

**RULES AND REGULATIONS:  
Determining Residence Status**

**(Pursuant to Title 3, Texas Education Code)**

**Texas Higher Education  
Coordinating Board**

**Effective Fall 2003\***

**\*These rules are effective as of Fall 2003 and apply to all semesters in the 2003-2004 and 2004-2005 academic years. Changes to Coordinating Board Rules to reflect changes in law from the 78<sup>th</sup> Legislative Session are currently pending. This publication is subject to revision pending adoption of these changes.**

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# INTRODUCTION

A person seeking information or advice on residence status should contact the residence determination official at the higher education institution of interest. The residence determination official usually can be found in the admissions office, registrar's office, business office, or another similar administrative office of the institution.

Under state statutes and Texas Higher Education Coordinating Board rules and regulations interpreting those statutes, an individual will be classified as a resident or a nonresident.

A person who has lived in the state under circumstances specified in these rules will be eligible for classification as a resident.

A person who does not meet resident criteria will be classified as a nonresident.

A person classified as a nonresident may qualify to pay resident tuition rates and other charges while continuing to be classified as a nonresident under certain exceptions specified in these rules.

A glossary of commonly used terms is included in this document to help interpret residency statutes.

## DEFINITIONS

The following definitions are provided for in Coordinating Board Rule, Chapter 21, Subchapter B, Section 21.22. When used in this document, these words and terms shall have the following meanings, unless the context clearly indicates otherwise:

*Bona Fide Texas Resident.* See Resident.

*Competitive Scholarship.* A scholarship that is publicized in the school's catalog and is open to both residents and nonresidents, that is designated as competitive by the institution, and whose sum either singularly or in combination with other competitive scholarships totals enough to be a basis for the waiver of nonresident tuition charges.

*Conclusive Evidence.* Proof that removes uncertainties. In the case of proving residency, conclusive evidence may include, but is not limited to: the purchase of a homestead with substantial down payment, significant employment and business or personal ties in the state that imply a fixed intent to remain in Texas.

*Dependent.* An individual (minor or 18 years of age or older) who will be claimed as a dependent for federal income tax purposes by a parent or court-appointed legal guardian the year of enrollment and was claimed in the tax year prior to enrollment.

*Domicile in Texas.* Physically residing in Texas for at least 12 consecutive months with the intent to make Texas one's permanent home. The burden of proof that a domicile has been established lies with the student.

*Documenting 12 Months.* Among the documents that may be used to prove 12 months' presence in Texas are:

1. Texas high school transcript for the full senior year immediately preceding the semester enrolled;
2. A Texas college or university transcript (in conjunction with other documents from the institution);
3. An employer's statement of date of employment;
4. A permanent driver's license (at least one year old). The license expiration date minus date

of enrollment should not exceed three years;

5. Texas voter registration;
6. Lease agreement that includes student's name and period covered;
7. Property tax payments for the year preceding enrollment;
8. Cancelled checks,
9. Utility bills for the year preceding enrollment;
10. A signed, dated and notarized comprehensive residence questionnaire;
11. An income tax form or (if current year federal tax form has not been filed) a signed, notarized statement regarding the student's independence or regarding the individual(s) who claim the student as a dependent;
12. A current credit report that documents the student's length and place of residence;
13. Other third party documentation that confirms residency status for the 12-month period preceding enrollment;
14. For a homeless individual, documentation may consist of written statements from the office of one or more legitimate social service agencies located in Texas, attesting to the provision of services to the individual over the previous 12-month period.

Documenting a Domicile. Material to the determination of the establishment of a domicile in Texas are business or personal facts including, but not limited to:

1. The length of residence and employment prior to enrolling in college;
2. The nature of employment while a student;
3. Physical presence in Texas as a part of a household transferred to the state by an employer (other than the U.S. Armed Forces or Public Health Service) or as a part of a household moved to the state to accept employment; and
4. Purchase of a homestead.

Foreign Students. Individuals from countries other than the United States who do not meet the residency requirements outlined in this publication.

Gainful Employment. Lawful activities intended to provide an income to the individual or allow an individual to avoid the expense of paying another person to perform the tasks (as in child care or the maintenance of a home). A person who is self-employed, employed as a homemaker, or who is living off his/her earnings may be considered gainfully employed for tuition purposes, as may an individual whose primary support is the government (public assistance program).

Homeless Individual. A homeless individual as defined by 42 U.S.C. Section 11302 including,

1. an individual who lacks a fixed, regular, and adequate nighttime residence; and
2. an individual who has a primary nighttime residence that is
  - a. a supervised publicly or privately operated shelter designed to provide temporary living accommodations;
  - b. an institution that provides temporary residence for individuals intended to be institutionalized; or
  - c. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

See page 14 of this document (relating to "Homeless Individuals").

Independent Student. A student 18 years of age or older or an emancipated minor who is not claimed by a parent or a legal guardian as a dependent for federal income tax purposes during the tax year including the enrollment period.

Minor. An individual who is 17 years of age or younger.

Nonresident. A citizen, national, or permanent resident of the United States or an alien who has been permitted by Congress to adopt the United States as his or her domicile while in this country, or a foreign student who has not met the state requirements for establishing residency for tuition purposes.

Official Census Date. The official reporting date for enrollments; the date upon which the student (by virtue of having obligated him/herself to pay requisite tuition and/or fees) is considered to be enrolled in the institution. (For 16-week semesters, the 12<sup>th</sup> class day; for 6-week summer sessions, the 4<sup>th</sup> class day.)

Prior to Enrolling. Prior to and/or including the official census date.

Public Institution of Higher Education. State-supported institutions of higher education, including public community colleges, state colleges, universities, health-related institutions, and technical colleges.

Resident. A citizen, national or permanent resident of the United States or an alien who has been permitted by Congress to adopt the United States as his or her domicile while in this country, or a foreign student who meets the residency requirements outlined on pages 5-6 of this publication and who has established a domicile in the state of Texas.

Time of Enrollment. The end of working hours on the official census date for the semester or term for that institution.

U.S. Armed Forces. A person who is an officer, enlisted person, selectee, or draftee of the Army, Army Reserve, Air Force, Air Force Reserve, Navy, Navy Reserve, Marine Corps, Marine Corps Reserve, Coast Guard, or Coast Guard Reserves of the United States. Members of the Army and Air National Guard may not qualify for every program directed at members of the U.S. Armed Forces. Where a rule does not explicitly include them, members of the Army or Air National Guard, or spouses or dependents of those members, should present documentation from an appropriately authorized officer that indicates that the individual was acting as a component of the Army or Air Force for the relevant time period.

