

*ACTION:* **First and Final Round Approval of Revisions to Board Policy 3050; Residency**

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The revisions to Board Policy 3050 implement statutory changes related to the residency of veterans, individuals who have attended a public, private, denominational, or parochial high school in Nebraska that does not meet state accreditation requirements, and individuals who qualify for a national service educational award or summer of service educational award from the National Service Trust pursuant to 42 U.S.C. 12602. These changes were necessitated by LB 92 [2021], LB 197 [2021], and LB 669 [2021].

The revisions also include the removal of gender specific references.

The System Office recommends approval of the Revisions to Board Policy 3050; Residency.

**ATTACHMENTS:**

- Revisions to Board Policy 3050 (PDF)

## NEBRASKA STATE COLLEGE SYSTEM

### Student Affairs

**TITLE:** Residency

**NUMBER:** 3050

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#### **A. PURPOSE**

Pursuant to Article VII, Section 13 of the Constitution of the State of Nebraska, and Sections §§85-501 to 85-504 of the Nebraska Revised Statutes, the Board shall fix and collect tuition and fees for resident and non-resident students who matriculate at one of the State Colleges.

#### **B. DEFINITIONS**

1. **Dependent:** a person who is claimed as a dependent or an exemption for federal income tax purposes by a parent, guardian, or spouse.
2. **Emancipated Minor:** shall mean an individual who, by virtue of marriage, financial status, or other reasons, has become independent of his or her parents or guardians.
3. **“Established a Home”:** shall mean that the individual continuously maintains a primary place of residence in Nebraska where the individual is habitually present. For the purpose of determining tuition rates, students living in on-campus housing for 180 consecutive days have “established a home.”
4. **Legal Age:** the age of majority set by Nebraska statute.
5. **Legal Residence:** the place of domicile or permanent abode as distinguished from temporary residence.
6. **Non-Resident Tuition:** the non-resident tuition rate set by the Board.
7. **Objective Evidence of Intent to be a Resident of Nebraska:** a Nebraska driver’s license, state identification card, a Nebraska motor vehicle registration, or documentation that the individual is registered to vote in Nebraska.
8. **Resident Tuition:** the resident tuition rate set by the Board.

#### **C. POLICY**

##### **1. General**

- 1.1. An individual who has been enrolled at a Nebraska State College or at the University of Nebraska as a resident student shall be afforded that privilege during the balance of that and any subsequent enrollments at the State College.
- 1.2. An individual who moves to Nebraska primarily to enroll at a Nebraska State College is presumed to be a non-resident for tuition purposes for the duration of ~~his or her~~ the individual’s attendance at the College, unless the individual is able to establish residency status for tuition purposes as outlined below.

- 1.3. Individuals seeking to establish resident status for tuition purposes who are subject to the 180 days minimum requirement must have established a home in Nebraska at least 180 days prior to the time at which they request such a determination. In addition, they must also initiate the various other domiciliary contacts which will support their application within a reasonable period of time after they have established their domicile in Nebraska.
- 1.4. If it is subsequently determined that an individual has provided false information in support of ~~his or her~~their application for resident student determination for tuition purposes, ~~he or she~~they may be subjected to disciplinary action by the College before the individual will be permitted to continue with ~~his or her~~their studies at the College. Such disciplinary action will be determined on an individual basis, and may include measures such as disciplinary probation or suspension, expulsion from the College, or a requirement that the individual reimburse the College for the difference between the tuition paid and the nonresident tuition rate.
- 1.5. Individuals who are undocumented aliens seeking a resident student determination for tuition purposes will be required to sign a notarized affidavit outlining the reasons under which they believe that they qualify and are attesting to the truth and accuracy of their statements.
- 1.6. Individuals who believe that they have been incorrectly denied a resident tuition determination may appeal that decision through channels established by the President where the adverse decision was made. The decision by the President or ~~his or her~~their designee shall be final in any such appeals.

