

BOARD OF REGENTS BRIEFING PAPER

Handbook Revision, Regulations for Determining Residency and Tuition Charges

BACKGROUND & POLICY CONTEXT OF ISSUE

Board policy (Title 4, Chapter 15 of the *Handbook*) sets forth the regulations for determining whether a student is classified as a resident or nonresident for tuition purposes, including provisions required under State and federal law. Students who are classified as nonresidents for tuition purposes will pay nonresident tuition in addition to the base registration fee that is paid by students classified as residents. While the chapter has been revised over the years to provide direction and consistency in institutional residency determinations, some confusion in how the sections of the chapter should be implemented and applied to students remains. In the past, this confusion has led to erroneous interpretations of the provisions and incorrect assumptions as to who should be classified as a resident or nonresident student for tuition purposes.

To clarify how Board policy should be applied in residency determinations and promote consistency in these determinations, System staff recommends a technical reorganization of the chapter to improve clarity, which will assist institutions in proper implementation of the residency classifications. A single NSHE form has been in place for several years to help ensure that residency determinations are made consistently across institutions, and the revisions recommended herein generally align with that form and current practice when classifying or reclassifying a student's residency status for tuition purposes.

SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED

Revise and reorganize *Title 4, Chapter 15* as follows:

Section 1: Amend Section 1 to include new language (subsection 1) that outlines how sections of the chapter should be applied in terms of order when making a residency determination, which aligns with historical practice and protocols. In addition, amend Section 1 to include the language deleted from the current Section 10 on the uniformity of decisions. In accordance with practice, new language in Section 1 notes that the residency decision at one institution must be honored by all institutions, unless there was an institutional error, in which case the error will be corrected beginning with the semester the error is identified. When a classification error is made, the student has no vested interest or right to rely on the erroneous institutional classification, which is in alignment with current practice.

Section 2: Add new subsection 3 to include a definition of "bona fide residence" that is in alignment with state law (*Nevada Revised Statutes* 396.540) and current policy and practice of residence in the state for at least 12 months. Amend subsection 17 of the section (definition of "resident") by deleting provisions in the definition to certain members of the Armed Forces who transfer to a military posting outside of Nevada. (The deleted language is added to Section 3.)

Section 3: Amend Section 3 so that all individuals noted as not being charged tuition are in the singular form for consistency throughout the section. Delete subsection 12 on certain covered individuals/veterans and create a new Section 4 that addresses exclusively covered individuals as required in federal law. Add new language in subsections 12 through 15 and 18 through 21 from the current Section 4 (structural change only). Also add new Subsections 8 and 9 to bring Section 3 into alignment with *Nevada Revised Statutes* 396.540 (does not increase the overall population of students eligible for the exemption as they are also covered by existing language that was moved from the old Section 4 to the new Section 4).

New Section 4. Insert new Section 4 on covered individuals who are to be deemed residents for tuition purposes in compliance with Section 702 of the Veterans Access, Choice, and Accountability Act of 2014 (Approval of Courses of Education provided by Public Institutions of Higher Learning for Purposes of All-Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance Conditional on In-

State Tuition Rate for Veterans) and Section 1005 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (Requirements for In-State Tuition), as codified under 38 U.S.C. 3679(c), including but not limited to amendments under Public Law 114-315, Public Law 115-251, and Public Law 116-315. These provisions previously appeared in Section 3 and are moved to a stand-alone section that addresses federal provisions only.

New Section 5. Renumber the current Section 4 as Section 5. Delete subsections 1g, 2f, and 3 through 8 and move to the Section 3. Delete subsection 9 on alien students and move to new Section 6.

New Section 6. Insert new Section 6 with the language from subsection 9 of current Section 4. Break out existing language into subsections for clarification.

Sections 7 – 10. Current Sections 5 through 8 are renumbered as Sections 7 – 10. Delete the current Section 10 as that language was moved to Section 1.

Section 11. Renumber Section 9 as Section 11. Amend section to include language requiring the Vice Chancellor for Academic and Student Affairs to create one form that shall be used by all institutions for residency classification and reclassification to align with current practice.

IMPETUS (WHY NOW?)

System staff continue to receive inquiries from institutions and students regarding residency classifications. These revisions are brought forward to promote consistent interpretation and application of the provisions governing residency for tuition purposes.