## GENERAL RULES

### MINORS AND DEPENDENTS

***Statutory Provisions:***

*Texas Education Code Sec. 54.052 (a) (1) (2) (3). "Residence" means "domicile." "Resided in" means domiciled in." "Dependent" means an individual who is claimed as a dependent for federal income tax purposes by the individual's parent or guardian at the time of registration and for the tax year preceding the year in which the individual registers.*

*Texas Education Code Sec. 54.052 (b). For the purposes of this subchapter, the status of a student as a resident or nonresident student is determined as prescribed by this section, subject to the other applicable provisions of this subchapter.*

*Texas Education Code Sec. 54.052 (c). An individual who is under 18 years of age or is a dependent and who is living away from his family and whose family resides in another state or has not resided in Texas for the 12-month period immediately preceding the date of registration shall be classified as a nonresident student.*

*Texas Education Code Sec. 54.052 (d). An individual who is 18 years of age or under or*

*is a dependent and whose family has not resided in Texas for the 12-month period immediately preceding the date of registration shall be classified as a nonresident student, regardless of whether he has become the legal ward of residents of Texas or has been adopted by residents of Texas while he is attending an educational institution in Texas, or within a 12-month period before his attendance, or under circumstances indicating that the guardianship or adoption was for the purpose of obtaining status as a resident student.*

*Texas Education Code Sec. 54.0551. An individual who is 18 years of age or under or is a dependent and who, along with the individual's parents, was formerly a resident of this state is entitled to pay tuition at the rate provided for Texas residents if: (1) the individual and the parent who is the individual's managing conservator or who is the individual's joint managing conservator with whom the individual primarily resides change their legal residence from this state to another state; and (2) the other parent who is the individual's possessory conservator or who is the individual's joint managing conservator with whom the individual does not primarily reside continues to reside in this state and is not delinquent on the payment of any child support.*

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.23(a):**

For a dependent or minor to acquire Texas residency through a parent or court-appointed legal guardian, the parent or legal guardian must meet residency requirements for individuals 18 years of age or older and the dependent or minor must be eligible to domicile in the United States. Residency of an eligible dependent or minor is based on one of the following circumstances:

- (1) The residence of the parent who has claimed the dependent for federal income tax purposes both at the time of enrollment and for the tax year preceding enrollment; or
- (2) The residence of the parent or court-appointed legal guardian with whom the dependent or minor has physically resided for the 12 months prior to enrollment; or
- (3) The residence of a parent or legal guardian who has joint or single custody of the child, if that individual is not delinquent on the payment of child support; or
- (4) The residence of the person to whom custody was granted by court order (e.g., divorce decree, child custody actions, guardianship or adoption proceedings), provided custody was granted at least 12 months prior to the student's enrollment and was not granted for the purpose of obtaining status as a resident student
- (5) If a student was classified as a resident prior to fall semester 2001 based upon the residency of a caretaker or relative, not a court-appointed legal guardian, he or she shall not be reclassified as a nonresident under this section.

See page 11 of this document (relating to "Special Conditions for Minors or Dependents") for information on exceptions provided for in Chapter 21, Subchapter B, Section 21.26(a).

## **INDEPENDENT INDIVIDUALS 18 YEARS OF AGE OR OLDER**

### **Statutory Provisions:**

*Texas Education Code Sec. 54.052 (e). An individual who is 18 years of age or over who has come from outside Texas and who is gainfully employed in Texas for a 12-month period immediately preceding registration in an educational institution shall be classified as a resident student as long as he continues to maintain a legal residence in Texas.*

*Texas Education Code Sec. 54.052 (f). An individual who is 18 years of age or over who resides out of the state or who has come from outside Texas and who registers in an educational institution before having resided in Texas for a 12-month period shall be classified as a nonresident student.*

*Texas Education Code Sec. 54.052 (g). An individual who would have been classified as a resident for the first five of the six years immediately preceding registration but who resided in another state for all or part of the year immediately preceding registration shall be classified as*

*a resident student.*

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.23(b):**

Independent individuals 18 years of age or older who are gainfully employed in the state for a period of 12 months prior to enrollment are entitled to classification as residents. Students registering in an institution of higher education prior to having physically resided in the state for the 12 months prior to enrollment shall be classified as nonresidents for tuition purposes during that term. Accumulations of summer and other vacation periods do not satisfy the employment requirement. Employment while enrolled in college during a 12-month period can be a basis of reclassification as a resident at the end of that period if other evidence indicates the student has established a domicile in Texas.

See pages 11-22 of this document (relating to “Exceptions”) for information on exceptions provided for in Chapter 21, Subchapter B, Section 21.26.

## **RESIDENCY DURING TRANSITION FROM DEPENDENT TO INDEPENDENT STUDENT**

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.24:**

(a) When Parents or Legal Guardians and Student Remain in Texas. If the resident parents or court-appointed legal guardians of a dependent student eligible to domicile in the United States cease claiming the minor as a dependent for federal income tax purposes, but remain in Texas and the minor remains in Texas, the minor is a resident.

(b) When the Parents Move Out of State.

(1) If the Parents or Legal Guardians Continue to Claim the Student as a Dependent. If the resident parents or court-appointed legal guardians of a dependent student move out of state and continue to claim the student as a dependent, the student becomes a resident of the state in which the parents or legal guardians reside. Even if he or she remains in Texas, the student will not be eligible to establish residence in Texas on his/her own until the student is 18 years of age or older, at least 12 months have passed since the parents last claimed him/her as a dependent for federal income tax purposes and the student has established a domicile in the state of Texas. See page 11 of this document (relating to “Minors or Dependents Enrolled Before the Parents Move Out-of-State”) for information about a waiver for students enrolled in a public college prior to the parents’ or legal guardians’ move out of state.

(2) If the Minor is an Abandoned or Emancipated Child. If the resident parents or court-appointed legal guardians of a minor move out of state and the minor remains in Texas, the minor may be classified as a resident only if he or she meets the qualifications for being an abandoned child or emancipated child. See page 11 of this document (relating to “Abandoned Child”) for information on exceptions provided for in Chapter 21, Subchapter B, Section 21.26(a).

(c) If the resident parents or court-appointed legal guardians of an individual 18 years of age or older move out of state but the student remains, and the parents provide the student’s institution of higher education a letter indicating they will not claim the student as a dependent for federal tax purposes for the current tax year, the student retains his/her residency.

## **MILITARY PERSONNEL**

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.23(c):**

Members of the U.S. Armed Forces and commissioned Public Health Service Officers

are presumed to maintain the same domicile that was in effect at the time of entering the service during their entire period of active service. They are presumed not to establish a domicile in other states in which they are assigned duty because their presence is not voluntary but under U.S. military or Public Health Service orders. See pages 18-23 of this document (relating to “Waivers for Members of the U.S. Armed Forces, Army National Guard, Air National Guard and Commissioned Officers of the Public Health Service, their Spouse and Dependents”) for information on exceptions provided for in Chapter 21, Subchapter B, Section 21.26(b)(11).

## FOREIGN STUDENTS

### **Statutory Provisions:**

*Texas Education Code Sec. 54.057 (a). An alien who is living in this country under a visa permitting permanent residence or who has applied to or has a petition pending with the Immigration and Naturalization Service<sup>1</sup> to attain lawful status under federal immigration law has the same privilege of qualifying for resident status for tuition and fee purposes under this subchapter as has a citizen of the United States. A resident alien residing in a junior college district located immediately adjacent to Texas boundary lines shall be charged the resident tuition by that junior college.*

*Texas Education Code Sec. 54.057(j). Notwithstanding any other provision of this subchapter, an individual shall be classified as a Texas resident until the individual establishes a residence outside this state if the individual resided with the individual's parent, guardian, or conservator while attending a public or private high school in this state and (1) graduated from a public or private high school or received the equivalent of a high school diploma in this state; (2) resided in this state for at least three years as of the date the person graduated from high school or received the equivalent of a high school diploma; (3) registers as an entering student in an institution of higher education not earlier than the 2001 fall semester; and (4) provides to the institution an affidavit stating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so.*

*Texas Education Code Sec. 54.057 (b). A nonimmigrant alien who resides in this state in accordance with the Agreement between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces (4 U.S.T. 1792) and the spouse or children of such an alien are residents for tuition and fee purposes under this code.*

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.23(d):**

(1) A foreign individual has the same privilege of qualifying for Texas resident status for tuition purposes as does a citizen of the United States if he or she

- (A) Is living in this country under a visa permitting permanent residence, or
- (B) Is permitted by Congress to adopt the United States as his or her domicile, or
- (C) Has applied to or has a petition pending with the Immigration and Naturalization Service<sup>1</sup> to attain lawful status under federal immigration law, or
- (D) Has met the Texas Higher Education Coordinating Board requirements for being treated as a permanent resident.

