

REFERENCE TITLE: **postsecondary education; tuition; classification; status**

State of Arizona  
Senate  
Fifty-first Legislature  
Second Regular Session  
2014

# **SCR 1019**

Introduced by  
Senator Gallardo; Representative Quezada

**A CONCURRENT RESOLUTION**

**ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO  
TUITION STATUS FOR POSTSECONDARY EDUCATION.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of  
2 Representatives concurring:

3 1. Under the power of the referendum, as vested in the Legislature,  
4 the following measure, relating to tuition status for postsecondary  
5 education, is enacted to become valid as a law if approved by the voters and  
6 on proclamation of the Governor:

7 AN ACT

8 AMENDING SECTIONS 1-502, 15-232, 15-1802 AND 15-1803, ARIZONA  
9 REVISED STATUTES; REPEALING SECTION 15-1825, ARIZONA REVISED  
10 STATUTES; RELATING TO TUITION STATUS FOR POSTSECONDARY  
11 EDUCATION.

12 Be it enacted by the Legislature of the State of Arizona:

13 Section 1. Section 1-502, Arizona Revised Statutes, is  
14 amended to read:

15 1-502. Eligibility for state or local public benefits;  
16 documentation; violation; classification;  
17 citizen suits; court costs and attorney fees;  
18 definition

19 A. Notwithstanding any other state law and to the extent  
20 permitted by federal law, any agency of this state or a  
21 political subdivision of this state that administers any state  
22 or local public benefit shall require each natural person who  
23 applies for the state or local public benefit to submit at least  
24 one of the following documents to the entity that administers  
25 the state or local public benefit demonstrating lawful presence  
26 in the United States:

27 1. An Arizona driver license issued after 1996 or an  
28 Arizona nonoperating identification license.

29 2. A birth certificate or delayed birth certificate  
30 issued in any state, territory or possession of the United  
31 States.

32 3. A United States certificate of birth abroad.

33 4. A United States passport.

34 5. A foreign passport with a United States visa.

35 6. An I-94 form with a photograph.

36 7. A United States citizenship and immigration services  
37 employment authorization document or refugee travel document.

38 8. A United States certificate of naturalization.

39 9. A United States certificate of citizenship.

40 10. A tribal certificate of Indian blood.

41 11. A tribal or bureau of Indian affairs affidavit of  
42 birth.

1           B. For the purposes of administering the Arizona health  
2 care cost containment system, documentation of citizenship and  
3 legal residence shall conform with the requirements of title XIX  
4 of the social security act.

5           C. To the extent permitted by federal law, an agency of  
6 this state or political subdivision of this state may allow  
7 tribal members, the elderly and persons with disabilities or  
8 incapacity of the mind or body to provide documentation as  
9 specified in section 6036 of the federal deficit reduction act  
10 of 2005 (P.L. 109-171; 120 Stat. 81) and related federal  
11 guidance in lieu of the documentation required by this section.

12           D. Any person who applies for state or local public  
13 benefits shall sign a sworn affidavit stating that the documents  
14 presented pursuant to subsection A of this section are true  
15 under penalty of perjury.

16           E. Failure to report discovered violations of federal  
17 immigration law by an employee of an agency of this state or a  
18 political subdivision of this state that administers any state  
19 or local public benefit is a class 2 misdemeanor. If that  
20 employee's supervisor knew of the failure to report and failed  
21 to direct the employee to make the report, the supervisor is  
22 guilty of a class 2 misdemeanor.

23           F. This section shall be enforced without regard to race,  
24 color, religion, sex, age, disability or national origin.

25           G. Any person who is a resident of this state has  
26 standing in any court of record to bring suit against any agent  
27 or agency of this state or its political subdivisions to remedy  
28 any violation of any provision of this section, including an  
29 action for mandamus. Courts shall give preference to actions  
30 brought under this section over other civil actions or  
31 proceedings pending in the court.

32           H. The court may award court costs and reasonable  
33 attorney fees to any person or any official or agency of this  
34 state or a county, city, town or other political subdivision of  
35 this state that prevails by an adjudication on the merits in a  
36 proceeding brought pursuant to this section.

37           I. For the purposes of this section, "state or local  
38 public benefit" has the same meaning prescribed in 8 United  
39 States Code section 1621, except that it does not include **ADULT**  
40 **EDUCATION, POSTSECONDARY EDUCATION**, commercial or professional  
41 licenses, benefits provided by the public retirement systems and  
42 plans of this state or services widely available to the general  
43 population as a whole.