CHECK THE NSHE STRATEGIC PLAN GOAL THAT IS SUPPORTED BY THIS REQUEST:

- Access (Increase participation in post-secondary education)
- Success (Increase student success)
- Close the Achievement Gap (Close the achievement gap among underserved student populations)
- Workforce (Collaboratively address the challenges of the workforce and industry education needs of Nevada)
- Research (Co-develop solutions to the critical issues facing 21st century Nevada and raise the overall research profile)
- Not Applicable to NSHE Strategic Plan Goals

INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL

Not applicable.

BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION

- The proposed technical reorganization of the chapter will help ensure institutions make consistent determinations regarding residency.

POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION

None have been presented.

ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED

Retain the existing organization of the chapter.

RECOMMENDATION FROM THE CHANCELLOR'S OFFICE

The Chancellor's Office supports the revisions presented herein.

COMPLIANCE WITH BOARD POLICY:

Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____
 Amends Current Board Policy: Title 4, Chapter 15
 Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
 Other: _____
 Fiscal Impact: Yes _____ No X _____
Explain: _____

POLICY PROPOSAL
TITLE 4, CHAPTER 15, SECTION 1

Purpose and Uniform Application of Residency Decisions

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 1. Purpose and Uniform Application of Residency Decisions

These regulations have been enacted to provide uniform rules throughout the Nevada System of Higher Education (the "System") and all member institutions thereof, for the purpose of determining whether students shall be classified as resident students or nonresident students for tuition charges.

- 1. A student must provide documentation to support residency classification or reclassification at the request of an NSHE institution.***
- 2. After a student is admitted to an NSHE institution, a determination shall be made as to whether the student must be charged tuition in accordance with this chapter, including the provisions set forth under Section 11 (Administration of the Regulations). Each institution must first determine whether the student is exempt from the payment of tuition in accordance with Section 3 (Nonresident Tuition) of this chapter. Students who are not exempt under Section 3 of this chapter must establish residency in accordance with Section 5 (Resident Students) or Section 6 (Residency for Alien Students) of this chapter.***
- 3. The decision of an NSHE institution to grant resident student or nonresident student status to a person shall be honored at other NSHE institutions, unless a person obtained resident student status under false pretenses, the institution made an error in the decision to grant resident student or nonresident student status, or the facts affecting residency determination have significantly changed since the time resident student status was granted. Students granted nonresident status who subsequently meet the qualifications of Section 10 (Reclassification of Nonresident Status) may apply for reclassification.***
- 4. If an institution determines that it or another NSHE institution incorrectly classified a student due to institutional error, the error shall be corrected beginning with the semester the error is identified. When an incorrect classification or error is made, the student has no vested interest or right to rely on the erroneous institutional classification.***

POLICY PROPOSAL
TITLE 4, CHAPTER 15, SECTION 2
Definitions

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 2. Definitions

For the purposes of these regulations, the terms stated below shall have the following meanings:

1. "Alien" means a person who is not a citizen of the United States of America.
2. "Armed Forces of the United States" means the Army, the Navy, the Air Force, the Marine Corps and the Coast Guard, on active duty and does not include the National Guard or other reserve force, with the exception of active members of the Nevada National Guard.
3. *"Bona fide residence" means an established lawful residence in the state of Nevada for at least twelve (12) months immediately preceding the date of matriculation with the intent of making Nevada the person's true, fixed and permanent home and place of habitation, having clearly abandoned any former residence and having no intent to make any other location outside of Nevada the person's home and habitation. Required documentation to prove a bona fide residence shall be consistent with Section 5 of this Chapter.*
- [3-] 4. "Clear and convincing evidence" means evidence that is clear in the sense that it is not ambiguous, equivocal or contradictory and convincing in the sense that it is of such a credible, reliable, authentic and relevant nature as to evoke confidence in the truth of it.
- [4-] 5. "Continuously enrolled" means enrollment within a normal academic year for which continuous enrollment is claimed. A person need not attend summer sessions or other between-semester sessions in order to be continuously enrolled.
- [5-] 6. "Date of matriculation" means the first day of instruction in the semester or term in which enrollment of a student first occurs, except that at the University of Nevada, Reno School of Medicine and the University of Nevada, Las Vegas School of Medicine it means the date that a notice of admittance is sent to a student, and at the community colleges it excludes correspondence courses and community service courses that are not state funded. A person who enrolled in an institution of the NSHE but withdrew enrollment during the 100% refund period may, for the purposes of these regulations, be deemed not to have matriculated and any determination concerning residency status shall be voided until such time as the person again enrolls at a System institution.
- [6-] 7. "Dependent" means a person who is not financially independent and is claimed as an exemption for federal income tax purposes under Section 152 of the Internal Revenue Code (26 U.S.C. § 152) by another person for the most recent tax year.
- [7-] 8. "Family" means the natural or legally adoptive parent or parents of a dependent person, or if one parent has legal custody of a dependent person, that parent.

