policy.

5.2.3.1 Additionally, a student may be required to file any or all ~~of~~ 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 ~~might~~ ~~be~~are familiar with the family situation;

5.2.3.1.4 The student's ~~b~~Birth certificate;

5.2.3.1.5 The student's ~~m~~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 visas; and

5.2.3.1.8 Indicia of Utah ~~d~~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.

~~5.2.3.29 Declaration of Financial Independence:~~ In addition to submitting objective evidence of domicile, a ~~person~~student seeking resident student status must also submit a declaration of financial independence, which must include, at a minimum, evidence that the ~~person~~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 ~~for a Student~~ to Obtain Resident Student Status:

Notwithstanding section 5.2, i~~nstitutions shall grant resident student status for tuition purposes~~-at USHE institutions to students who meet ~~the criteria~~one of the exceptions outlined in subsection 5.3.

~~4.10.3 Application for Reclassification: Every student classified as a nonresident shall retain that status until they are officially reclassified as a resident.~~

~~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.~~

54.3.14 International Students Exception

~~54.34.1.1 Classification of An International Students Who are in the United States on a Nonimmigrant Visas: A sStudent, s who is are an 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~~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.~~

54.34.1.22 Exceptions to International Student Exception

~~5.3.1.2.1 Classification of International Students Who are in the United States on Immigrant Visas: A s~~Students who is

~~are~~ aliens and ~~who have~~has been granted ~~immigrant or~~hasve applied for permanent resident status in the ~~U.S.~~United States; shall be classified for purposes of resident student status according to the same criteria applicable to U.S. citizens.

~~4.4.2.23~~ **International Students Who Have Obtained Asylum or Refugee Status:** ~~A sis anisa ses~~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.~~

5.3.2 Military Service Exception

5.3.2.1 ~~A military service member who provides:~~

5.3.2.1.1 ~~A military service member, if the military service member p~~Provides the military service member's current United States military identification card, and:

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

5.3.2.1.1.3 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, if the military service member's immediate family member who provides the:

5.3.2.2.1 ~~(1)~~ The ~~m~~military service member's current United States military identification card; or

5.3.2.2.2 ~~(2)~~ The ~~i~~the immediate family member's current United States military identification card, and:

5.3.2.2.3~~2~~ 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.

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

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

5.3.2.3.2 A signed written declaration that ~~the military veteran has~~ 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

5.3.2.3.6 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 ~~which may include any one of the items described in subsection 5.3.2.3.3~~.

5.3.2.5 An eligible person who provides:

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

5.3.2.5.2 A signed written declaration that the eligible person will utilize GI Bill benefits; 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, ~~which may include any one of the items described in subsection 5.3.2.3.3.~~

5.3.2.6 Evidence of domicile ~~in subsections 5.3.2.1 and 5.3.2.12~~ 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.

54.3.35 Marriage to Utah Resident ~~Exception:~~ A ~~person-student~~ may immediately apply for resident student status when they who marries marry a Utah resident ~~is eligible to be granted resident student status after they have and have established acquired~~ domicile in Utah as demonstrated by objective evidence ~~described~~ in subsection 5.3.5.1.

4.6 Burden of Proof: 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 the student seeks to attend as a resident student. Except as set forth in subsection 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.~~

54.3.47 Receipt of State Social Services Benefits Exception: A ~~person-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 ~~person-student is governed by the~~ shall be subject to the standards applicable to other persons for determining requirements of subsection 5.2.3-resident student status. ~~Any~~ The time spent residing in Utah during the time the ~~individual student~~ received government aid shall count towards any applicable waiting period for ~~Utah residency-resident student status 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, they 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 they are officially reclassified as a resident.~~

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 of Higher Education (“OCHE”).

~~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 they have met the residency requirements. Students shall be given copies of the Board’s 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 Board Policy R513 Board 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 Board Policy R513 Board 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 their home state. See subsection 8 of Board Policy R513 See Board 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 their 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 their home state. See Board Policy R513 See subsection 8 of Board 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 their home state. ~~See subsection 17 of Board Policy R513. See Board Policy R513-17 for further details regarding Alumni Legacy Scholarships.~~

~~4.13.5 Utah Tech University's Good Neighbor Students:~~ The students attending Utah Tech University under this scholarship are considered to be domiciled in their home state. ~~See subsection 4.2 of Board Policy R513. See Board Policy R513-4.2. for further details regarding Good Neighbor Students.~~

