



KANSAS BOARD OF REGENTS

Joint Committee on Rules and Regulations
November 26, 2012

*Testimony Regarding Amendment to K.A.R. 88-3-8a
In-state Tuition at State Universities*

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Good morning Chairperson Schmidt, Vice-Chairman Holmes and Members of the Committee. Thank you for this opportunity to provide background information and a brief summary of the Kansas Board of Regents' proposed amendment to K.A.R. 88-3-8a.

K.S.A. 2012 Supp. 76-729 was first enacted in 1971, and was last amended in 2007. Pursuant to that statute, the general rule is that in-state tuition at state universities is available only to residents of the state.¹ Subsection (b) of that statute authorizes in-state tuition rates at state universities for the specified categories of persons listed therein. This includes three sections applicable to active or retired members of the military.²

K.S.A. 2012 Supp. 76-729 authorizes the Board of Regents to promulgate regulations to carry out these provisions.³ Since 1971, when K.S.A. 2012 Supp. 76-729 was first enacted, the Board has authorized military personnel to receive the resident tuition fee privilege if those individuals meet certain eligibility requirements.⁴ K.A.R. 88-3-8a is one of these regulations and it was last amended in 2007.

Effective July 1, 2009, federal law has provided that members of the armed forces on active duty for a period of more than 30 days and their families (spouses and dependents) are eligible to receive in-state tuition at public colleges and universities in the state where they reside

¹ Persons who have been domiciliary residents for 12 months prior to enrollment; *See* K.S.A. 2012 Supp. 76-729(d)(4); "Domiciliary resident" means a person who has present and fixed residence in Kansas where the person intends to remain for an indefinite period and to which the person intends to return following absence.

² *See* K.S.A. 2012 Supp. 76-729(b)(2)(3) and (9).

³ *See* K.A.R. 88-2-1 *et seq* and K.A.R. 88-3-1 *et seq*. http://www.kansasregents.org/residency_rules_regulations

⁴ *See also* K.A.R. 88-3-12 (discharged or retired military personnel). Prior to 2007, the active military personnel provision was in K.A.R. 88-3-8 (now revoked). K.A.R. 88-3-12; the retired military personnel regulation, has been in place since 1988, when subsection (b)(3) was added to K.S.A. 76-729 (L. 1988, ch. 363, § 1) and prior to the addition of subsection (b)(9) to the statute in 2006 (L. 2006, ch. 168, § 7).

*or are permanently stationed.*⁵ The proposed amendments to K.A.R. 88-3-8a will make it clear that these are alternatives. Moreover, if they or their spouse/dependents are enrolled and paying in-state tuition, the service member is allowed to continue to pay the in-state tuition rate as long as they remain continuously enrolled at the institution, even if the service member is reassigned outside the state.

The amendment before you today is being pursued simply to insure that K.A.R. 88-3-8a mirrors the federal law by allowing in-state tuition to be made available not only those present in the state while serving, but also to those who may reside in another state but are assigned to a Kansas duty station.

Thank you for the opportunity to appear before you today. I would be happy to address any questions that Committee Members may have.

⁵This provision is included in section 135 of the Higher Education Opportunity Act (H. R. 4137) (HEOA), which was signed into law on Aug. 14, 2008 and amends and extends the federal Higher Education Act of 1965 (HEA). This requirement applies to all public institutions that receive funds under a program authorized by the HEA.

88-3-8a. Military personnel. (a) The resident fee privilege shall be accorded to any person who meets the following conditions:

(1) Is enrolled at any state educational institution, as defined by K.S.A. 76-711 and amendments thereto; and

(2) meets one of the following conditions:

(A) Is actively serving in any armed service of the United States for 30 or more days immediately preceding enrollment and, regardless of the individual's duty station, meets one of the following conditions:

(i) Resides in Kansas; or

(ii) is assigned to a permanent duty station located in Kansas;

(B) is a member of the Kansas army or air national guard; or

(C) is the spouse or dependent of a person who is actively serving in any armed service of the United States or the Kansas army or air national guard for 30 or more days immediately preceding enrollment and who either resides in Kansas or is assigned to a permanent duty station located in Kansas.

(b) ~~The resident fee privilege shall be accorded to the spouse and the dependents of a person that meets the requirements of paragraph (a)(2)(A) unless one of the following occurs:~~

~~(1) The person meeting the requirements of paragraph (a)(2)(A) is reassigned from a Kansas duty station to a duty station outside the state, and the spouse or dependents do not continue to reside in Kansas. The resident fee privilege accorded to a person who meets the requirements of paragraph (a)(2)(A), or to the spouse or dependents of the person, shall continue~~

if the person is reassigned to a duty station outside the state as long as the person or the person's spouse or dependents maintain continuous enrollment at the institution.

~~(2) The person meeting the requirements of paragraph (a)(2)(A) never had a duty station assignment in Kansas and does not continue to reside in Kansas.~~

(c) The resident fee privilege shall be accorded to a spouse and the qualifying dependents of a person ~~that~~ who meets the requirements of paragraph (a)(2)(B) ~~unless~~ only if the spouse or dependents ~~do not~~ reside in Kansas.

(d) This regulation shall not be construed to prevent a person in the military service from acquiring or retaining a bona fide residence in Kansas.

~~(e) This regulation shall apply retroactively beginning with any student who enrolled in the fall semester of 2006 at any state educational institution as defined by K.S.A. 76-711 and amendments thereto. (Authorized by K.S.A. 76-730; implementing K.S.A. 2006 2011 Supp. 76-729, as amended by 2007 HB 2425, §1 and 2007 HB 2185, §10, and K.S.A. 76-730; effective July 27, 2007; amended P-_____.)~~

SEC. 114. IN-STATE TUITION RATES FOR ARMED FORCES MEMBERS, SPOUSES, AND DEPENDENT CHILDREN.

Part C of title I (20 U.S.C. 1015) is further amended by adding after section 134 (as added by section 113 of this Act) the following:

“SEC. 135. IN-STATE TUITION RATES FOR MEMBERS OF THE ARMED FORCES ON ACTIVE DUTY, SPOUSES, AND DEPENDENT CHILDREN.

“(a) REQUIREMENT.—In the case of a member of the armed forces who is on active duty for a period of more than 30 days and whose domicile or permanent duty station is in a State that receives assistance under this Act, such State shall not charge such member (or the spouse or dependent child of such member) tuition for attendance at a public institution of higher education in the State at a rate that is greater than the rate charged for residents of the State.

“(b) CONTINUATION.—If a member of the armed forces (or the spouse or dependent child of a member) pays tuition at a public institution of higher education in a State at a rate determined by subsection (a), the provisions of subsection (a) shall continue to apply to such member, spouse, or dependent while continuously enrolled at that institution, notwithstanding a subsequent change in the permanent duty station of the member to a location outside the State.

“(c) EFFECTIVE DATE.—This section shall take effect at each public institution of higher education in a State that receives assistance under this Act for the first period of enrollment at such institution that begins after July 1, 2009.

“(d) DEFINITIONS.—In this section, the terms ‘armed forces’ and ‘active duty for a period of more than 30 days’ have the meanings given those terms in section 101 of title 10, United States Code.”.