- [8.] **9.** "Financially independent" means a person who has not been and will not be claimed as an exemption for federal income tax purposes under Section 152 of the Internal Revenue Code (26 U.S.C. § 152) by another person, except his or her spouse, for the most recent tax year.
- [9-] **10.** "Graduate Fellow" means a graduate student receiving a stipend that is treated as a scholarship with no specific duties required for the award.
- [10-] **11.** "Most recent tax year" means the income tax return submitted for the prior income year.
- [11-] **12.** "Legal guardian" means a court-appointed guardian of a dependent person, who was appointed guardian at least twelve (12) months immediately prior to the dependent person's date of matriculation and for purposes other than establishing the dependent person's residence.
- [12-] **13.** "Nonresident" means a person who is not a resident.
- [13-] **14.** "Objective evidence" means evidence that is verifiable by means other than a person's own statements.
- [14-] **15.** "Relocated," means evidence of permanent, full-time employment in Nevada or establishment of a business in and living in Nevada prior to the date of matriculation.
- [15-] **16.** "Residence" a term which for the purposes of these regulations is synonymous with the legal term "domicile," and means that location in which a person is considered to have the most settled and permanent connection, intends to remain and intends to return after any temporary absences. Residence results from the union of a person's physical presence in the location with objective evidence of an intent to remain at that location for other than a temporary purpose.
- [16-] **17.** "Resident" means a person who has established a bona fide residence in the State of Nevada. ~~[with the intent of making Nevada the person's true, fixed and permanent home and place of habitation, having clearly abandoned any former residence and having no intent to make any other location outside of Nevada the person's home and habitation. The term also includes a member of the Armed Forces of the United States who has previously established a bona fide residence in the State of Nevada, but who has been transferred to a military posting outside of Nevada while continuing to maintain a bona fide residence in Nevada. When residence for a particular period is required under these regulations, this shall mean that the person claiming residence for the period must be physically present and residing in Nevada during all of the period required, excluding temporary, short term absences for business or pleasure.]~~
- [17-] **18.** "Returning student" means a student who re-enrolls after a break in enrollment of one of more semesters.
- [18-] **19.** "Spouse" means a person's partner in legal marriage or a person's domestic partner if the domestic partnership is registered with the Office of the Nevada Secretary of State.
- [19-] **20.** "Student" means a person who is enrolled at an institution of the NSHE.

[20.] **21.** "Tuition" means a monetary charge assessed against nonresident students, which is in addition to registration fees, or other fees assessed against all students.

POLICY PROPOSAL
TITLE 4, CHAPTER 15, SECTION 3
Nonresident Tuition

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 3. *Nonresident Tuition*

Nonresident tuition [~~Tuition~~] shall be charged to *all* nonresident students except [~~as otherwise provided in this Section.~~] *that tuition* [~~Tuition~~] shall not be charged *to*:

1. [~~To current enrollees or graduates~~] *A current enrollee or graduate* of a Nevada high school. This Subsection does not apply to [~~enrollees or graduates~~] *an enrollee or graduate* of an online Nevada high school if the student is not physically present and residing in the State of Nevada while enrolled or prior to graduation.
2. [~~To returning students~~] *A returning student* who [~~had~~] *has* established an exemption from tuition charges at any NSHE institution in their prior enrollment period.
3. [~~To~~] *A* community college [~~students~~] *student* in community service courses that are not state funded.
4. [~~To a~~] *A* professional employee, classified employee, postdoctoral fellow, resident physician, or resident dentist] of the NSHE currently employed at least half time, or the spouse or dependent child of such an employee.
5. [~~To a~~] *A* graduate student enrolled in the NSHE and employed by the System in support of its instructional or research programs, only during the period of time of such employment.
6. [~~To~~] *A* graduate [~~fellows~~] *fellow*.
7. [~~To a~~] *A* member of the Armed Forces of the United States, on active duty, stationed in Nevada as a result of a permanent change of duty station pursuant to military orders, or a person whose spouse, parent or legal guardian is a member of the Armed Forces of the United States stationed in Nevada as a result of a permanent change of duty station pursuant to military orders, including a Marine currently stationed at the Marine Corps Mountain Warfare Training Center at Pickel Meadows, California. If the member ceases to be stationed in Nevada, reside in Nevada, be stationed in Pickel Meadows, California, or be domiciled in Nevada, the spouse, child or legal guardian of the member shall not be charged tuition if the spouse, child or legal guardian of the member was admitted prior to the reassignment if such student enrolls and remains continuously enrolled at an NSHE institution.
8. *A member of the Armed Forces of the United States who has previously established a bona fide residence in the State of Nevada, but who has been transferred to a military posting outside of Nevada while continuing to maintain a bona fide residence in Nevada. When residence for a particular period is required under these regulations, this shall mean that the person claiming residence for the period must be physically present and residing in Nevada*

during all of the period required, excluding temporary, short-term absences for business or pleasure.

9. A former member of the Armed Forces of the United States who was relocated from Nevada as a result of a permanent change of duty station pursuant to military orders will be considered a Nevada resident for tuition purposes under the condition that the member was a resident of Nevada prior to leaving the state as a member of the Armed Forces; maintained their Nevada residency while a member of the Armed Forces; and returns to the State of Nevada within one year of leaving the Armed Forces.

~~[8.]~~**10. [To a] A veteran of the Armed Forces of the United States who was honorably discharged and who on the date of discharge was on active duty stationed in Nevada, including a marine stationed at the Marine Corps Mountain Warfare Training Center at Pickel Meadows, California, pursuant to military orders.**

~~[9.]~~**11. [Except as otherwise provided in Subsection 8 of this Section, to a] A veteran of the Armed Forces of the United States who was honorably discharged.**

12. A veteran of the Armed Forces of the United States who has been awarded the Purple Heart.

13. A student who:

- a. Is a veteran using Post-9/11 Educational Assistance pursuant to 38 U.S.C. § § 3301 to 3327, inclusive and became eligible for benefits after January 1, 2013; or**
- b. Is a spouse or dependent using Post-9/11 Educational Assistance pursuant to 38 U.S.C. § § 3301 to 3327, inclusive.**

14. A student using Survivors' and Dependents' Educational Assistance pursuant to 38 U.S.C. § § 3500 to 3566, inclusive.

15. A student using benefits under the Marine Gunnery Sergeant John David Fry Scholarship pursuant to 38 U.S.C. § § 3311(b)(8).

~~[10.]~~**16. [To a] A student enrolled in the University Studies Abroad Consortium or in the National Student Exchange Program, only during the period of time of such enrollment. Time spent in Nevada while a student is in the National Student Exchange Program shall not be counted towards satisfying the residence requirement of Section [4 Paragraph 2] 5 of this chapter [below], nor shall enrollment through the Consortium or the Exchange Program be included in the "date of matriculation" for evaluation of Nevada residency.**

~~[11.]~~**17. [To members] A member of a federally recognized Native American tribe[s], who [do] does not otherwise qualify as a Nevada resident[s], and who currently [reside] resides on tribal lands located wholly or partially within the boundaries of the State of Nevada.**

~~[12.]~~**To a covered individual, as defined by this Subsection, who is living in Nevada.**

- ~~a. This Subsection complies with Section 702 of the Veterans Access, Choice, and Accountability Act of 2014 (Approval of Courses of Education provided by Public Institutions of Higher Learning for Purposes of All Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance Conditional on In-State~~

Tuition Rate for Veterans) and Section 1005 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (Requirements for In-State Tuition), as codified under 38 U.S.C. 3679(e), including but not limited to amendments under Public Law 114-315, Public Law 115-251, and Public Law 116-315. The provisions contained herein must be interpreted to comply with the applicable federal provisions and definitions.