1           Sec. 2. Section 15-232, Arizona Revised Statutes, is  
2 amended to read:

3           15-232. Division of adult education; duties

4           A. There is established a division of adult education  
5 within the department of education, under the jurisdiction of  
6 the state board of education, which shall:

7           1. Prescribe a course of study for adult education in  
8 school districts.

9           2. Make available and supervise the program of adult  
10 education in other institutions and agencies of this state.

11           3. Adopt rules for the establishment and conduct of  
12 classes for immigrant and adult education, including the  
13 teaching of English to foreigners, in school districts.

14           4. Devise plans for establishment and maintenance of  
15 classes for immigrant and adult education, including the  
16 teaching of English to foreigners, stimulate and correlate the  
17 Americanization work of various agencies, including  
18 governmental, and perform such other duties as may be prescribed  
19 by the state board of education and the superintendent of public  
20 instruction.

21           5. Prescribe a course of study to provide training for  
22 adults to continue their basic education to the degree of  
23 passing an equivalency test approved by the state board of  
24 education.

25           6. Review, approve and monitor a fee structure that may  
26 be implemented by adult education providers to ensure they meet  
27 state and federal law and considers an individual's ability to  
28 pay. The approved fee structure shall include a sliding scale  
29 fee schedule, based on household income, that shall be assessed  
30 to each individual participating in any program offered by the  
31 adult education provider.

32           B. The department of education shall provide classes  
33 under this section only to adults who are citizens or legal  
34 residents of the United States or are otherwise lawfully present  
35 in the United States. **THIS SUBSECTION DOES NOT PROHIBIT A  
36 STUDENT WHO WOULD QUALIFY FOR IN-STATE TUITION OR COUNTY  
37 RESIDENCY STATUS UNDER SECTION 15-1802 OR 15-1803 FROM  
38 ELIGIBILITY FOR STATE-FUNDED ADULT EDUCATION CLASSES PURSUANT TO  
39 THIS SECTION.** This subsection shall be enforced without regard  
40 to race, religion, gender, ethnicity or national origin.

41           C. The department of education shall report on December  
42 31 and June 30 of each year to the joint legislative budget  
43 committee the total number of adults who applied for instruction  
44 and the total number of adults who were denied instruction under  
45 this section because the applicant was not a citizen or legal

1 resident of the United States or was not otherwise lawfully  
2 present in the United States.

3 Sec. 3. Section 15-1802, Arizona Revised Statutes, is  
4 amended to read:

5 15-1802. In-state student status

6 A. Except as otherwise provided in this article, no  
7 person having a domicile elsewhere than in this state is  
8 eligible for classification as an in-state student for tuition  
9 purposes.

10 B. A person is not entitled to classification as an  
11 in-state student until the person is domiciled in this state for  
12 one year, except that a person whose domicile is in this state  
13 is entitled to classification as an in-state student if the  
14 person meets one of the following requirements:

15 1. The person's parent's domicile is in this state and  
16 the parent is entitled to claim the person as an exemption for  
17 state and federal tax purposes.

18 2. The person is an employee of an employer that  
19 transferred the person to this state for employment purposes or  
20 the person is the spouse of such an employee.

21 3. The person is an employee of a school district in this  
22 state and is under contract to teach on a full-time basis or is  
23 employed as a full-time noncertified classroom aide at a school  
24 within that school district. For the purposes of this  
25 paragraph, the person is eligible for classification as an  
26 in-state student only for courses necessary to complete the  
27 requirements for certification by the state board of education  
28 to teach in a school district in this state. No member of the  
29 person's family is eligible for classification as an in-state  
30 student if the person is eligible for classification as an  
31 in-state student pursuant to this paragraph, unless the family  
32 member is otherwise eligible for classification as an in-state  
33 student pursuant to this section.

34 4. The person's spouse has established domicile in this  
35 state for at least one year and has demonstrated intent and  
36 financial independence and is entitled to claim the student as  
37 an exemption for state and federal tax purposes or the person's  
38 spouse was temporarily out of state for educational purposes,  
39 but maintained a domicile in this state. If the person is a  
40 noncitizen, the person must **MEET THE REQUIREMENTS PRESCRIBED IN**  
41 **SUBSECTION I OF THIS SECTION OR** be in an eligible visa status  
42 pursuant to federal law to classify as an in-state student for  
43 tuition purposes.