## 2. Resident Tuition Categories

An individual will qualify as a resident of the State of Nebraska for tuition purposes at a Nebraska State College if, prior to the commencement of the term for which residency is sought, ~~he or she~~the individual meets the standards set forth in any one of the following categories:

- 2.1. A person of legal age (19 years or older) or an emancipated minor who for a period of at least 180 days has resided in Nebraska where ~~he or she~~the person is habitually present prior to application for resident status, and who can verify by documentary proof that ~~he or she~~they intends to make Nebraska his or her permanent residence. In addition to documentation of occupancy of a home, residence, or on-campus housing in Nebraska for the previous 180 days, intent to make Nebraska a permanent residence may be demonstrated by any three of the following factors:
  - A current Nebraska driver's license;
  - A current Nebraska State Identification (ID) card with color photograph of the person;
  - Documentation that the individual is registered to vote in Nebraska;
  - A current Nebraska automobile registration in the individual's name;

- Documentation of individual checking or savings accounts maintained with a Nebraska financial institution;
  - Documentation of current employment in Nebraska, and withholding of Nebraska income tax;
  - Copies of the provisions of an individual's most recent state income tax return indicating a Nebraska taxpayer status; or
  - Documentation that the student has lived in on-campus housing for 180 days.
- 2.2. A minor whose parent, parents, or guardian have established a home in Nebraska where such parent, parents, or guardian are habitually present with the bona fide intention of making Nebraska their permanent place of residence. For the purpose of this section, an individual shall be required to present documentary proof that ~~his or her~~their parent, parents, or guardians have established a home in Nebraska. Such proof shall consist of the following:
- Documentation that the parent or guardian has established a home in Nebraska;
  - Documentation that the individual seeking a resident tuition determination is a dependent for federal income tax purposes of the parent or guardian who has established a home in Nebraska; and
  - Other supporting documents of the parent or guardian's Nebraska residency including, but not limited to, ~~the following factors:~~ Aa current Nebraska driver's license; ~~D~~documentation that the individual is registered to vote in Nebraska; ~~a~~A current Nebraska automobile registration in the individual's name; ~~d~~Documentation of individual checking or savings account maintained with a Nebraska financial institution; or ~~D~~documentation of current employment in Nebraska.
  - For purposes of this section, an individual, once enrolled as a resident student, whose parent, parents, or guardian have previously established a home in Nebraska, as documented through evidence such as that outlined above in this section, shall continue to be classified as a resident for tuition purposes if the parent, parents, or guardian upon whom ~~he or she~~the individual remains dependent move from the state.
  - There shall be no minimum period of residence for the parent or guardian under this section.
- 2.3. A person of legal age who has established a home in Nebraska and is a dependent for federal income tax purposes of a parent or former legal guardian who has established a home in Nebraska.
- For purposes of this section, an individual shall be required to present the following: Documentation that both ~~he or she~~they and the parent or former guardian have established a home in Nebraska.
  - Such documentation shall be the same as that required under section ~~3b(i)~~2.2 above; and Documentation that ~~he or she is~~they are, for federal income tax purposes, the dependent of the parent or former guardian for the most recent tax year.
  - There shall be no minimum period of residence under this section.
- 2.4. An individual who has married a resident of Nebraska.

For the purpose of this section, an individual shall be required to verify that ~~he or she~~ the individual is married to an individual who, prior to the marriage, had already established a home in Nebraska. Such verification shall consist of: A valid marriage license; and Documentation of ~~his or her~~ their spouse's Nebraska residence status, as required in section ~~3a-2.1~~ 2.1 above.