- b. ~~To affirm a covered individual is living in Nevada, institutions shall only require the covered individual to:
 - i. ~~Provide a physical address in Nevada; and~~
 - ii. ~~Sign a statement affirming the covered individual is living in Nevada and intends to become a bona fide Nevada resident.~~~~
- c. ~~An institution shall not require a covered individual to complete a residency form or application.~~
- d. ~~Except as otherwise provided in this paragraph, a covered individual must provide:
 - i. ~~Either a DD-214 (Discharge Orders) or a DD-1300 (Report of Casualty) or similar documentation verifying the date of discharge or casualty; and~~
 - ii. ~~A Certificate of Eligibility issued by the United States Department of Veterans Affairs or similar documentation verifying eligibility.~~A covered individual using transferred benefits under the Post 9/11 Veterans Educational Assistance Act when the transferor is a member of the uniformed services who is on active duty pursuant to paragraph c(ii)(b) of this section must provide documentation required by the institution to confirm that the covered individual is eligible to use the transferred benefits.~~
- e. ~~For purposes of this Subsection, “covered individual” means:
 - i. ~~A veteran who:
 - a) ~~Enrolls with a discharge or release from a period of not fewer than 90 days of service in the active military, naval, or air service, including the reserve components thereof and the National Guard; and~~
 - b) ~~Is pursuing a course of education with educational assistance under Chapter 30 (All Volunteer Force Educational Assistance Program) or Chapter 33 (Post-9/11 Veterans Educational Assistance Act) of Title 38, United States Code¹;~~~~
 - ii. ~~An individual using transferred benefits under the Post 9/11 Veterans Educational Assistance Act² and:
 - a) ~~The transferor’s discharge or release was from a period of active duty service of 90 days or more; or~~
 - b) ~~The transferor is a member of the uniformed services who is serving on active duty;~~~~
 - iii. ~~An individual using benefits under the Marine Gunnery Sergeant John David Fry Scholarship (“Fry Scholarship”)³;~~~~

¹ Includes the Montgomery GI Bill—Active Duty (Chapter 30 of Title 38, United State Code) and the Post9/11 GI Bill (Chapter 33 of Title 38, United State Code).

² Chapter 33 of Title 38 of the United States Code. 38 U.S.C. § 3319 sets forth the authority to transfer unused education benefits to family members.

³ The Fry Scholarship is educational assistance for an individual who is the child or spouse of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces to educational assistance under the Post 9/11 Veterans Educational Assistance Act (See 38 U.S.C. § 3311(b)(9)).

- ~~iv. An individual using benefits under the Survivors' and Dependents' Educational Assistance (DEA) program⁴ and the transferor's discharge from or service member's death in the line of duty following a period of active duty service of 90 days or more; or~~
- ~~v. An individual entitled to rehabilitation under Section 3102(a) of Chapter 31 (Training and Rehabilitation for Veterans with Service-Connected Disabilities) of Title 38, United States Code.]~~

- 18. A financially independent person who has relocated to Nevada for the primary purpose of permanent full-time employment in Nevada or to establish a business in and living in Nevada.***
- 19. A financially dependent person whose spouse, family, or legal guardian has relocated to Nevada for the primary purpose of permanent full-time employment in Nevada or to establish a business in and living in Nevada.***
- 20. A licensed educational full-time employee of a public school district in the State of Nevada, or the spouse or dependent child of such an employee.***
- 21. A teacher who is currently employed full-time by a private elementary, secondary or postsecondary educational institution whose curricula meet the requirements of Nevada Revised Statutes 394.130, or the spouse or dependent child of such an employee.***

⁴~~The Survivors' and Dependents' Educational Assistance (DEA) Program under Chapter 35 of Title 38 of the United States Code sets forth education and training opportunities to eligible dependents of veterans who are permanently and totally disabled due to a service-related condition or of veterans who died while on active duty or as a result of a service-related condition.]~~

POLICY PROPOSAL
TITLE 4, CHAPTER 15, *new* SECTION 4
Covered Individuals/Veterans Not Charged Tuition

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

INSERT NEW SECTION 4 AS FOLLOWS:

Section 4. Covered Individuals/Veterans Not Charged Tuition

Covered individuals, as defined by this Section, who are living in Nevada, shall not be charged tuition.