(2) A foreign individual who enters a Texas institution of higher education in fall 2001 or later is a resident of Texas if he or she

- (A) Attended a public or private high school while residing at least a part of that time with a parent or legal guardian;
- (B) Graduated from the high school or received the equivalent of a high school degree in Texas;
- (C) Resided in Texas for at least three (3) consecutive years as of the date he/she graduated

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<sup>1</sup> In March 2003, Immigration and Naturalization Services became the Bureau of Citizenship and Immigration Status (BCIS). The BCIS is a bureau of the Department of Homeland Security.

- from high school or received the equivalent of a high school degree;
- (D) Registers as an entering student no earlier than fall 2001; and
  - (E) Provides his/her college an affidavit that he or she intends to file an application to become a permanent resident of the United States at the earliest opportunity the individual is eligible to do so.

A list of eligible visas, along with a discussion of eligible applicants for permanent resident status, is available through the Texas Higher Education Coordinating Board web site at [www.collegefortexans.com](http://www.collegefortexans.com).<sup>2</sup> If an individual provides proof from the Department of Justice or the Immigration and Naturalization Service<sup>3</sup> that the visa he/she holds has been granted eligibility to establish a domicile in the United States, such individuals may be granted the same privileges in establishing Texas residency for tuition purposes.

## **MARRIED STUDENTS**

### ***Statutory Provision:***

*Texas Education Code Sec. 54.056. A student who is a resident of Texas and who marries a nonresident is entitled to pay the resident tuition fee as long as the student does not adopt the legal residence of the spouse in another state.*

### **Coordinating Board Rules:**

Marriage of a Texas resident to a nonresident does not jeopardize the Texas resident's claim to residency. A nonresident who marries a resident of Texas must establish his or her own residency by meeting the standard requirements of an independent individual 18 years of age or older.

## **FEDERAL EMPLOYEES OTHER THAN MEMBERS OF THE U.S. ARMED FORCES OR PUBLIC HEALTH SERVICE**

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.23(f):**

The state has no special provisions for determining the residence of federal employees other than members of the U.S. Armed Forces or Public Health Service. Therefore, such persons (including civilian employees of the U.S. Armed Forces) must meet the basic residency requirements for non-military personnel.

## **SHORT-TERM, STOP-OUT STUDENTS**

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.23(g):**

If the institution has documentation of residence on file when a dependent or independent student returns after being out of school for 12 months or less, it may continue the student's classification as resident upon confirmation from the student that his or her parents or court-appointed legal guardians (in the case of a dependent student) or the student him/herself (in the case of an independent student) have not changed their state of residence since the student's last enrollment.

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<sup>2</sup> The "Guidelines for Determining Residency of Aliens" which contains the full list of visas is available in the "Residency" section of the [www.collegefortexans.com](http://www.collegefortexans.com) web site.

<sup>3</sup> In March 2003, Immigration and Naturalization Services became the Bureau of Citizenship and Immigration Status (BCIS). The BCIS is a bureau of the Department of Homeland Security.

## PERSONS TEMPORARILY ABSENT FROM THE STATE

### **Statutory Provision:**

*Texas Education Code Sec. 54.052 (g). An individual who would have been classified as a resident for the first five of the six years immediately preceding registration but who resided in another state for all or part of the year immediately preceding registration shall be classified as a resident student.*

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.23(h):**

Residents who move out of state should be classified as nonresidents upon leaving the state, unless their move is temporary and residence has not been established elsewhere.

- (1) Persons who were residents of Texas for at least five years prior to moving from the state, and who return to the state to re-establish their home, having been gone less than a year, are still Texas residents.
- (2) Students or parents or court-appointed legal guardians (in the case of dependent students) who are temporarily (generally less than five years) assigned to work outside the state may continue to claim residency in Texas if they provide conclusive evidence of their intent at the time they leave the state, to return. Among other things, a letter from an employer that the move outside the state is temporary and that a definite future date has been determined for return to Texas may qualify as proof of the temporary nature of the time spent out of state. Out-of-state internships that are part of the academic curriculum and that require the student to return to the school are temporary relocations and do not jeopardize a student's claim to residency.

## INMATES OF FEDERAL PRISONS

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.23(i):**

Nonresidents incarcerated in federal prisons located in Texas shall be classified as nonresidents. If, however, such a prisoner files an affidavit with the proper prison authority or institution of higher education, indicating an intention to establish residency in Texas, such residency shall be granted 12 months from the date of the affidavit and shall continue after the prisoner's discharge if he or she remains in Texas.

See also page 15 (relating to "Inmates of the Texas Department of Criminal Justice") for information on exceptions provided for in 21.26(b)(8).

# PROCEDURES

## CORE QUESTIONS

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.21.25(a):**

Each public institution is responsible for incorporating core residency questions into its student admissions process. The Texas Higher Education Coordinating Board, with advice from the institutions, shall develop the required core questions. Answers to the questions should be reviewed to determine each student's proper residency classification. If answers affirm the student's claim to residency, the core questions are sufficient for documenting the student's classification. However, if the student's answers to the core questions are inconsistent, the institution must acquire and maintain appropriate documents to support the student's classification as of the census date of the relevant term.

## RECLASSIFICATION

### **Statutory Provisions:**

*Texas Education Code Sec. 54.054. A nonresident student classification is presumed to be correct as long as the residence of the individual in the state is primarily for the purpose of attending an educational institution. After residing in Texas for at least 12 months, a nonresident student may be reclassified as a resident student as provided in the rules and regulations adopted by the Coordinating Board, Texas College and University System. Any individual reclassified as a resident student is entitled to pay the tuition fee for a resident of Texas at any subsequent registration as long as he continues to maintain his legal residence in Texas.*

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.25(b):**

(1) Procedures. Students classified as nonresident students shall be considered to retain that status until they apply for reclassification in the form prescribed by the institution and are officially reclassified as residents for tuition purposes by the proper administrative officers of the institution. Application for reclassification must be submitted prior to the official census date of the relevant term. Reclassification as residents must be made in keeping with the General Rules outlined in this publication. See pages 3-8.

(2) Student Intent. If a student's residence in Texas is primarily for the purpose of education and not to establish a domicile, the student shall be classified as a nonresident. The following persons are NOT considered to have come here for the purpose of education: the spouse or dependent child of an individual transferred here by the U.S. Armed Forces, through the state's plan for economic development and diversification, or as a part of a household moved to the state to accept employment. Therefore, once such individuals have physically resided in Texas for 12 consecutive months, even though they may have been enrolled full-time, they may be considered residents if they have otherwise established a domicile in the state.