~~R512.55.3.5~~ **“Student Who Has Come to Utah fFor the Purpose of Attending an Institution of Higher Education-Exception”
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 ~~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 ~~to attend as a~~ resident student status, the student has: (1)

~~5.1.1 m~~ maintained continuous Utah residency ~~status~~ for one full year; (2)

~~5.1.2 s~~ submitted a written declaration that the student has relinquished residency in any other state; (3)

~~5.1.3 s~~ 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)

~~5.1.4 s~~ 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 ~~5.2.3.29~~.4.12 above*)

5.25.3.5.1 Evidence Required: ~~A s~~Students applying for resident student status under this section ~~are 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:

5.3.5.1.1 ~~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;

5.3.5.1.2 ~~5.2.2~~ A Utah voter registration dated a reasonable period (~~(generally~~ at least meaning within the past 90 days)) prior to the first day of class of the term for which the student is seeking resident student status;

5.3.5.1.3 ~~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 student status;

5.3.5.1.4 ~~5.2.4~~ A Utah vehicle registration dated a reasonable period (generally at least meaning within the past 90 days) prior to the first day of class of the term for which the student is seeking resident student status;

5.3.5.1.5 ~~5.2.5~~ Evidence of employment in Utah for a reasonable period (generally meaning within the past at least 90 days) prior to the first day of class of the term for which the student is seeking resident student status;

5.3.5.1.6 ~~5.2.6~~ Proof of payment of Utah resident income tax for the previous year;

~~5.3.5.1.7 5.2.7~~ A rental agreement or mortgage document showing the student's name and Utah address for at least ~~12 months~~ one full year prior to the first day of class of the term for which the student is seeking resident student status; and

~~5.3.5.1.8 5.2.8~~ Utility bills showing the student's name and Utah address for at least ~~12 months~~ one full year prior to the first day of class of the term for which the student is seeking resident ~~status resident~~ student status.

~~5.3.5.2~~ **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 ~~12-month~~ one year 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, then the student time spent out of state will not count as an absence for purposes of this exception will not be deemed to be absent from the state for purposes of this section for the period of time that they 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 their resident student status.

Example: ~~A student who comes to a Utah school on an athletic scholarship and who, during their first full year 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~~ one full year period that is requisite to being granted resident tuition status.

5.3.5.3 Domicile following Resident Student 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~~ classified as resident student status provided they have not taken action to establish domicile elsewhere during their 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 to 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;

~~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 subsection 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.C Title 38 U. S. Code Veterans' Benefits; 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 subsection 6.1.3.3. above.

~~6.1.6~~ Evidence of domicile as described in subsections 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~~ a copy of a Utah income tax return, in the military servicemember's or military servicemember's spouse's name, filed as a resident in accordance with Utah Code 59-10-502 Utah Code section 59-10-502; or

~~6.1.6.5 P~~ 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.

~~5.3.6 Tribal R512.7~~ “Membership of an American Indian Tribe Exception” Exception to Establishing Resident Student Status:

~~7.1~~ 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 ~~is entitled to be granted resident student status;~~ 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.

~~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.

~~7.35.3.6.12~~ The Office of the Commissioner of Higher Education (“OCHE”) will maintain and distribute to all USHE institution residency officers a list of recognized tribes ~~will be maintained by the Office of the Commissioner of Higher Education~~ Office of the

~~Commissioner of Higher Education (“OCHE”) OCHE and distributed to all campus USHE institution residency officers.~~

R512.8 “5.3.7 Job Corps Student Exception” Exception to Establishing Resident Student Status: A

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

5.3.7.1 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

5.3.7.2 8.1.2 Submits verification that the student is a current Job Corps student.

5.3.7.3 8.2 Upon termination of the student’s Job Corps enrollment/participation, the student shall be subject to the ~~requirements of subsection 5.2.3 same residency resident student status standards applicable to other persons under this policy.~~ The time the student spent residing in Utah during the time the individual qualified for this status as a Job Corps student shall count towards any applicable waiting period for Utah resident student status for tuition purposes upon termination of the Job Corps participation. ~~The time spent residing in Utah during the Job Corps enrollments will count towards the time period set forth in subsection 4.3 of this policy.~~

5.3.8 R512.9 “Participation in Olympic Training Program Exception” 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 their participation in the Olympic training program through a supporting letter from the United States Olympic Committee verifying eligibility.