44 C. The domicile of an unemancipated person is that of the  
45 person's parent.

1           D. Any unemancipated person who remains in this state  
 2 when the person's parent, who had been domiciled in this state,  
 3 removes from this state is entitled to classification as an  
 4 in-state student until attainment of the degree for which  
 5 currently enrolled, as long as the person maintains continuous  
 6 attendance.

7           E. A person who is a member of the armed forces of the  
 8 United States and who is stationed in this state pursuant to  
 9 military orders or who is the spouse or a dependent child as  
 10 defined in section 43-1001 of a person who is a member of the  
 11 armed forces of the United States and who is stationed in this  
 12 state pursuant to military orders is entitled to classification  
 13 as an in-state student. A spouse or a dependent child does not  
 14 lose in-state student classification under this subsection if  
 15 the spouse or dependent child qualifies for in-state tuition  
 16 classification at the time the spouse or dependent child is  
 17 accepted for admission to a community college under the  
 18 jurisdiction of a community college district governing board or  
 19 a university under the jurisdiction of the Arizona board of  
 20 regents. The student, while in continuous attendance toward the  
 21 degree for which currently enrolled, does not lose in-state  
 22 student classification.

23           F. A person who is a member of the armed forces of the  
 24 United States or the spouse or a dependent as defined in section  
 25 43-1001 of a member of the armed forces of the United States is  
 26 entitled to classification as an in-state student if the member  
 27 of the armed forces has claimed this state as the person's state  
 28 of legal residence for at least twelve consecutive months before  
 29 the member of the armed forces, spouse or dependent enrolls in a  
 30 university under the jurisdiction of the Arizona board of  
 31 regents or a community college under the jurisdiction of a  
 32 community college district governing board. For the purposes of  
 33 this subsection, the requirement that a person be domiciled in  
 34 this state for one year before enrollment to qualify for  
 35 in-state student classification does not apply.

36           G. Beginning in the fall semester of 2011, a person who  
 37 is honorably discharged from the armed forces of the United  
 38 States ~~or~~ FROM either active duty or reserve or national guard  
 39 status, or who has retired from active duty or reserve or  
 40 national guard status, shall be granted immediate classification  
 41 as an in-state student on honorable discharge from the armed  
 42 forces and, while in continuous attendance toward the degree for  
 43 which currently enrolled, does not lose in-state student  
 44 classification if the person has met the following requirements:

- 1           1. Registered to vote in this state.
- 2           2. Demonstrated objective evidence of intent to be a
- 3 resident of Arizona which, for the purposes of this section,
- 4 includes at least one of the following:
- 5           (a) An Arizona driver license.
- 6           (b) Arizona motor vehicle registration.
- 7           (c) Employment history in Arizona.
- 8           (d) Transfer of major banking services to Arizona.
- 9           (e) Change of permanent address on all pertinent records.
- 10          (f) Other materials of whatever kind or source relevant
- 11 to domicile or residency status.

12          H. A person who is a member of an Indian tribe recognized  
13 by the United States department of the interior whose  
14 reservation land lies in this state and extends into another  
15 state and who is a resident of the reservation is entitled to  
16 classification as an in-state student.

17          I. REGARDLESS OF IMMIGRATION STATUS, AN UNDOCUMENTED  
18 PERSON WHO ENTERED THIS STATE BEFORE REACHING SIXTEEN YEARS OF  
19 AGE AND WHO HAS PREVIOUSLY BEEN A RESIDENT OF THE UNITED STATES  
20 FOR AT LEAST FIVE YEARS SHALL BE CLASSIFIED AS AN IN-STATE  
21 STUDENT OR A RESIDENT OF THE COUNTY IF ALL OF THE FOLLOWING  
22 APPLY:

- 23          1. THE PERSON MEETS AT LEAST ONE OF THE FOLLOWING
- 24 CRITERIA:
- 25           (a) IS CURRENTLY ENROLLED IN A PUBLIC OR PRIVATE SCHOOL.
- 26           (b) HAS GRADUATED FROM HIGH SCHOOL.
- 27           (c) HAS OBTAINED A GENERAL EQUIVALENCY DIPLOMA.
- 28           (d) IS AN HONORABLY DISCHARGED VETERAN OF ANY BRANCH OF
- 29 THE ARMED FORCES OF THE UNITED STATES.
- 30          2. THE PERSON HAS NOT BEEN CONVICTED OF A FELONY.
- 31          3. THE PERSON IS UNDER THIRTY-ONE YEARS OF AGE.