- 1. This Subsection complies with Section 702 of the Veterans Access, Choice, and Accountability Act of 2014 (Approval of Courses of Education provided by Public Institutions of Higher Learning for Purposes of All-Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance Conditional on In-State Tuition Rate for Veterans) and Section 1005 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (Requirements for In-State Tuition), as codified under 38 U.S.C. 3679(c), including but not limited to amendments under Public Law 114-315, Public Law 115-251, and Public Law 116-315. The provisions contained herein must be interpreted to comply with the applicable federal provisions and definitions.***
- 2. To affirm a covered individual is living in Nevada, institutions shall only require the covered individual to:***
 - a. Provide a physical address in Nevada; and***
 - b. Sign a statement affirming the covered individual is living in Nevada and intends to become a bona fide Nevada resident.***
- 3. An institution shall not require a covered individual to complete a residency form or application.***
- 4. Except as otherwise provided in this paragraph, a covered individual must provide:***
 - a. Either a DD-214 (Discharge Orders) or a DD-1300 (Report of Casualty) or similar documentation verifying the date of discharge or casualty; and***
 - b. A Certificate of Eligibility issued by the United States Department of Veterans Affairs or similar documentation verifying eligibility.***

A covered individual using transferred benefits under the Post-9/11 Veterans Educational Assistance Act when the transferor is a member of the uniformed services who is on active duty pursuant to paragraph e(ii)(b) of this section must provide documentation required by the institution to confirm that the covered individual is eligible to use the transferred benefits.

5. *For purposes of this Subsection, “covered individual” means:*
- a. *A veteran who:*
 - i. *Enrolls with a discharge or release from a period of not fewer than 90 days of service in the active military, naval, or air service, including the reserve components thereof and the National Guard; and*
 - ii. *Is pursuing a course of education with educational assistance under Chapter 30 (All-Volunteer Force Educational Assistance Program) or Chapter 33 (Post-9/11 Veterans Educational Assistance Act) of Title 38, United States Code¹;*
 - b. *An individual using transferred benefits under the Post-9/11 Veterans Educational Assistance Act² and:*
 - i. *The transferor’s discharge or release was from a period of active-duty service of 90 days or more; or*
 - ii. *The transferor is a member of the uniformed services who is serving on active duty;*
 - c. *An individual using benefits under the Marine Gunnery Sergeant John David Fry Scholarship (“Fry Scholarship”)³;*
 - d. *An individual using benefits under the Survivors’ and Dependents’ Educational Assistance (DEA) program⁴ and the transferor’s discharge from or service member’s death in the line of duty following a period of active-duty service of 90 days or more; or*
 - e. *An individual entitled to rehabilitation under Section 3102(a) of Chapter 31 (Training and Rehabilitation for Veterans with Service-Connected Disabilities) of Title 38, United States Code.*

¹ *Includes the Montgomery GI Bill – Active Duty (Chapter 30 of Title 38, United State Code) and the Post9/11 GI Bill (Chapter 33 of Title 38, United State Code).*

² *Chapter 33 of Title 38 of the United States Code. 38 U.S.C. § 3319 sets forth the authority to transfer unused education benefits to family members.*

³ *The Fry Scholarship is educational assistance for an individual who is the child or spouse of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces to educational assistance under the Post-9/11 Veterans Educational Assistance Act (See 38 U.S.C. § 3311(b)(9)).*

⁴ *The Survivors’ and Dependents’ Educational Assistance (DEA) Program under Chapter 35 of Title 38 of the United States Code sets forth education and training opportunities to eligible dependents of veterans who are permanently and totally disabled due to a service-related condition or of veterans who died while on active duty or as a result of a service-related condition.*

POLICY PROPOSAL
TITLE 4, CHAPTER 15, SECTION 5
Resident Students

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

RENUMBER SECTION 4 AS SECTION 5

Section ~~4~~ 5. Resident Students

Except as otherwise provided in Section 3 (*Tuition*) and Section 6 (*Residency for Alien Students*) of this chapter, as supported by clear and convincing evidence, any person who meets any one of the following categories shall be deemed a resident student for tuition purposes:

1. Except as provided otherwise in this Section, a dependent person whose spouse, family or legal guardian is a bona fide resident of the State of Nevada [~~for at least 12 months immediately prior to the date of matriculation~~]. Some or all of the following pieces of objective evidence of Nevada residency may be required with the student's application for enrollment and must be issued at least 12 months prior to the date of matriculation:
 - a. Evidence of *bona fide residence in* Nevada [~~as~~] *for* the spouse's, parents' or legal guardian's permanent, primary residence at the date of matriculation. [~~{~~] Examples of evidence include home ownership, a lease agreement, rent receipts, *and* utility bills[~~}]~~.
 - b. The student's birth certificate or proof of legal guardianship.
 - c. The spouse's, parents' or legal guardian's tax return for the most recent tax year, which indicates the student *was* claimed as a dependent.
 - d. A Nevada driver's license or Nevada identification card for the spouse, parent or legal guardian.
 - e. A Nevada vehicle registration for the spouse, parent or legal guardian.
 - f. Nevada voter registration for the spouse, parent or legal guardian.

[~~g. Evidence that the student's spouse, family, or legal guardian has relocated to Nevada for the primary purpose of permanent full-time employment in Nevada or to establish a business in and living in Nevada (examples of evidence include a letter from the employer or copy of business license).~~]
2. Except as provided otherwise in this Section, a financially independent person whose family resides outside the State of Nevada, if the person himself or herself is a bona fide resident of the State of Nevada [~~for at least 12 months immediately prior to the date of matriculation~~]. Some or all of the following pieces of objective evidence of Nevada residency may be required with the student's application for enrollment and must be issued at least 12 months prior to the date of matriculation:

- a. Evidence of *bona fide residence* [~~12 months physical, continuous presence~~] in [~~the State of~~] Nevada [~~prior to~~] *at* the date of matriculation. [~~(Examples of evidence include *home ownership*, a lease agreement, rent receipts, *and* utility bills[~~)]~~].~~
- b. The student's tax return for the most recent tax year, indicating a Nevada address. If no federal tax return has been filed by the student because of minimal or no taxable income, documented information concerning the receipt of such nontaxable income. If the student is under the age of 24, a copy of the parent's or legal guardian's tax return for the most recent tax year that indicates the student was not claimed as a dependent.
- c. The student's Nevada driver's license or Nevada identification card.
- d. The student's Nevada vehicle registration.
- e. The student's Nevada voter registration.

~~[f. Evidence that the student, and/or the person's spouse, has relocated to Nevada for the primary purpose of permanent full-time employment in Nevada or to establish a business in and living in Nevada. Examples of evidence include a letter from the employer or copy of business license.~~

3. ~~A former member of the Armed Forces of the United States who was relocated from Nevada as a result of a permanent change of duty station pursuant to military orders will be considered a Nevada resident for tuition purposes under the following conditions:~~
 - a. ~~He/She was a resident of Nevada prior to leaving the state as a member of the Armed Forces;~~
 - b. ~~He/She maintained his/her Nevada residency while a member of the Armed Forces; and~~
 - c. ~~He/She returns to the State of Nevada within one year of leaving the Armed Forces. It will be necessary for the student to supply documentation in support of each of these conditions, e.g., driver's license, property ownership, evidence of absentee voting, etc.~~
4. ~~A graduate of a Nevada high school. This Subsection does not apply to graduates of an online Nevada high school if the student is not physically present and residing in the State of Nevada prior to graduation.~~
5. ~~A financially independent person who has relocated to Nevada for the primary purpose of permanent full-time employment in Nevada or to establish a business in and living in Nevada.~~
6. ~~A financially dependent person whose spouse, family, or legal guardian has relocated to Nevada for the primary purpose of permanent full-time employment in Nevada or to establish a business in and living in Nevada.~~
7. ~~Licensed educational personnel employed full-time by a public school district in the State of Nevada, or the spouse or dependent child of such an employee.~~