~~9-25.3.8.1~~ Upon ~~the~~ termination of the ~~s~~Student's participation in ~~such an Olympic athlete~~ training program, the student shall be subject to the ~~requirements of subsection 5.2.3 same residency resident student status standards applicable to other persons under this policy.~~ The time spent residing in Utah during the time the individual qualified for this status shall count towards any applicable waiting period for Utah-resident student status for tuition purposes upon termination of participation in the Olympic training program. ~~The time spent residing in Utah during the Olympic athlete training program in Utah counts toward the time period set forth in subsection 4.3 of this policy.~~

~~R512.10~~ **5.3.9 Parent Domiciled in Utah for at Least ~~12 Months~~One Full Year-Exception” Exception to Establishing Resident Student Status:**

~~10.1~~ A dependent student is eligible for resident student status who has at least one parent ~~who has been~~ domiciled in Utah for at least ~~12 months~~one full year prior to the first day of class of the term for which the student is seeking resident student status ~~is eligible for resident student status~~. The student is responsible to submit the documentation identified in subsection ~~4.7 5.2.3.13-2.62.3~~ of this policy demonstrating that their parent has established domicile in Utah.

~~R512.11~~ **5.3.104 Rebuttable Presumptions**

5.4.1 Full-time, Permanent Employment in Utah-~~Rebuttable~~ Presumption” as Basis for Rebutting Presumption of Nonresident Student:

~~11.1~~ A student who has ~~come to~~ 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.

~~5.43.10.1.1~~ ~~11.2~~ All relevant evidence concerning the motivation for the move should be considered, including, but not limited to, ~~such factors as:~~

~~5.43.10.1.1.1~~ ~~11.2.1~~ The employee's employment and educational history;

~~5.4.1.1.23.10.1.2~~ ~~11.2.2~~ The dates when Utah employment was first considered, offered, and accepted;

~~5.3.10.1.34.1.1.3~~ ~~11.2.3~~ When the person moved to Utah;

~~5.3.10.1.44.1.1.4~~ ~~11.2.4~~ The dates when the ~~student~~ person applied for admission, was admitted, and was enrolled as a postsecondary student;

~~5.3.10.1.54.1.1.5~~ ~~11.2.5~~ Whether the ~~person~~ student applied for admission to a USHE institution sooner than four months from the date of moving to Utah;

~~5.3.10.1.64.1.1.6~~ ~~11.2.6~~ Evidence that the ~~student~~ person is an independent person (~~at least 24 years of age, or not listed as a dependent on someone else's tax forms~~); and who is:

~~5.3.10.1.6.1~~ 5.3.11.4.1.1.6.1 At least 24 years of age; or

~~5.3.01.1.4.1.1.6.2~~ 5.3.11.4.1.1.6.2 Not claimed as a dependent on someone else's tax returns; and

~~5.3.10.1.4.1.1.7~~ ~~11.2.7~~ 5.3.11.4.1.1.7 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.

~~5.3.11.4.2 R512.12~~ **5.3.11.4.2 “Divorce, Death of Spouse, and Long-Term Health Care Responsibilities of Family Members Rebuttable Presumption” as Basis for Rebutting Presumption of Nonresident Student:**

~~12.1~~ A student who ~~resides~~ 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 ~~the~~ long-term health care ~~responsibilities~~.

~~5.3.11.4.2.1~~ ~~12.2~~ All relevant evidence concerning the motivation for the move shall be considered, including:

~~5.3.11.4.2.1.1~~ ~~12.2.1~~ 5.3.11.4.2.1.1 ~~The student's~~ student's ~~person~~ student's employment and educational history;

~~5.4.2.13.11.1.2~~ ~~12.2.2~~ 5.4.2.13.11.1.2 ~~The~~ the dates when the long-term health care or ~~child care~~ childcare responsibilities in Utah were first considered, offered, and accepted;

~~5.3.11.4.2.1.3~~ ~~12.2.3~~ When the student person student moved to Utah;

~~5.3.11.4.2.1.4~~ ~~12.2.4~~ The dates when the student person student applied for admission, was admitted, and was enrolled as a postsecondary student;

~~5.3.11.4.2.1.5~~ ~~12.2.5~~ Whether the student person student applied for admission to a USHE institution sooner than four (~~4~~) months from the date of moving to Utah;

~~12.2.6~~ ~~5.3.11.4.2.1.6~~ Evidence that the student person student is an independent person who is:

~~5.4.2.1.6.3~~ ~~11.1.6.1~~ ~~12.2.6.1~~ At least 24 years of age; or

~~5.3.11.1.6.4.2.1.6.2~~ ~~12.2.6.2~~ Not claimed as a dependent on someone else's tax returns; and

~~5.4.2.1.7~~ ~~3.11.1.7~~ ~~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 a USHE institution.