## STUDENT RESPONSIBILITIES

### **Statutory Provisions:**

*Texas Education Code Sec. 54.0521 (a.) Before an individual may register at an institution of higher education paying tuition at the rate provided for residents, the individual must affirm under oath, to the appropriate official at the institution, that the individual is entitled to be classified as a resident for purposes of tuition.*

*Texas Education Code Sec. 54.0521 (b). If the institution later determines that the individual was not entitled to be classified as a resident at the time of the individual's registration, the individual shall, not later than 30 days after the date the individual is notified of the determination, pay to the institution the amount the individual should have paid as a nonresident.*

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.25(c):**

The student is responsible for registering under the proper residence classification and for providing documentation as required by the public institution. If there is any question as to the right to classification as a resident of Texas it is the student's obligation, prior to or at the time of enrollment, to raise the question with the administrative officials of the institution for official determination. Students classified as Texas residents must affirm the correctness of that classification by signing an oath of residency as a part of the admissions process. If the student's classification as a resident becomes inappropriate for any reason, it is the responsibility of the student to notify the proper administrative officials at the institution. Failure to notify the institution constitutes a violation of the oath of residency and shall result in disciplinary action by the institution.

## INSTITUTION RESPONSIBILITIES

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.25(d):**

Each institution is responsible for incorporating the core questions and an oath of residency into its student admissions process. It is also responsible for reviewing enrollment and/or registration applications for errors, inconsistencies or misclassifications of residency status on file.

1. If students who have been classified as residents of Texas are found to have been erroneously classified, those students shall be reclassified as nonresidents and shall be required to pay the difference between the resident and nonresident tuition for those semesters in which they were so erroneously classified.
2. If it is found that students have been erroneously classified as nonresidents, they shall be reclassified as residents and may be entitled to a refund of the difference between the resident and nonresident fees for the semesters in which they were so erroneously classified. Normally, the refunds must be requested and substantiated during the semester in which the tuition and fees were paid.

## PENALTIES

### **Statutory Provisions:**

*Texas Education Code Sec. 54.0521 (c). If the individual fails to make a timely payment as required by this section, the individual is not entitled to receive a transcript or to receive credit for courses taken during the time the individual was falsely registered as a resident student.*

*Texas Education Code Sec. 54.053. The governing board of each institution required by this chapter to charge a nonresident tuition or registration fee is subject to the rules, regulations, and interpretations issued by the Coordinating Board, Texas College and University System, for the administration of the nonresident tuition provisions of this subchapter. The rules, regulations, and interpretations promulgated by the Coordinating Board shall be furnished to the presidents or administrative heads of all Texas public senior and junior colleges and universities.*

*The governing board of an institution of higher education may assess and collect from each nonresident student who fails to comply with the rules and regulations of the board concerning nonresident fees a penalty not to exceed \$10 a semester.*

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21(e):**

Each institution has been authorized by statute to assess and collect from nonresident students failing to comply with the provisions of tuition statutes and the rules of this title a fee not to exceed \$10 a semester.

- (1) If students have obtained residence classification by concealing or misrepresenting facts, they may be subject to disciplinary action in keeping with procedures adopted by the governing boards of their institutions.
- (2) If it is determined that the student has obtained resident classification by concealing or misrepresenting information, the student shall, not later than 30 days after the date the individual is notified of the determination, pay to the institution the amount the individual should have paid as a nonresident.
- (3) If the individual fails to make a timely payment as required, the individual is not entitled to receive a transcript or to receive credit for courses taken during the time the individual was falsely registered as a resident student.

# APPEALS TO THE TEXAS HIGHER EDUCATION COORDINATING BOARD

## **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.25(f):**

If two or more Texas public institutions determine a different residency status for members of the same family with identical evidence of residency currently enrolled at each institution, the family members may appeal the unfavorable decision to the Commissioner of Higher Education. Before making an appeal to the Commissioner, the student classified as a nonresident must exhaust all appeal processes available at the institutional level. A decision by the Commissioner for one family member's residency status will apply to all family members with identical evidence of residency.

## EXCEPTIONS

### **SPECIAL CONDITIONS FOR MINORS OR DEPENDENTS**

#### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(a):**

(1) Abandoned child. In the case of an abandoned child, the residence of a person who has stood *in loco parentis* for a period of time may determine the residence. The fact of abandonment must be clearly established and must not have been for the purpose of affecting the residence of the minor. The minor must have actually resided in the home of such person for two years immediately prior to enrolling in a Texas public institution of higher education and such person must have provided substantially all the minor's support. In the event that the *in loco parentis* relationship has not existed for the full two-year period, a shorter period of time is acceptable in unusual hardship cases, such as death of both parents.

(2) Orphans. A public institution of higher education shall classify orphans as residents if the orphans graduated from established orphans homes in Texas operated by a fraternal, religious or civic organization after having lived there for at least a year, and resided in Texas from the time they graduated from the home until they enrolled in the institution.

(3) Emancipated Minors. A minor who has been legally emancipated may establish his or her claim to residency following the rules applicable to independent individuals 18 years of age or older.

(4) Married Minors. Minors who are married may establish their own claim to residency following the rules applicable to independent individuals 18 years of age or older.

#### **Statutory Provisions:**

*Texas Education Code Sec. 54.055. An individual who is 18 years of age or under or is a dependent and whose parents were formerly residents of Texas is entitled to pay the resident tuition fee following the parents' change of legal residence to another state, as long as the individual remains continuously enrolled in a regular session in a state-supported institution of higher education.*

#### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(a)(6):**

Minors or Dependents Enrolled Before the Parents Move Out of State. If a resident minor or dependent is enrolled in a public institution of higher education in Texas when the parents move out of state, the minor or dependent is eligible, although now a nonresident, to continue paying the resident tuition rate as long as he or she continues to enroll in Texas public institutions in the following fall and spring semesters. Vacation time spent with the parents does not jeopardize the students' eligibility for this waiver. The dependent or minor students must

enroll for the next available fall or spring semester immediately following the parents' change of residence to another state.

## **WAIVERS THAT ALLOW NONRESIDENTS TO REGISTER WHILE PAYING THE RESIDENT OR REDUCED NONRESIDENT TUITION**

### **Economic Development and Diversification Program.**

#### ***Statutory Provisions:***

*Texas Education Code Sec. 54.052 (h). An individual who has come from outside Texas and registered in an educational institution before having resided in Texas for a 12-month period immediately preceding the date of registration is entitled to pay the tuition fee and other fees required of Texas residents if the individual or a member of his family has located in Texas as an employee of a business or organization that became established in this state as part of the program of state economic development and diversification authorized by the constitution and laws of this state and if the individual files with the Texas institution of higher education at which he registers a letter of intent to establish residency in Texas.*

#### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(1):**

Nonresidents, (including citizens and permanent residents of the U.S. and foreign students eligible to domicile in the U.S., but excluding foreign students ineligible to domicile in the U.S.) whose families have been transferred to Texas by a company in keeping with the state's Economic Development and Diversification Program are entitled (although still nonresidents) to pay the resident tuition rate as soon as they move to Texas if they provide the college a letter of intent to establish Texas as their home. If a semester begins before the rest of the family moves to the state, the student may register and pay the resident tuition rate if he/she provides the college a letter from the company indicating the family will move to Texas prior to the end of the given semester. However, in order to pay resident tuition for a second semester, the student will have to give the college a letter from the company, indicating the family has, indeed, moved to Texas. After the family has resided in Texas 12 months, the student is eligible to apply for reclassification as a resident. A current list of eligible companies is maintained on the Texas Higher Education Coordinating Board web site at [www.collegefortexans.com](http://www.collegefortexans.com).

