5-11 Qualifications for Residency Determination for Tuition Purposes

I. Definitions

A. "Resident" describes a person living in the state of Utah, subject to the rules and standards prescribed in or pursuant to Utah Code Annotated 1953 §53-B-8-102 as amended from time to time and Utah Board of Regents policy R512 Determination of Resident Status.

B. "Nonresident" describes a person who is not qualified for resident status in the state of Utah, pursuant to the rules and standards prescribed in or pursuant to Utah Code Annotated 1953 §53-B-8-102 as amended from time to time and Utah Board of Regents policy R512 Determination of Resident Status.

C. The Vice President of Student Services will designate a “Residency Officer,” ordinarily an employee in the Admissions Office, to make residency determinations on behalf of the College.

II. Initial Classification

A. All Dixie State College of Utah student applicants will be classified as having “resident” or “nonresident” status. Such determinations shall be made in accordance with the standards and rules specified in Utah Code Annotated 1953 §53-B-8-102 as amended from time to time and Utah Board of Regents policy R512 Determination of Resident Status.

B. Students who graduated from high schools outside the state of Utah are automatically classified as nonresident.

C. Students whose residency status is not clear will be classified as nonresident.

11.1 In order to qualify for residency status in tuition assessment, a student must demonstrate that Utah is the place where s/he now resides and intends to reside permanently. The student must not attend Dixie State College with the intent of establishing a new domicile elsewhere after leaving Dixie. The following factors are considered in support of a claim for residency classification:

11.1.1 Twelve consecutive months residence in Utah

11.1.2 Earnings in the state of Utah in excess of $4,000

11.1.3 Abandonment of prior out-of-state residence
11.1.4 Utah domicile of parents or guardian

11.1.5 Former Utah domicile

11.1.6 History, duration, and nature of non-educational activities in Utah

11.1.7 Reliance upon Utah resources for financial support

11.1.8 Marriage to a Utah resident

11.1.9 Dependents of, and military assigned to duty in the state of Utah are immediately declared residents:

11.1.10 All Native Americans (American Indians) with one-quarter or more direct bloodline who are on tribal rolls, as proven with numerical documentation, may be classified as Utah residents if any portion of their tribal lands or reservation boundaries are in or contiguous with the state of Utah.

11.1.11 Matters of limited probative value to all applicants whose residency is in question: motor vehicle registered in Utah, Utah driver's license, Utah voter registration, lease of living quarters, ownership of property, payment of Utah taxes. Any one or two of these items may not weigh heavily in favor of granting residency status to a person. In their totality, the above items carry value when coupled with the intent to make Utah a permanent domicile; nevertheless, they do not guarantee residency status until so judged by the appropriate college authority based upon all information provided by the college.

11.2 An individual who establishes his or her domicile in Utah, to work on a full-time, permanent basis, is immediately eligible, along with his or her dependents, to register as a resident student; provided the move to Utah was not for the primary purpose of allowing one or more family members to attend an institution of higher education as a resident. Proof of employment may be required:

11.3 An adult (18 years or older) who enrolls as a student at Dixie State College within twelve months of arriving in Utah is presumed to have moved to Utah for the purpose of attending an institution of higher education and will be classified as a non-resident for tuition purposes. The burden of rebutting this presumption and establishing that a person is in Utah for other than educational purposes is upon the student.

11.4 Former residents of Utah do not lose resident status solely by attendance at an institution outside the state. A student who was a former resident of Utah may continue to be considered a resident provided absence from the state was for a period of less than 12 months, and provided that a permanent domicile is reestablished. If the absence is more than 12 months, a student may still be considered a resident if evidence can be presented showing that the student has long-term ties to Utah, has reestablished a Utah domicile, and has not taken action to establish a domicile or residency elsewhere during his or her absence from the state of Utah.

11.5 A student may appeal for resident status after one year of continuous residency in Utah by demonstrating the establishment of a Utah domicile and provided that s/he does not maintain a residence elsewhere.