- ~~8. A teacher who is currently employed full-time by a private elementary, secondary or postsecondary educational institution whose curricula meet the requirements of NRS 394.130, or the spouse or dependent child of such an employee.~~
- ~~9. An alien who has become a Nevada resident by establishing bona fide residence in Nevada and who holds a permanent immigrant visa, has been granted official asylum or refugee status, has been granted temporary protected status, has been issued a temporary resident alien card, holds an approved immigration petition as a result of marriage to a U.S. citizen, or is a nonimmigrant alien admitted to the U.S. with a visa classification under which the holder is eligible to establish domicile in the U.S. An alien holding another type of visa shall not be classified as a resident student pursuant to this Subsection, except as may be required by federal law or court decisions and upon due consideration of evidence of Nevada residence. The vice chancellor for academic affairs shall establish procedures governing visa classifications for the purpose of determining eligibility for classification as a resident student.]~~

POLICY PROPOSAL
TITLE 4, CHAPTER 15, *new* SECTION 6
Residency for Alien Students

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

INSERT NEW SECTION 6 AS FOLLOWS:

Section 6. Residency for Alien Students

- 1. An alien who establishes bona fide residence in Nevada shall be deemed a resident for tuition purposes through initial residency classification or reclassification if the student 1) holds a permanent immigrant visa, 2) has been granted official asylum or refugee status, 3) has been granted temporary protected status, 4) has been issued a temporary resident alien card, 5) holds an approved immigration petition as a result of marriage to a U.S. citizen, or 6) is a nonimmigrant alien admitted to the U.S. with a visa classification under which the holder is eligible to establish domicile in the U.S.*
- 2. An alien holding another type of visa (or no visa) shall not be classified as a resident student pursuant to this Subsection, except as may be required by federal law or court decisions and upon due consideration of evidence of Nevada residence.*
- 3. The Vice Chancellor for Academic and Student Affairs shall establish procedures governing visa classifications for the purpose of determining eligibility for classification as a resident student.*

RENUMBER SECTIONS 5 THROUGH 8 AS SECTIONS 7 THROUGH 10

POLICY PROPOSAL
TITLE 4, CHAPTER 15, SECTION 11
Administration of the Residency Regulations

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

RENUMBER SECTION 9 AS SECTION 11.

Section [9]11. Administration of [the] Residency Regulations

1. Each institution of the NSHE shall designate an appropriate office to implement and administer these regulations.
- [1]2. Each designated office shall make the initial decision on the resident or nonresident student status of persons enrolling in the institution. If a verifiable error occurs when the initial decision is made to classify a student as a nonresident for tuition purposes, the designated office shall correct the decision and reclassify the student as a resident for tuition purposes without requiring the student to apply for residency reclassification.
- [2]3. Each designated office shall make the initial decision on applications for reclassification from nonresident to resident student status.
4. *The Vice Chancellor for Academic and Student Affairs shall create one form that sets forth the documentation required to prove residency and/or bona fide residence in Nevada. This form shall be used by all institutions for determining whether students are classified or reclassified as resident students or nonresident students for tuition purposes. An institution may utilize an alternative format for their residency form provided the form content is identical to the System created form.*
- [3]5. The president of each System institution shall establish an appellate procedure under which a person may appeal decisions of the designated office concerning tuition or status as a resident or nonresident student to an appellate board.
 - a. A person may appeal a decision of the designated office to the appellate board within thirty (30) days from the date of the decision of the office. If an appeal is not taken within that time, the decision of the designated office shall be final.
 - b. The appellate board shall consider the evidence in accordance with the standards and criteria of these regulations and shall make a decision that shall be final. No further appeal beyond the appellate board shall be permitted.
- [4]6. In exceptional cases, where the application of these regulations works an injustice to an individual who technically does not qualify as a resident student, but whose status, either because of the residence of the student or his family, is such as to fall within the general intent of these regulations, then the appellate board shall have the authority to determine that such a student be classified as a resident student. It is the intent of this provision that it applies only in

the infrequent, exceptional cases where a strict application of these regulations results, in the sole judgment of the appellate board, in an obvious injustice.

POLICY PROPOSAL
TITLE 4, CHAPTER 15, SECTION 10
Uniformity of Decision

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

DELETE SECTION 10.

[Section 10.—Uniformity of Decisions

~~The decision of an institution of the NSHE to grant resident student or nonresident student status to a person shall be honored at other System institutions, unless a person obtained resident student status under false pretenses or the facts existing at the time resident student status was granted have significantly changed. Students granted nonresident student status by an institution retain the right to apply for reclassification under the provisions of the chapter.]~~