R512-6 5.4 Application for 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 5.4.1 Reclassification of Resident Student Status by the Institution: 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:5.4.2 Appeal Hearing: 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 5.4.2.1 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 5.4.2.2 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.

7.5.4.2.3 The student appealing the resident student status decision shall ~~have the responsibility of providing~~ be responsible to provide evidence that proves that they have met the resident student status requirements. ~~The institution shall give the appealing s~~Students shall be given copies a copy of the Board's policies pertaining to determination of resident student status this policy and . ~~The student~~ shall also ~~be given~~ give the student an explanation of the rationale of the decision-maker who ~~previously ruled that initially the student was~~ classified the student as a nonresident.

7.4 5.4.2.4 Both the student and the institution's representative may choose, but ~~are is~~ not required, to be accompanied by an attorney. The institution is not required to provide an attorney for the student.

7.5.4.2.5 The student and ~~/or~~ 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.

~~7.5.4.2.6~~ It is not required that formal rules of evidence be followed; The institution may use administrative hearing rules ~~may be used~~ rather than formal rules of evidence. The institution's ~~policy~~ procedures shall state the rules that will apply to the appeal hearing.:

~~5.4.2.7.7~~ The appeal hearing officer/hearing committee's decision must be in writing and give reasons for the determination.

~~7.8 5.4.3 Refund:~~ 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 beginning of the academic period for which application for~~ resident student status ~~was made~~ and shall require a refund of the nonresident portion of any tuition charges the student paid for that and subsequent academic periods.

~~R512-8 5.5~~ **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 5.5.1~~ The student obtained resident student status under false pretenses; or

~~8.2 5.5.2~~ The facts existing at the time ~~of granting of~~ the student was granted resident student status have significantly changed.

~~R512-9 5.6~~ **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.

~~R512-106~~ **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:

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.

106.1 Western Undergraduate Exchange (“WUE”) Students: A student attending a USHE institution under the ~~Western Undergraduate Exchange~~WUE program is considered to be domiciled in their home state. ~~See Board Policy R513 subsection 8 for further details regarding WUE.~~

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

106.3 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 subsection 8~~ for further details regarding WICHE.

106.4 Exemption for Alumni Legacy Scholarships: ~~The~~A students attending a USHE institution ~~under this~~on an Alumni Legacy Scholarship ~~are~~is considered to be domiciled in their home state. ~~See Board Policy R513, subsection 5.7 for further details regarding Alumni Legacy Scholarships. See Board Policy R513 subsection 17 for further details regarding Alumni Legacy Scholarships.~~

106.5 Utah Tech University’s Good Neighbor Students: ~~The~~A students attending Utah Tech University ~~under this~~on a Good Neighbor scholarship ~~are~~is considered to be domiciled in their home state. ~~See Board Policy R513, subsection 5.3.2 subsection 4.2~~ for further details regarding Good Neighbor ~~Student~~scholarships.

~~Review Board Policy R513 for more information concerning tuition waivers.~~

R608, Opportunity Scholarship¹

R608-1 The following policy has been codified² as Utah Administrative Code R765-608.

R608-2 References.

2.1 Utah Code § 53B-8-201, Opportunity Scholarship Program

R765. Higher Education (Utah Board of), Administration.

R765-608. Opportunity Scholarship

R765-608-1. Purpose.

This rule outlines award requirements, application procedures, and other information for the Opportunity.

R765-608-2. Authority.

This rule is authorized by Section 53B-8-201.

R765-608-3. Definitions.

(1) “Advanced Course” means a course offered via concurrent enrollment (CE), advanced placement (AP), or international baccalaureate (IB) and identified by the Utah Board of Education as earning core credit in the required subject area.

(2) “Board” means the Utah Board of Higher Education.

(3) “Eligible Institutions” means degree-granting institutions of higher education listed in Section 53B-2-102, or a Utah private, nonprofit postsecondary institution that is accredited by a regional accrediting organization recognized by the Board.

(4) “Excusable Neglect” means a failure to take proper steps at the proper time, not in consequence of willful disregard of the scholarship application process, but in consequence of some unexpected or unavoidable circumstances.