32          Sec. 4. Section 15-1803, Arizona Revised Statutes, is  
33 amended to read:

34          15-1803. Alien in-state student status

35          A. An alien is entitled to classification as an in-state  
36 refugee student if ~~such~~ THAT person has been granted refugee  
37 status in accordance with all applicable laws of the United  
38 States and has met all other requirements for domicile.

39          ~~B. In accordance with the illegal immigration reform and~~  
40 ~~immigrant responsibility act of 1996 (P.L. 104-208; 110 Stat.~~  
41 ~~3009), a person who was not a citizen or legal resident of the~~  
42 ~~United States or who is without lawful immigration status is not~~  
43 ~~entitled to classification as an in-state student pursuant to~~  
44 ~~section 15-1802 or entitled to classification as a county~~  
45 ~~resident pursuant to section 15-1802.01.~~

1           ~~C. Each community college and university shall report on~~  
2           ~~December 31 and June 30 of each year to the joint legislative~~  
3           ~~budget committee the total number of students who were entitled~~  
4           ~~to classification as an in state student and the total number of~~  
5           ~~students who were not entitled to classification as an in state~~  
6           ~~student under this section because the student was not a citizen~~  
7           ~~or legal resident of the United States or is without lawful~~  
8           ~~immigration status.~~

9           B. REGARDLESS OF THE PERSON'S IMMIGRATION STATUS, A  
10          PERSON WHO ENTERED THIS STATE AS A MINOR, WHO IS ENTITLED TO  
11          CLASSIFICATION AS AN IN-STATE STUDENT PURSUANT TO SECTION  
12          15-1802 OR AS A RESIDENT FOR TUITION PURPOSES PURSUANT TO  
13          SECTION 15-1802.01, WHO HAS NOT BEEN PREVIOUSLY CONVICTED OF A  
14          FELONY AND WHO IS ELIGIBLE FOR ADMISSION TO A UNIVERSITY UNDER  
15          THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS OR TO A  
16          COMMUNITY COLLEGE UNDER THE JURISDICTION OF A COMMUNITY COLLEGE  
17          DISTRICT GOVERNING BOARD SHALL BE CLASSIFIED AS AN IN-STATE  
18          STUDENT AND AS A RESIDENT OF THE COUNTY IN WHICH THE COMMUNITY  
19          COLLEGE DISTRICT IS LOCATED.

20          C. THE ARIZONA BOARD OF REGENTS AND COMMUNITY COLLEGE  
21          DISTRICT GOVERNING BOARDS SHALL ADOPT RULES AND POLICIES TO  
22          CARRY OUT THE PURPOSES OF THIS SECTION.

23          D. A PERSON WHO IS CLASSIFIED PURSUANT TO THIS SECTION AS  
24          AN IN-STATE STUDENT OR AS A RESIDENT OF THE COUNTY IN WHICH THE  
25          COMMUNITY COLLEGE DISTRICT IS LOCATED IS ENTITLED TO THE SAME  
26          RIGHTS AND BENEFITS AS ANY OTHER IN-STATE STUDENT OR ANY OTHER  
27          RESIDENT OF THE COUNTY IN WHICH THE COMMUNITY COLLEGE DISTRICT  
28          IS LOCATED, INCLUDING ELIGIBILITY FOR FINANCIAL AID AND  
29          SCHOLARSHIPS.

30          E. ANY INFORMATION SUBMITTED BY A PERSON TO A UNIVERSITY  
31          OR COMMUNITY COLLEGE PURSUANT TO THIS SECTION IS CONFIDENTIAL.

32          Sec. 5. Repeal

33          Section 15-1825, Arizona Revised Statutes, is repealed.

34          Sec. 6. Short title

35          This act may be cited as the "Arizona Higher Education  
36          Fairness Act".

37          2. The Secretary of State shall submit this proposition to the voters  
38          at the next general election as provided by article IV, part 1, section 1,  
39          Constitution of Arizona.