### **Teachers, Professors, their Spouses and their Dependents.**

#### ***Statutory Provisions:***

*Texas Education Code Sec. 54.059. A teacher or professor of an institution of higher education, and the spouse and children of such a teacher or professor, are entitled to register in an institution of higher education by paying the tuition fee and other fees or charges required for Texas residents without regard to the length of time the teacher or professor has resided in Texas. A teacher or professor of an institution of higher education and the teacher's or professor's family are entitled to the benefit of this section if the teacher or professor is employed at least one-half time on a regular monthly salary basis by an institution of higher education.*

#### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(2):**

Nonresidents (including citizens and permanent residents of the U.S. and all foreign students) employed as teachers and professors at least half time on a regular monthly salary basis (not as hourly employees) by public institutions of higher education in Texas are entitled to pay the resident tuition rate at any public institution of higher education in the state for themselves, their spouses and children regardless of how long they have lived in the state. It is the intent of this rule that the employment and waiver last for the same period of time. If the spouse or chil-

dren attend an institution other than the one employing the teacher or professor, they must provide proof of his or her current employment.

### **Research and Teaching Assistants, their Spouses and Dependents.**

#### **Statutory Provisions:**

*Texas Education Code Sec. 54.063. A teaching assistant or research assistant of any institution of higher education and the spouse and children of such a teaching assistant or research assistant are entitled to register in a state institution of higher education by paying the tuition fees and other fees or charges required for Texas residents under Section 54.051 of this code, without regard to the length of time the assistant has resided in Texas, if the assistant is employed at least one-half time in a teaching or research assistant position which relates to the assistant's degree program under rules and regulations established by the employer institution.*

#### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(3):**

Nonresidents (including citizens and permanent residents of the U.S. and all foreign students) employed by public institutions of higher education as research or teaching assistants on at least a half-time basis in a position related to their degree programs are entitled to pay the resident tuition rate at any public institution of higher education in the state for themselves, their spouses, and children regardless of how long they have lived in the state. The institutions that employ the students shall determine whether or not the students' jobs relate to their degree programs. It is the intent of this rule that the employment and waiver last for the same period of time. If the spouse or children attend an institution other than the one employing the research or teaching assistant, they must provide their college proof of his or her current employment.

### **Competitive Scholarship Recipients.**

#### **Statutory Provisions:**

*Texas Education Code Sec. 54.064 (a). A student who holds a competitive scholarship of at least \$1,000 for the academic year or summer for which the student is enrolled and who is either a nonresident or a citizen of a country other than the United States of America is entitled to pay the fees and charges required of Texas residents without regard to the length of time the student has resided in Texas. The student must compete with other students, including Texas residents, for the scholarship and the scholarship must be awarded by a scholarship committee officially recognized by the administration and be approved by the Texas Higher Education Coordinating Board under criteria developed by the board.*

*Texas Education Code Sec. 54.064 (b). The total number of students at an institution paying resident tuition under this section for a particular semester may not exceed five percent of the total number of students registered at the institution for the same semester of the preceding academic year.*

*Texas Education Code Sec. 54.065. A student is entitled to pay the fees and charges required of Texas residents without regard to the length of time the student has resided in Texas if the student (1) holds a competitive academic scholarship or stipend; (2) is accepted in a clinical and biomedical research training program designed to lead to both doctor of medicine and doctor of philosophy degrees; and (3) is either a nonresident or a citizen of a country other than the United States of America.*

#### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(4):**

(A) Nonresidents (including citizens and permanent residents of the U.S. and all foreign students) who receive eligible competitive scholarships from their institutions totaling at least \$1,000 may be granted a waiver of nonresident tuition for the period of time covered by the scholarship, not to exceed 12 months.

(B) To be eligible as the basis of a waiver, the scholarship(s) must meet the following criteria:

- (i) Be granted by a scholarship committee authorized in writing by the institution's administration to grant scholarships that hold the waiver option;
- (ii) Be granted in keeping with criteria published in the institution's catalog, available to the public in advance of any application deadline;
- (iii) Be granted under circumstances that cause both the funds and the selection process to be under the control of the institution;
- (iv) Be open to both resident and nonresident students.

(C) A waiver based on a competitive scholarship lasts for the period of the scholarship (up to a 12-month period). The scholarship award must specify the term or terms in which the scholarship will be in effect. If the scholarship is terminated, so is the waiver. If the scholarship is to be issued in multiple disbursements and less than \$1,000 is issued when a scholarship is terminated, the student does not owe a refund for the tuition that has been waived, since the waiver was originally made in a good faith expectation of a scholarship of at least \$1,000, but the waiver is canceled for the terms for which the scholarship is canceled.

(D) The total number of students receiving waivers on the basis of competitive scholarships in any given term may not exceed 5 percent of the students enrolled in the same semester in the prior year.

(E) If the scholarship recipient is concurrently enrolled at more than one institution, the waiver of nonresident tuition is only effective at the institution awarding the scholarship. An exception for this rule exists for a nonresident student who is simultaneously enrolled in two or more institutions of higher education under a program offered jointly by the institutions under a partnership agreement. If one of the partnership schools awards the student a competitive scholarship-based waiver, the student is also entitled to a waiver at the second institution.

(F) If a nonresident or foreign student holds a competitive academic scholarship or stipend and is accepted in a clinical biomedical research training program designed to lead to both a doctor of medicine and doctor of philosophy degree, he or she is eligible to pay the resident tuition rate.

## **Homeless Individuals.**

### ***Statutory Provision:***

*Texas Education Code Sec. 54.052 (i). The Texas Higher Education Coordinating Board shall adopt rules allowing a homeless individual, as defined by 42 U.S.C. § 11302<sup>4</sup>, who resides in Texas for the 12-month period immediately preceding the date of registration but who does not have a permanent residence to be classified as a resident student only for purposes of vocational education courses at public junior colleges.*

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(5):**

A homeless individual who resides in Texas for the 12-month period immediately preceding the date of registration, but who does not have a permanent residence in Texas, may enroll in vocational education courses at a public junior college by paying the resident tuition rate. Documentation for a homeless individual may consist of written statements from the office of one or more legitimate social service agencies located in Texas, attesting to the provision of services to the homeless individual over the previous 12-month period.

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<sup>4</sup> The definition can be found at: <http://envirotext.eh.doe.gov/data/uscode/42/11302.shtml>.