(5) “Good Cause” means the applicant’s failure to meet a scholarship application process requirement was due to circumstances beyond the student’s control or circumstances that are compelling and reasonable.

(6) “High School” means a Utah public school established by the Board or a private high school accredited by a regional accrediting body approved by the Board.

(7) “Scholarship Appeals Committee” means a committee designated by the Commissioner of Higher Education to review appeals of Opportunity Scholarship award decisions and take final agency action regarding awards.

(8) “Scholarship Award” means a scholarship awarded to all applicants who meet the eligibility requirements of Subsection R765-608-4.

(9) “Scholarship Staff” means the employees assigned review Opportunity Scholarship applications and make decisions awarding the scholarships.

(10) “Substantial Compliance” means the applicant, in good faith, demonstrated clear intent to comply with the scholarship application requirements and has demonstrated likely eligibility, but failed to precisely comply with the application specifics.

R765-608-4. Award Requirements.

(1) To qualify for the Opportunity Scholarship, the applicant shall satisfy the following criteria:

- (a) Graduate from a Utah high school with a minimum, non-weighted GPA of 3.3;
- (b) Complete one advanced Mathematics course;
- (c) Complete one advanced Language Arts course;

¹ Adopted May 5, 2021; amended May 20, 2022, ~~and~~ May 18, 2023, ~~and XXX~~.

² This administrative rule is still going through the codification process and minor, non-substantive edits to conform with the Administrative Code may need to be made.

- (d) Complete one advanced Science course; and
- (e) Complete and submit either the Free Application for Federal Student Aid (FAFSA) or the alternative financial form approved by the Board.

(2) Under Section 63G-12-402, verification of lawful presence in the United States is not required to be eligible for a scholarship under this policy.

(3) Students who ~~will~~ graduated from a Utah high school in 2022 ~~or later~~ may alternatively qualify for the Opportunity Scholarship if they satisfy the following criteria:

- (a) Graduate from a Utah high school with a minimum, non-weighted GPA of 3.3;
- (b) Complete four credits of English;
- (c) Complete four credits of math, including one course of advanced math;
- (d) Complete three credits of lab-based biology, chemistry, and physics;
- (e) Complete two credits of world languages;
- (f) Complete three credits of social science; and
- (g) Complete and submit either the Free Application for Federal Student Aid (FAFSA) or the scholarship alternative financial form available.

(4) For purposes of Subsections R765-608-4(1)(b) and (3)(c), advanced Mathematics means any of the following courses: pre-calculus, calculus, statistics, AP calculus AB, AP calculus BC, AP statistics, college courses Math 1030 and higher, IB Math SL, HL, and Further Math.

(5) Students who ~~will~~ graduated from a Utah high school in 2022 ~~or later~~ must apply for the Opportunity Scholarship using the eligibility criteria in either Subsection R765-608-4(1) or (2) exclusively. They may not qualify for the Opportunity Scholarship by mixing courses from both sets of criteria.

(a) The courses listed in Subsections R765-608-4(1) or (2) are not always analogous. Students who ~~will~~ graduated in 2022 ~~or later~~ should verify the courses they are completing meet the eligibility requirements under the subsection through which they elect to apply.

(b) Mandatory Enrollment. An award recipient shall enroll at an eligible institution full time—as defined by the institution—beginning with the fall semester after high school graduation. The institution which the student attends shall verify the recipient has met the enrollment requirements before disbursing payment.

R765-608-5. Application Procedures.

(1) Application Deadline. Applicants shall submit an official scholarship application no later than February 1 of the year that they graduate from high school. The Board may establish a priority deadline each year. Applicants who meet the priority deadline may be given first priority or consideration for the scholarship. Subject to funding, students may be considered based on the date of they completed and submitted their application. Additional criteria to prioritize awarding may be established by the Board.

(2) Required Documentation. Applicants shall submit the following documents:

- (a) The online Opportunity Scholarship application;
- (b) A completed online Free Application for Federal Student Aid or the Board approved financial form; and
- (c) If graduating from a private high school in Utah, an official high school transcript.

(3) If there is an error with the student's transcript, a student must work with their high school or district to rectify the information to complete an application.

R765-608-6. Award Amounts and Ongoing Eligibility.

(1) Award Determination. The Board will determine eligibility criteria and maximum award amounts annually, based on legislative appropriations and the number of eligible applicants.