11.6 Short absences from the State which are for less than 30 days will not be considered a
violation of continuous residency. Frequent or extended absences during the prior year or working out of the state for the summer or other extended periods will be regarded as evidence that the continuity of the required year's residence has not been satisfied and will revive the presumed nonresident status of a student.

III. Application for Reclassification

A. Students classified as nonresident shall retain that status until an official reclassification to resident status is implemented.

B. The Utah Board of Regents policy R512 Determination of Resident Status lists residency requirements, definitions, exemptions, and acceptable documentary evidence.

C. To initiate a change in residency status for a semester, a student must submit a written application along with required documentation not later than the seventh (7th) calendar day of that semester to the Residency Officer.

D. After considering the application and accompanying documentation, the Admissions Office will make a decision and notify the student of the decision regarding residency status within seven (7) calendar days after receipt of the application.

E. If the application is denied, the student shall have the right to meet with the Residency Officer within seven (7) calendar days of the decision notification being sent for the purpose of reviewing the application and submitting additional information. After considering the discussion and any additional information, the Residency Officer shall notify the student either orally or in writing of the final decision regarding residency status not later than three (3) business days after the meeting.

F. If the Residency Officer denies a student's application, the student has the right to submit a written appeal to the Residency Appeals Committee within seven (7) calendar days of the date of notification.

11.7 Appeals of Residency Classification

Appeals of residency status classification must be requested from the director of admissions. The appropriate forms must be completed and returned to the admissions office at least fifteen days prior to the beginning of the semester for which residency is sought.

11.7.1 The following documents may be required to evaluate a student's appeal for residency:

11.7.1.1 A sworn (notarized) statement from the student describing employment and expected sources of support

11.7.1.2 A statement from the student's employer

11.7.1.3 A statement from the student's parents or guardian verifying non-support and the fact that the student was not listed as a dependent on tax returns for the past year

11.7.1.4 Supporting statements from persons who might be familiar with the family situation
11.7.1.5 Utah state income tax return(s)

11.7.2 A residency appeals committee will review all appeals and issue a final judgment prior to the beginning day of class each semester.

11.7.3 All minors (under the age of 18 years) will be classified according to place of domicile of the parent or guardian.

11.7.4 A minor whose parents move to Utah for the purpose of establishing domicile will be immediately eligible for Utah residency unless the primary intent of the move is to obtain residency for educational purposes.

11.7.5 A minor enrolled as a resident of Utah will not lose residency status because his or her parents or guardian remove their residence from the state during the continuous period of higher education attendance in Utah.

11.7.6 If the custody of a minor has been granted to any person by court order or legal mandate, the domicile of the minor resides with the legal guardian.

11.7.7 In the case of divorce or separation, the student shall declare domicile with the parent with whom s/he has predominately lived, or who is declared the legal guardian during the time the child is under the age of 18.

11.7.8 An abandoned minor is classified within the same domicile as the provider of food, shelter, and other sustenance.

11.7.9 An emancipated minor must prove independence for at least one year to establish Utah residency.

11.7.10 Foreign students are classified as non-residents, and will not be classified as residents until they become U.S. citizens and/or residents of Utah under the guidelines stated in this policy.

11.8 Dixie State College may convene a reclassification hearing at any time when residency status is in question.

11.8.1 A determination of residency for a student by any one institution in the Utah System of Higher Education will be deemed sufficient for residency status for a transfer student; unless the circumstances and time of transfer change significantly between transfer intervals.

11.9 General Rule for High School Graduates Residency Classification

11.9.1 All Utah high school graduates will be automatically classified as residents if transcripts and current mailing addresses reflect Utah residency status. Parent/Guardian addresses must also be the same as the current student address.