- 2.5. An individual who has become a permanent resident alien of the United States or has been granted asylee or refugee status. For purposes of this section, an individual will be required to present documentation that ~~he or she~~ they: ~~Has~~ have been a resident of the State of Nebraska for a period of at least 180 days, verified as required in section ~~3a(i)2.1~~ 2.1 above; and ~~Is~~ are a holder of a permanent resident alien, asylee, or refugee status.
- 2.6. An individual who is a staff member or a dependent or spouse of a staff member of one of the Nebraska State Colleges, the University of Nebraska, or one of the Nebraska Community Colleges. For the purposes of this section, an individual will be required to verify that ~~he or she~~ they ~~is~~ are either: A permanent, full-time staff member holding at least a .75 FTE appointment at a State College, the University of Nebraska, or one of the Nebraska Community Colleges; or the spouse or a dependent of such a staff member for federal income tax purposes.
- 2.7. An individual on active duty with the armed services of the United States, and who has been assigned a permanent duty station in Nebraska, or a spouse or dependent of an individual who has been assigned a permanent duty station in Nebraska.
  - An individual on active duty with the United States armed services will be granted resident tuition status if ~~he or she~~ the individual verifies: ~~That he or she is~~ they are on active duty with the armed forces; and ~~That his or her~~ their permanent duty station is in Nebraska.
  - An individual who is a spouse or a dependent of a person who was on active duty with the United States armed services assigned to a permanent duty station in Nebraska at the time such individual was accepted for admission to one of the Nebraska State Colleges and such student remains continually enrolled at such college will be granted resident tuition status if ~~he or she~~ the individual verifies ~~that he or she is~~ they a spouse or a dependent, for federal income tax purposes, of an individual meeting the qualifications outlined above in this section.
  - There shall be no minimum period of residence under this section.
- 2.8. An individual who is currently serving in the Nebraska National Guard.
- 2.9. An individual who enrolls in one of the Nebraska State Colleges and who is a veteran as defined by Neb. Rev. Stat. §§80-401.01 and was discharged or released from a period of not fewer than ninety days of service in the active military, naval, or air service ~~less than three years before the date of enrollment~~ shall be considered a resident if: ~~R~~ registered to vote in Nebraska; and ~~d~~ demonstrates objective evidence of intent to be a resident of Nebraska. ~~Objective evidence of intent to be a resident of Nebraska includes a Nebraska driver's license, state identification card, a Nebraska motor vehicle registration, or documentation that the individual is registered to vote in Nebraska.~~

- 2.10. A person who is a spouse or dependent of a veteran described in section ~~(+)~~2.9 shall be considered a resident student if ~~R~~registered to vote in Nebraska; and ~~D~~demonstrates objective evidence of intent to be a resident of Nebraska. ~~Objective evidence of intent to be a resident of Nebraska includes a Nebraska driver's license, state identification card, a Nebraska motor vehicle registration, or documentation that the individual is registered to vote in Nebraska.~~ A person who is younger than eighteen (18) years of age is not required to ~~comply with subdivision i~~register to vote until ~~he or she~~the person attains eighteen (18) years of age.
- 2.11. A person who is an eligible recipient entitled to educational assistance as provided in 38 U.S.C. 3319 while the transferor is on active duty in the uniformed services or as provided in 38 U.S.C. 3311(b)(9) if: ~~R~~registered to vote in Nebraska; and ~~D~~demonstrates objective evidence of intent to be a resident of Nebraska. ~~Objective evidence of intent to be a resident of Nebraska includes a Nebraska driver's license, state identification card, a Nebraska motor vehicle registration or documentation that the individual is registered to vote in Nebraska.~~ A person who is younger than eighteen (18) years of age is not required to ~~comply with subdivision i~~register to vote until ~~he or she~~the person attains eighteen (18) years of age.
- 2.12. A person who is entitled to rehabilitation pursuant to 38 U.S.C. 3102(a) if: ~~R~~registered to vote in Nebraska; and ~~D~~demonstrates objective evidence of intent to be a resident of Nebraska. ~~Objective evidence of intent to be a resident of Nebraska includes a Nebraska driver's license, state identification card, a Nebraska motor vehicle registration or documentation that the individual is registered to vote in Nebraska.~~ A person who is younger than eighteen (18) years of age is not required to ~~comply with subdivision i~~register to vote until ~~he or she~~the person attains eighteen (18) years of age.
- 2.13. An individual who has established a home in Nebraska and is a graduate of an accredited Nebraska senior high school and was a legal resident of the state at the time of graduation.
- For the purposes of this section, documentary proof of a Nebraska residence shall consist of: An official transcript from an accredited Nebraska senior high school indicating that the individual graduated from that school.
  - There shall be no minimum period of residence for the individual under this section.
- 2.14. An individual who has been enrolled at one of the Nebraska State Colleges, a Nebraska Community College, or the University of Nebraska as a resident student, shall be afforded the same privilege during the balance of that and any subsequent enrollments at a State College.
- 2.15. An individual who is an alien and who has applied to or has a petition pending with the United States Immigration and Naturalization Service to attain lawful status under federal immigration law, and has established a home in Nebraska for a period of at least one hundred eighty (180) days where ~~he or she~~the individual is habitually present with the bona fide intention to make this state ~~his or her~~their permanent residence, supported by documentary proof.
- 2.16. An individual who is an alien and has resided with ~~his or her~~their parent, guardian, or conservator while attending a public, ~~or private, denominational, or parochial~~ high school in the State of Nebraska ~~or a school in this state which elects pursuant to Neb.~~