(2) Scholarship Award. Students who meets the eligibility criteria may receive up to a four-semester scholarship award. Institutions shall determine individual recipient award amounts in accordance with Section 53B-8- 201(3).

(3) Ongoing Eligibility. If a student receives an award disbursement, the recipient must enroll at an eligible institution full time and maintain satisfactory academic progress as defined by the institution to remain eligible for future disbursements. Institutions shall verify the recipient has met these requirements. Recipients who do not maintain eligibility forfeit any remaining award amount.

R765-608-7. Time Limitations and Deferrals.

(1) Time Limitation. Scholarship funds are only available to a recipient for five years after their high school graduation date.

(2) Deferral or Leave of Absence. Recipients who will not enroll as a student shall apply for a deferral or leave of absence with their institution.

- (a) An approved deferral or leave of absence will not extend the time limits of the scholarship. The

scholarship may only be used for academic semesters that begin within five years after the recipient's high school graduation date.

(b) A recipient who elects to attend a USHE technical college may defer the Opportunity Scholarship during that period of enrollment subject to the time limitations of Subsection R765-608-7(1).

R765-608-8. Transfers.

Recipients may transfer to another eligible institution and retain the scholarship award. Recipients shall inform the institution from which they transfer from and the institution to which they are transferring of their intent to transfer. Institutions shall coordinate the transfer of scholarship funds and information and report this information to the Office of the Commissioner.

R765-608-9. Appeals.

(1) An applicant has the right to appeal an adverse decision. When scholarship staff denies eligibility, they shall issue a written determination that includes instructions on how to file an appeal.

(2)(a) Applicants must submit a written appeal to the Appeal Committee within 30 days of the date on which the scholarship notification was issued.

(b) In the appeal, the applicant must provide contact information, high school attended, a statement of the reason for the appeal, and all information or evidence that supports the appeal.

(3) An appeal filed before the applicant receives official notification from the scholarship staff of its decision may not be considered.

(4) If an applicant fails to file their appeal on time, the Scholarship Appeals Committee shall notify the applicant of the late filing and give them an opportunity to provide a written explanation of the reasons for failing to file the appeal by the deadline. The Scholarship Appeals Committee shall not have jurisdiction to consider the merits of an appeal that is filed beyond the deadline unless it determines the applicant established excusable neglect.

(5) The Scholarship Appeals Committee shall review the appeal to determine if the award decision was made in error, or if the applicant demonstrated substantial compliance with the scholarship application requirements but failed to meet one or more requirements for good cause.

(6) If the Scholarship Appeals Committee determines the applicant has shown by a preponderance of the evidence that the initial decision was made in error, it shall either reverse the initial decision or remand it back to the scholarship staff for further review in accordance with the Appeals Committee's instructions.

(7) If the Scholarship Appeals Committee determines the applicant has shown by a preponderance of the evidence that they demonstrated substantial compliance with the application process requirements and good cause for failing to meet one or more of the requirements, the Appeals Committee may grant the applicant a reasonable period of time to complete the remaining requirements and to resubmit the completed application to the scholarship staff for a redetermination or grant the application eligibility for an award.

(8) The Scholarship Appeals Committee's decision shall be in writing and contain its findings of facts, reasoning and conclusions of law and notice of the right to judicial review.

(9) The Scholarship Appeals Committee's decision represents the final agency action. An applicant who disagrees with the Scholarship Appeal Committee's Decision may seek judicial review in accordance with Section 63G-4-402.

R765-608-10. Reporting.

(1) As specified by the Office of the Commissioner, each institution shall provide, as part of an annual institutional financial aid file submission by February 28 of each year, data pertaining to applications, awards, program enrollments, utilization, funding, and/or other technical education scholarship information for the most recently completed fiscal year.

(2) The Office of the Commissioner or the Board may, at any time, request additional documentation or data related to the Opportunity Scholarship Program and may review or formally audit an institution's documentation and compliance with this rule.

R608, Opportunity Scholarship¹

R608-1 The following policy has been codified² as Utah Administrative Code R765-608.

R608-2 References.

2.1 Utah Code § 53B-8-201, Opportunity Scholarship Program

R765. Higher Education (Utah Board of), Administration.

R765-608. Opportunity Scholarship

R765-608-1. Purpose.

This rule outlines award requirements, application procedures, and other information for the Opportunity.

R765-608-2. Authority.

This rule is authorized by Section 53B-8-201.