## **Lowered Tuition for Individuals from Bordering States or Mexico Based on Reciprocity.**

### **Statutory Provisions:**

*Texas Education Code Sec. 54.060 (a). The nonresident tuition fee prescribed in this chapter does not apply to a nonresident student who is a resident of Arkansas, Louisiana, New Mexico, or Oklahoma and who registers in a public upper-level institution of higher education, two-year institution in the Lamar University System, Texas public junior college, or public technical institute that is situated in a county immediately adjacent to the state in which the nonresident student resides.*

*The nonresident tuition fee prescribed in this chapter does not apply to a nonresident student who is a resident of New Mexico or Oklahoma and who registers in a public technical institute that is situated in a county that is within 100 miles of the state in which the nonresident student resides and who is admitted for the purpose of utilizing available instructional facilities.*

*The nonresident student described in this subsection shall pay an amount equivalent to the amount charged a Texas student registered at a similar school in the state in which the nonresident student resides. For purposes of this subsection, 'public upper-level institution of higher education' means an institution of higher education that offers only junior-level and senior-level courses or only junior-level, senior-level, and graduate-level courses.*

*Texas Education Code Sec. 54.060 (g) The nonresident tuition fee prescribed by this chapter does not apply to a nonresident student who is a resident of a county or parish of Arkansas, Louisiana, New Mexico, or Oklahoma that is adjacent to this state and who registers in an institution of higher education, the governing board of which has agreed to admit the student at the resident tuition fee prescribed by this chapter. The state in which the student resides must allow a resident of a county of this state that is adjacent to that state to register in a public institution of higher education in that state at the tuition fee charged residents of that state. The student shall pay tuition equal to that charged residents of this state at the institution.*

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(6)(b):**

Waivers of nonresident tuition made through each of the following three programs for students from states neighboring Texas must be based on reciprocity. In other words, the Texas institution cannot lower tuition for in-coming students unless it has on file a current written agreement with a similar school in the other state to lower tuition for Texas students attending there. A participating Texas institution is required to file a copy of such agreements with the Texas Higher Education Coordinating Board. To be valid, the agreements may not be more than 2 years old. The amount charged in-coming nonresident students through these programs may not be less than the Texas resident tuition rate.

- (i) New Mexico, Oklahoma, Arkansas or Louisiana Students. New Mexico, Oklahoma, Arkansas or Louisiana students may pay a lowered nonresident tuition when they attend Texas A&M University-Texarkana, Lamar State College-Port Arthur, Lamar State College-Orange or any public community or technical college located in a county adjacent to their home state, if the institution they attend has a current reciprocal agreement with a similar institution in the student's home state.
- (ii) New Mexico and Oklahoma Students. New Mexico and Oklahoma students may pay a lowered nonresident tuition when they attend a public technical college located within 100 miles of the border of their home state, if the institution they attend has a current reciprocal agreement with a similar institution in the student's home state.
- (iii) Students from counties or parishes of New Mexico, Oklahoma, Arkansas or Louisiana adjacent to Texas. Students from counties or parishes of New Mexico, Oklahoma, Arkansas or Louisiana adjacent to Texas may pay a lowered nonresident tuition when they attend any public institution in Texas, if the institution has a current reciprocal agreement with a similar institution in the student's home state.
- (iv) Students who move to Texas from bordering states. If a dependent student's family or an

independent student from a bordering state moves to Texas after the student has received a waiver of nonresident tuition based on reciprocity as described in this section, the student is eligible for a continued waiver for the 12-month period after the relocation to Texas. After that time, however, the student shall be reclassified as a nonresident unless he or she applies for reclassification and proves he or she has become a resident in keeping with these rules.

**Lowered Tuition for Individuals from Bordering States or Mexico.  
Programs that do not Require Reciprocity.**

**Statutory Provisions:**

*Texas Education Code Sec. 54.0601. On the written request of the governing board of a general academic teaching institution located not more than 100 miles from the boundary of this state with another state, the Texas Higher Education Coordinating Board may set a nonresident tuition rate that is lower than the nonresident tuition rate otherwise provided by this chapter if the coordinating board determines that the lower rate is in the best interest of the institution and will not cause unreasonable harm to any other institution of higher education.*

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(6)(b)(i):**

Undergraduate students from New Mexico, Oklahoma, Arkansas, Louisiana or other states within 135 miles of the Texas border. Undergraduate students from New Mexico, Oklahoma, Arkansas, Louisiana or other states within 135 miles of the Texas border may pay a lowered nonresident tuition when they attend a public university located within 100 miles of the Texas border if the Texas Higher Education Coordinating Board has approved the institution to participate in the program.

**Lowered Tuition for Individuals from Bordering States or Mexico.  
Programs for Residents of Mexico.**

**Statutory Provisions:**

*Texas Education Code Sec. 54.060 (b). The foreign student tuition fee prescribed in this chapter does not apply to a foreign student who is a resident of a nation situated adjacent to Texas, demonstrates financial need as provided in Subsection C, and registers in (1) any general academic teaching institution or component of the Texas State Technical College System located in a county immediately adjacent to the nation in which the foreign student resides; lower division courses at a community or junior college having a partnership agreement pursuant to Subchapter N, Chapter 51, with an upper-level university and both institutions are located in the county immediately adjacent to the nation in which the foreign student resides; (3) Texas A&M University-Kingsville, Texas A&M University-Corpus Christi, or The University of Texas at San Antonio; or (4) courses that are part of a graduate degree program in public health and are conducted in a county immediately adjacent to the nation in which the foreign student resides.*

*(c) A foreign student to whom Subsection (b) applies shall pay tuition equal to that charged Texas residents under Sections 54.051 and 54.0512. The coordinating board shall adopt rules governing the determination of financial need of students to whom Subsection (b) applies and rules governing a pilot project to be established at general academic teaching institutions and at components of the Texas State Technical College System in counties that are not immediately adjacent to the nation in which the foreign student resides.*

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(6)(c):**

(i) Residents of Mexico are those individuals who currently live in Mexico and individuals who are living outside of Mexico temporarily and with definite plans to return. Students planning to stay in the United States indefinitely are not residents of Mexico.

- (ii) An unlimited number of residents of Mexico who have financial need may attend a public university or TSTC campus located in a county adjacent to Mexico, Texas A&M University-Corpus Christi, Texas A&M University-Kingsville, the University of Texas at San Antonio or Texas Southmost College while paying the resident tuition rate.
- (iii) A limited number of residents of Mexico who have financial need may attend a public university or campus of the Texas State Technical College System located in counties away from the Mexico border while paying the resident tuition rate. The program is limited to the greater of two students per 1,000 enrollment, or 10 students.
- (iv) A resident of Mexico with financial need may register in courses that are part of a graduate degree program in public health conducted in a county immediately adjacent to Mexico and pay the resident tuition rate.

### **Beneficiaries of the Texas Tomorrow Fund.**

#### **Statutory Provisions:**

*Texas Education Code Section §54.621. Beneficiary*

*(a) The beneficiary of a prepaid tuition contract must be younger than 18 years of age or 18 years of age or older and enrolled in high school at the time the purchaser enters into the contract and must be:*

- (1) a resident of this state at the time the purchaser enters into the contract; or*
- (2) a nonresident who is the child of a parent who is a resident of this state at the time that parent enters into the contract.*

*(b) The board may require a reasonable period of residence in this state for a beneficiary or the parent of a beneficiary.*

*(c) Notwithstanding Section 54.052(d), the tuition and required fees charged by an institution of higher education for semester hours and fees that are paid for by a prepaid tuition contract shall be determined as if the beneficiary of that contract were a resident student.*

#### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(7):**

The tuition and required fees charged by an institution of higher education for semester hours and fees that are paid for by a prepaid tuition contract shall be determined as if the beneficiary of that contract is a resident student. If a student is a nonresident, any tuition and fees not paid by the contract will be assessed at the nonresident rate.