Rev. Stat. §79-1601 not to meet accreditation or approval requirements and meets the following criteria;

- Graduated from a public, ~~or private~~, denominational, or parochial high school in this state or a school in this state which elects pursuant to Neb. Rev. Stat. § 79-1601 not to meet accreditation or approval requirements or received ~~the equivalent of a high school a~~ diploma of high school equivalency in this state issued pursuant to Neb. Rev. Stat. § 79-601;
  - Resided in this state for at least three years before the date the student graduated from the high school, completed the program of instruction, or received the ~~equivalent of a high school~~ diploma of high school equivalency;
  - Registered as an entering student in a state postsecondary educational institution not earlier than the 2006 fall semester; and
  - Provided to the Nebraska State College an affidavit stating that ~~he or she~~ they will file an application to become a permanent resident at the earliest opportunity ~~he or she is~~ they are eligible to do so.
- 2.17. Members of Native American tribes who live outside the state of Nebraska qualify for in-state tuition upon providing documentation of tribal membership. It is the responsibility of the student to submit a copy of ~~his or her~~ their tribal card if ~~he/she~~ the student wants to be eligible for resident tuition.
- 2.18. An individual who is qualified for a national service educational award or summer of service educational award from the National Service Trust pursuant to 42 U.S.C. 12602, as such section existed on January 1, 2021.

### **3. Non-Residents Who Pay Nebraska Income Tax**

Individuals, who reside outside of Nebraska but pay Nebraska income tax, and the spouses or dependents of such individuals as defined by IRS regulations, are eligible for resident tuition upon annual documented evidence of such payment to the State.

### **4. Non-Residents Working Full-Time in Nebraska**

- 4.1. Individuals working full-time in Nebraska, and their legal dependents as defined by IRS regulations, who reside out-of-state but within states contiguous to Nebraska and file Nebraska non-resident income taxes shall be eligible for resident tuition.
- 4.2. For purposes of this section, individuals requesting resident tuition status under this section shall annually provide the College with evidence of current full-time employment in the State of Nebraska and evidence of filing of Nebraska income tax forms for the most recent tax year.
- 4.3. Eligible dependents shall annually provide proof of their parent, parents, or guardian's full-time employment in the State of Nebraska and evidence of their parent, parents, or guardians having filed a Nebraska income tax form proving dependency for the most recent tax year.

Legal Reference: RRS 80-401.01	Terms; defined
RRS 85-501	State educational institutions; non-resident fee
RRS 85-502	State educational institutions; residence requirements
RRS 85-502.01	Public college or university; veteran; spouse or dependent of veteran; resident student; requirements
RRS 85-503	State educational institutions; tuition
RRS 85-504	State educational institutions; fees; waiver
RRS <u>85-607</u>	<u>Denial of admission of or discrimination against certain qualified student; prohibited</u>

Policy Adopted: January 1977

Policy Revised: October 1980, June 1993, June 2006, September 2006, April 2007, March 2011, September 2012,  
March 2013, June 2014, September 2014, March 2015, June 2016, June 2019, September 2021