R765-608-3. Definitions.

(1) “Advanced Course” means a course offered via concurrent enrollment (CE), advanced placement (AP), or international baccalaureate (IB) and identified by the Utah Board of Education as earning core credit in the required subject area.

(2) “Board” means the Utah Board of Higher Education.

(3) “Eligible Institutions” means degree-granting institutions of higher education listed in Section 53B-2-102, or a Utah private, nonprofit postsecondary institution that is accredited by a regional accrediting organization recognized by the Board.

(4) “Excusable Neglect” means a failure to take proper steps at the proper time, not in consequence of willful disregard of the scholarship application process, but in consequence of some unexpected or unavoidable circumstances.

(5) “Good Cause” means the applicant’s failure to meet a scholarship application process requirement was due to circumstances beyond the student’s control or circumstances that are compelling and reasonable.

(6) “High School” means a Utah public school established by the Board or a private high school accredited by a regional accrediting body approved by the Board.

(7) “Scholarship Appeals Committee” means a committee designated by the Commissioner of Higher Education to review appeals of Opportunity Scholarship award decisions and take final agency action regarding awards.

(8) “Scholarship Award” means a scholarship awarded to all applicants who meet the eligibility requirements of Subsection R765-608-4.

(9) “Scholarship Staff” means the employees assigned review Opportunity Scholarship applications and make decisions awarding the scholarships.

(10) “Substantial Compliance” means the applicant, in good faith, demonstrated clear intent to comply with the scholarship application requirements and has demonstrated likely eligibility, but failed to precisely comply with the application specifics.

R765-608-4. Award Requirements.

(1) To qualify for the Opportunity Scholarship, the applicant shall satisfy the following criteria:

- (a) Graduate from a Utah high school with a minimum, non-weighted GPA of 3.3;
- (b) Complete one advanced Mathematics course;
- (c) Complete one advanced Language Arts course;

¹ Adopted May 5, 2021; amended May 20, 2022, May 18, 2023, and XXX.

² This administrative rule is still going through the codification process and minor, non-substantive edits to conform with the Administrative Code may need to be made.

(d) Complete one advanced Science course; and
(e) Complete and submit either the Free Application for Federal Student Aid (FAFSA) or the alternative financial form approved by the Board.

(2) Under Section 63G-12-402, verification of lawful presence in the United States is not required to be eligible for a scholarship under this policy.

(3) Students who graduated from a Utah high school in 2022 may alternatively qualify for the Opportunity Scholarship if they satisfy the following criteria:

- (a) Graduate from a Utah high school with a minimum, non-weighted GPA of 3.3;
- (b) Complete four credits of English;
- (c) Complete four credits of math, including one course of advanced math;
- (d) Complete three credits of lab-based biology, chemistry, and physics;
- (e) Complete two credits of world languages;
- (f) Complete three credits of social science; and
- (g) Complete and submit either the Free Application for Federal Student Aid (FAFSA) or the scholarship alternative financial form available.

(4) For purposes of Subsections R765-608-4(1)(b) and (3)(c), advanced Mathematics means any of the following courses: pre-calculus, calculus, statistics, AP calculus AB, AP calculus BC, AP statistics, college courses Math 1030 and higher, IB Math SL, HL, and Further Math.

(5) Students who graduated from a Utah high school in 2022 must apply for the Opportunity Scholarship using the eligibility criteria in either Subsection R765-608-4(1) or (2) exclusively. They may not qualify for the Opportunity Scholarship by mixing courses from both sets of criteria.

(a) The courses listed in Subsections R765-608-4(1) or (2) are not always analogous. Students who graduated in 2022 should verify the courses they are completing meet the eligibility requirements under the subsection through which they elect to apply.

(b) Mandatory Enrollment. An award recipient shall enroll at an eligible institution full time—as defined by the institution—beginning with the fall semester after high school graduation. The institution which the student attends shall verify the recipient has met the enrollment requirements before disbursing payment.

R765-608-5. Application Procedures.

(1) Application Deadline. Applicants shall submit an official scholarship application no later than February 1 of the year that they graduate from high school. The Board may establish a priority deadline each year. Applicants who meet the priority deadline may be given first priority or consideration for the scholarship. Subject to funding, students may be considered based on the date of they completed and submitted their application. Additional criteria to prioritize awarding may be established by the Board.