### **Inmates of the Texas Department of Criminal Justice.**

#### **Statutory Provisions:**

*2003 General Appropriations Act, Article V – Public Safety and Criminal Justice, Rider 41, page V-21. Residential Status of Inmates. All inmates of the Texas Department of Criminal Justice are, for educational purposes only, residents of the State of Texas.*

#### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(8):**

All inmates of the Texas Department of Criminal Justice are Texas residents for tuition purposes only.

### **Foreign Service Officers.**

#### **Statutory Provisions:**

*Texas Education Code Sec. 54.069. A foreign service officer employed by the United States Department of State and enrolled in an institution of higher education is entitled to pay the tuition and fees at the rates provided for Texas residents if the person is assigned to an office of the department of state that is located in a foreign nation that borders on this state.*

**Coordinating Board Rules, Subchapter B, Section 21.26(b)(9):**

A foreign service officer employed by the U.S. Department of State enrolled in an institution of higher education is entitled to pay resident tuition and fees if the person is assigned to an office of the Department of State that is located in Mexico.

**Registered Nurses in Postgraduate Nursing Degree Programs.**

**Statutory Provisions:**

*Texas Education Code Sec. 54.069. An institution of higher education may permit a registered nurse authorized to practice professional nursing in Texas to register by paying the tuition fees and other fees or charges required for Texas residents under Section 54.051, without regard to the length of time the registered nurse has resided in Texas, if the registered nurse: (1) is enrolled in a program designed to lead to a master's degree or other higher degree in nursing; and (2) intends to teach in a program in Texas designed to prepare students for licensure as registered nurses.*

**Coordinating Board Rules, Subchapter B, Section 21.26(b)(10):**

An institution of higher education may permit a registered nurse authorized to practice professional nursing in Texas to register by paying resident tuition and fees without regard to the length of time the registered nurse has resided in Texas if he/she:

- (A) is enrolled in a program designed to lead to a master's degree or other higher degree in nursing; and
- (B) intends to teach in a program in Texas designed to prepare students for licensure as registered nurses.

**WAIVERS FOR MEMBERS OF THE U.S. ARMED FORCES, ARMY NATIONAL GUARD, AIR NATIONAL GUARD AND COMMISSIONED OFFICERS OF THE PUBLIC HEALTH SERVICE, THEIR SPOUSE AND DEPENDENTS**

*Effective Fall 2003, A member of the Armed Forces of the United States or the child or spouse of a member of the Armed Forces of the United States who is entitled to pay tuition and fees at the rate provided for Texas residents under another provision of this section while enrolled in a degree or certificate program is entitled to pay tuition and fees at the rate provided for Texas residents in any subsequent term or semester while the person is continuously enrolled in the same degree or certificate program. For purposes of this subsection, a person is not required to enroll in a summer term to remain continuously enrolled in a degree or certificate program. The person's eligibility to pay tuition and fees at the rate provided for Texas residents under this subsection does not terminate because the person is no longer a member of the Armed Forces of the United States or the child or spouse of a member of the Armed Forces of the United States. (Texas Education Code §54.058(j), House Bill 261, 78<sup>th</sup> Legislature, 2003 and Coordinating Board Rule, Ch. 21.26 (b)(11)(H))*

*Section 54.058(j), as added by this Act, applies beginning with the 2003 fall semester to a person who was a member of the Armed Forces of the United States or the child or spouse of a member of the Armed Forces of the United States entitled to pay tuition and fees at the rate provided for Texas residents under Section 54.058, Education Code, while enrolled in a degree or certificate program at a public institution of higher education in this state in the 2003 spring semester or in any term of the 2003 summer session.*

## **Members Assigned to Duty in Texas.**

### **Statutory Provisions:**

*Texas Education Code Sec. 54.058 (b). A person who is an officer, enlisted person, selectee, or draftee of the Army, Army Reserve, Army National Guard, Air National Guard, Air Force, Air Force Reserve, Navy, Navy Reserve, Marine Corps, Marine Corps Reserve, Coast Guard, or Coast Guard Reserve of the United States, who is assigned to duty in Texas, and the spouse and children of such an officer, enlisted person, selectee, or draftee, are entitled to register in a state institution of higher education by paying the tuition fee and other fees or charges required of Texas residents, without regard to the length of time the officer, enlisted person, selectee, or draftee has been assigned to duty or resided in the state. However, out-of-state Army National Guard or Air National Guard members attending training with Texas Army or Air National Guard units under National Guard Bureau regulations may not be exempted from non-resident tuition by virtue of that training status nor may out-of-state Army, Air Force, Navy, Marine Corps, or Coast Guard Reserves training with units in Texas under similar regulations be exempted from nonresident tuition by virtue of that training status. It is the intent of the legislature that only those members of the Army or Air National Guard or other reserve forces mentioned above be exempted from the nonresident tuition fee and other fees and charges only when they become members of Texas units of the military organizations mentioned above.*

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(11)(a):**

Nonresident members of the U.S. Armed Forces, members of Texas units of the Army or Air National Guard, or Commissioned Officers of the Public Health Service who are assigned to duty in Texas are entitled to pay the resident tuition rate for themselves, their spouses and dependent children. To qualify, the student must submit at least once a year a statement from an appropriately authorized officer in the service, certifying that he or she (or a parent or court-appointed legal guardian) will be assigned to duty in Texas at the time of enrollment and is not a member of the National Guard or Reserves who will be in Texas only to attend training with Texas units.

## **After Assignment in Texas.**

### **Statutory Provisions:**

*Texas Education Code, §54.058(c) (as amended by House Bill 261, 78<sup>th</sup> Legislature, 2003). The spouse or child of a member of the Armed Forces of the United States who has been assigned to duty elsewhere immediately following assignment to duty in Texas is entitled to pay the tuition fees and other fees or charges provided for Texas residents as long as the spouse or child resides continuously in Texas.*

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(11)(b):**

The spouses and/or dependent children of nonresident members of the U.S. Armed Forces, members of Texas units of the Army or Air National Guard, or Commissioned Officers of the Public Health Service are entitled to pay the resident tuition rate as long as the spouse or child resides continuously in Texas. *Preliminarily adopted 07/01/03. May be subject to change.*

## **Out-of-State Military.**

### **Statutory Provisions:**

*Texas Education Code, §54.058(g) (As amended by House Bill 261, 78<sup>th</sup> Legislature, 2003). If a member of the Armed Forces of the United States is stationed outside Texas and the member's spouse or child establishes residence in Texas by residing in Texas and by filing with the Texas institution of higher education at which the spouse or child plans to register a let-*

*ter of intent to establish residence in Texas, the institution of higher education shall permit the spouse or child to pay the tuition, fees, and other charges provided for Texas residents without regard to length of time that the spouse or child has resided in Texas.*

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(11)(c):**

The spouse and/or dependents of nonresident members of the U.S. Armed Forces, members of Texas units of the Army or Air National Guard, or Commissioned Officers of the Public Health Service stationed outside of Texas are entitled to immediately start paying the resident tuition rate in Texas if the spouse and/or child moves to this state and files a statement of intent to establish residence in Texas with the public institution of higher education they attend. *Preliminarily adopted 07/01/03. May be subject to change.*

