

**RESOLUTION #2019-02 “EXCHANGE EMPLOYEE” DEFINITION AND CERTIFICATION
(Supersedes Resolution #2011-03)**

February 14, 2019

WHEREAS, Utah Code § 49-12-203, § 49-13-203, and § 49-22-203 all exclude from membership eligibility “An employee serving as an exchange employee from outside the state,”; and

WHEREAS, questions have arisen concerning what constitutes an “exchange employee,”; and

WHEREAS, the Board desires to clarify the definition of employer eligibility certification procedures for an “exchange employee.”

NOW, THEREFORE BE IT RESOLVED, that an “exchange employee” means an employee of a participating employer with a valid nonimmigrant visa for participation in exchange visitor programs in the United States. Such visas include the *Exchange Visitor Visas* (J category) and the *Cultural Exchange Visas* (Q category).

BE IT FURTHER RESOLVED, the “exchange employee” status expires with a participating employer once the visa status becomes invalid. Once the “exchange employee” status expires, an employee who was certified with this status must be recertified by the participating employer as eligible in the retirement system that applies to their employment, assuming the requirements for eligibility are met.

BE IT FURTHER RESOLVED, participating employers are required to annually recertify those employees who are designated as “exchange employees.” Failure to annually certify an employee’s status as an exchange employee will result in the expiration of the exchange employee status, and the employee will be considered eligible in the retirement system that applies to their employment, assuming the requirements for eligibility are met.

This resolution takes effect on July 1, 2019.