(2) Required Documentation. Applicants shall submit the following documents:

- (a) The online Opportunity Scholarship application;
- (b) A completed online Free Application for Federal Student Aid or the Board approved financial form; and
- (c) If graduating from a private high school in Utah, an official high school transcript.

(3) If there is an error with the student's transcript, a student must work with their high school or district to rectify the information to complete an application.

R765-608-6. Award Amounts and Ongoing Eligibility.

(1) Award Determination. The Board will determine eligibility criteria and maximum award amounts annually, based on legislative appropriations and the number of eligible applicants.

(2) Scholarship Award. Students who meets the eligibility criteria may receive up to a four-semester scholarship award. Institutions shall determine individual recipient award amounts in accordance with Section 53B-8- 201(3).

(3) Ongoing Eligibility. If a student receives an award disbursement, the recipient must enroll at an eligible institution full time and maintain satisfactory academic progress as defined by the institution to remain eligible for future disbursements. Institutions shall verify the recipient has met these requirements. Recipients who do not maintain eligibility forfeit any remaining award amount.

R765-608-7. Time Limitations and Deferrals.

(1) Time Limitation. Scholarship funds are only available to a recipient for five years after their high school graduation date.

(2) Deferral or Leave of Absence. Recipients who will not enroll as a student shall apply for a deferral or leave of absence with their institution.

- (a) An approved deferral or leave of absence will not extend the time limits of the scholarship. The

scholarship may only be used for academic semesters that begin within five years after the recipient's high school graduation date.

(b) A recipient who elects to attend a USHE technical college may defer the Opportunity Scholarship during that period of enrollment subject to the time limitations of Subsection R765-608-7(1).

R765-608-8. Transfers.

Recipients may transfer to another eligible institution and retain the scholarship award. Recipients shall inform the institution from which they transfer from and the institution to which they are transferring of their intent to transfer. Institutions shall coordinate the transfer of scholarship funds and information and report this information to the Office of the Commissioner.

R765-608-9. Appeals.

(1) An applicant has the right to appeal an adverse decision. When scholarship staff denies eligibility, they shall issue a written determination that includes instructions on how to file an appeal.

(2)(a) Applicants must submit a written appeal to the Appeal Committee within 30 days of the date on which the scholarship notification was issued.

(b) In the appeal, the applicant must provide contact information, high school attended, a statement of the reason for the appeal, and all information or evidence that supports the appeal.

(3) An appeal filed before the applicant receives official notification from the scholarship staff of its decision may not be considered.

(4) If an applicant fails to file their appeal on time, the Scholarship Appeals Committee shall notify the applicant of the late filing and give them an opportunity to provide a written explanation of the reasons for failing to file the appeal by the deadline. The Scholarship Appeals Committee shall not have jurisdiction to consider the merits of an appeal that is filed beyond the deadline unless it determines the applicant established excusable neglect.

(5) The Scholarship Appeals Committee shall review the appeal to determine if the award decision was made in error, or if the applicant demonstrated substantial compliance with the scholarship application requirements but failed to meet one or more requirements for good cause.

(6) If the Scholarship Appeals Committee determines the applicant has shown by a preponderance of the evidence that the initial decision was made in error, it shall either reverse the initial decision or remand it back to the scholarship staff for further review in accordance with the Appeals Committee's instructions.

(7) If the Scholarship Appeals Committee determines the applicant has shown by a preponderance of the evidence that they demonstrated substantial compliance with the application process requirements and good cause for failing to meet one or more of the requirements, the Appeals Committee may grant the applicant a reasonable period of time to complete the remaining requirements and to resubmit the completed application to the scholarship staff for a redetermination or grant the application eligibility for an award.

(8) The Scholarship Appeals Committee's decision shall be in writing and contain its findings of facts, reasoning and conclusions of law and notice of the right to judicial review.

(9) The Scholarship Appeals Committee's decision represents the final agency action. An applicant who disagrees with the Scholarship Appeal Committee's Decision may seek judicial review in accordance with Section 63G-4-402.

R765-608-10. Reporting.

(1) As specified by the Office of the Commissioner, each institution shall provide, as part of an annual institutional financial aid file submission by February 28 of each year, data pertaining to applications, awards, program enrollments, utilization, funding, and/or other technical education scholarship information for the most recently completed fiscal year.

(2) The Office of the Commissioner or the Board may, at any time, request additional documentation or data related to the Opportunity Scholarship Program and may review or formally audit an institution's documentation and compliance with this rule.