IV. Appeals

A. The Residency Appeals Committee shall be chaired by a non-voting faculty member, and shall be comprised of two (2) faculty members, two (2) staff members, and two (2) students.
i. A quorum shall be four voting committee members, and committee decisions will be based on a majority vote. In case of a tie, the non-voting chair shall issue the deciding vote.

ii. Neither the College nor the Committee will reimburse the expenses of any participant in the appeals process, regardless of final determination.

iii. During periods when classes are in session, the Committee will conduct a hearing within seven (7) business days of receipt of an appeal and supporting documentation.

   a. When classes are not in session, the Committee will conduct a hearing within seven (7) business days of classes reconvening.

B. Dixie State College legal counsel shall serve as a resource to the Committee and may be present at the hearing to provide guidance on substantive law and procedural matters.

C. The student shall have a right to be accompanied by any person as an advisor, including legal counsel, who will be permitted to attend, but not directly participate, in the proceedings.

D. Hearings will be held in accordance with generally accepted standards of procedural due process. Information may be received of the sort upon which responsible persons are accustomed to rely in the conduct of serious affairs.

E. The student may submit documentary evidence in any appropriate form and may produce and/or examine witnesses on his/her behalf. The student may cross-examine any other witnesses testifying at the hearing.

F. The Committee shall make its findings and recommendations based only on evidence and testimony presented by the parties at the hearing, in accordance with the standards set forth in the Utah Code Annotated 1953 §53-B-8-102 as amended from time to time and Utah Board of Regents policy R512 Determination of Resident Status. Committee members shall not conduct their own investigations, rely on prior knowledge of the facts, or develop their own evidence.

G. Hearings shall be closed to the public, and no recording or transcript shall be made. Committee deliberations and voting shall take place in closed session.

H. If the student fails to attend the hearing without good cause, the Committee may proceed with the hearing and render a decision based on available evidence.

I. Not later than five (5) business days after the hearing, the Committee chair shall notify the student in writing of the Committee's decision, which shall be final, thereby exhausting the student's administrative remedies on the matter.

J. A student whose appeal has been denied may not reapply for reclassification until the following semester.

V. Retroactive Reclassification
A. A Committee ruling favorable to the applicant (e.g. a determination that the student should be reclassified as a resident) shall be retroactive to the beginning of the semester in which the most recent application for reclassification and supporting documentation was received.

B. In such cases, the College will refund the nonresident portion of any tuition charges paid after the date of that application for reclassification, which shall be the limit of the College’s obligation in the matter.

C. No late fees or other penalties shall be refunded. Any such fees and/or expenses shall remain the responsibility of the student.

11.10 Due Process

11.10.1 In order to provide due process to students who may want to appeal decisions made concerning their residency classification, Dixie State College mandates that a student must file an appeal form with the chair of the residency appeals committee at least fifteen days prior to the beginning of the semester for which the student intends to enroll.

11.10.2 A student appealing the decision of the residency appeals committee shall have the responsibility of providing evidence that proves s/he has met the residency requirements for Dixie State College.

11.10.3 Both the student and the responsible administrator(s) shall be entitled to representation by legal counsel. However, the student must notify the chair of the residency appeals committee at least 24 hours prior to the date and time of the hearing if s/he is going to have an attorney present at the hearing. It should also be understood that the discussion will be between the student and the responsible administrator(s); counsel will advise, but will not be heard.

11.10.4 Oral and written evidence may be presented. The hearing should be conducted informally; thus allowing a free exchange of material and conversation. 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 by the chair or designated member of the committee.

11.10.4.1 Decisions of the appeals committee will be made within seven days after the hearing.

11.10.4.2 Decisions of the appeals committee must be in writing and must give reasons for the decision based upon listed criteria.

11.10.5 A ruling favorable to the applicant shall be retroactive if applicable, and appropriate refunds will be calculated and sent to the student based on tuition charged at the time the student may have been registered.

11.10.6 The decision of the Residency Appeals Committee will be final.

11.10.7 Students shall be given copies of the Utah State Board of Regents policy pertaining to residency. The student will be given a written explanation of why s/he was classified as a non-resident.