**Survivors.**

**Statutory Provisions:**

*Texas Education Code, §54.058(f) (as amended by House Bill 261, 78<sup>th</sup> Legislature, 2003). The spouse or child of a member of the Armed Forces of the United States who dies or is killed is entitled to pay the resident tuition fee if the spouse or child becomes a resident of Texas within 60 days of the date of death.*

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(11)(d):**

The spouse and/or dependents of nonresident members of the U.S. Armed Forces, members of Texas units of the Army or Air National Guard, or Commissioned Officers of the Public Health Service who die while in service are entitled to pay the resident tuition rate if the spouse and/or child moves to Texas within 60 days of the date of death. To qualify, the students shall submit satisfactory evidence to the institution, establishing the date of death and current residence in Texas. *Preliminarily adopted 07/01/03. May be subject to change.*

**Spouse and Dependents who Previously Lived in Texas.**

**Statutory Provisions:**

*Texas Education Code Sec. 54.058 (d). A spouse or dependent child of a member of the Armed Forces of the United States, who is not assigned to duty in Texas but who has previously resided in Texas for a 6-month period, is entitled to pay the tuition fees and other fees or charges provided for Texas residents for a term or semester at a state institution of higher education if the member:*

1. *at least one year preceding the first day of the term or semester executed a document with the applicable military service that is in effect on the first day of the term or semester and that:*
  - a. *indicates that the member's permanent residence address is in Texas; and*
  - b. *designates Texas as the member's place of legal residence for income tax purposes;*
2. *has been registered to vote in Texas for the entire year preceding the first day of the term or semester; and*
3. *satisfies at least one of the following requirements:*
  - a. *for the entire year preceding the first day of the term or semester has owned real property in Texas and in that time has not been delinquent in the payment of any taxes on the property;*
  - b. *has had an automobile registered in Texas for the entire year preceding the first day of the term or semester; or*
  - c. *at least one year preceding the first day of the term or semester executed a will that has*

*not been revoked or superseded indicating that the member is a resident of this state and deposited the will with the county clerk of the county of the member's residence under Section 71, Texas Probate Code.*

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(11)(e):**

The spouse and dependent children of a nonresident member of the U.S. Armed Forces, members of Texas units of the Army or Air National Guard, or Commissioned Officer of the Public Health Service who previously resided in Texas for at least six months may establish residency for tuition purposes if the member or commissioned officer (at least 12 months prior to the family member's enrollment):

- (i) filed proper documentation with the military or Public Health Service to change his/her permanent residence to Texas and designates Texas as his/her place of legal residence for income tax purposes;
- (ii) registered to vote in Texas, and
- (iii) shows one of the following three things has been in effect for the full 12 months prior to the first day of the relevant term or semester:
  - (I) ownership of real estate in Texas with no delinquent property taxes;
  - (II) registration of an automobile in Texas, or
  - (III) execution of a currently-valid will that indicates he/she is a resident of Texas, that has been deposited with a county clerk in Texas.

**Members Who Change their Residency to Texas.**

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(11)(f):**

A member of the U.S. Armed Forces whose state of record is not Texas may change his/her residency to Texas if he/she does the following things at least 12 months prior to the member's enrollment:

- (I) is assigned to duty in Texas at least 12 consecutive months, during which the member files proper documentation with the military to change his/her permanent residence to Texas, and
- (II) meets four of the 8 conditions listed below for the 12 months prior to enrollment:
  - (III) purchase a residence in Texas and claim it as a homestead;
  - (IV) register to vote in Texas;
  - (V) register an automobile in Texas;
  - (VI) maintain a Texas driver's license;
  - (VII) maintain checking, savings or safety deposit box in Texas;
  - (VIII) have a will or other legal documents on file in Texas that indicate residence in Texas;
  - (IX) have membership in professional organizations or other state organizations; and/or
  - (X) establish a business in Texas.

**Honorably Discharged Veterans, their Spouse and Dependents.**

**Statutory Provisions:**

*Texas Education Code Sec. 54.058 (i). A former member of the Armed Forces of the United States or the former member's spouse or dependent child is entitled to pay the tuition fees and other fees or charges provided for Texas residents for any term or semester at a state institution of higher education that begins before the first anniversary of the member's separation from the Armed Forces if the former member:*

1. *has retired or been honorably discharged from the Armed Forces; and*
2. *has complied with the requirements of Section 54.058 (d). (See page 18 of this document.)*

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(11)(g):**

A former member of the U.S. Armed Forces or Commissioned Officer of the Public Health Service and his/her spouse and children are entitled to pay the resident tuition rate for any term beginning prior to the first anniversary of separation from the military or health service if the former member has:

- (i) filed proper documentation with the military or Public Health Service to change his/her permanent residence to Texas and designated Texas as his/her place of legal residence for income tax purposes;
- (ii) registered to vote in Texas; and
- (iii) shows one of the following three things has been in effect for the full 12 months prior to the first day of the relevant term or semester:
  - (I) ownership of real estate in Texas with no delinquent property taxes;
  - (II) registration of an automobile in Texas, or execution of a currently-valid will that indicates he/she is a resident of Texas that has been deposited with a county clerk in Texas.

**Previous Recipients of Military Waivers.**

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(11)(h):**

A member of the Armed Forces of the United States or the child or spouse of a member of the Armed Forces of the United States who is entitled to pay tuition and fees at the rate provided for Texas residents under another provision of this section while enrolled in a degree or certificate program is entitled to pay tuition and fees at the rate pay tuition and fees at the rate provided for Texas residents in any subsequent term or semester while the person is continuously enrolled in the same degree or certificate program. For purposes of this subsection, a person is not required to enroll in a summer term to remain continuously enrolled in a degree or certificate program. The person's eligibility to pay tuition and fees at the rate provided for Texas residents under this subsection does not terminate because the person is no longer a member of the Armed Forces of the United States or the child or spouse of a member of the Armed Forces of the United States. *Preliminarily adopted 07/01/03. May be subject to change.*

**ROTC Students.**

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(11)(i):**

A nonresident student who is a member of an ROTC unit must pay nonresident tuition until such time he or she signs a contract that cannot be terminated by the student and that obligates the student to serve a period of active duty in the U.S. Armed Forces. Once the student has signed such a contract, he or she has the same rights for qualifying to pay the resident rate as has a member of the U.S. Armed Forces.

**NATO Forces.**

**Statutory Provisions:**

*Texas Education Code 54.057(b). A nonimmigrant alien who resided in this state in accordance with the Agreement between the Parties of the North Atlantic Treaty Regarding the Status of Their Forces (4 U.S.T. 1792) and the spouse or children of such an alien are residents for tuition and fee purposes under this code.*

**Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(11)(j):**

Foreign individuals stationed in Texas in keeping with the agreement between the parties to the North Atlantic Treaty regarding status of forces, their spouses and dependent children, are entitled to pay the same tuition rate as residents of Texas.

## **Radiological Science Students at Midwestern State University.**

### **Statutory Provisions:**

*Texas Education Code Sec. 54.058 (h). United States Air Force personnel stationed outside the State of Texas who are enrolled in the bachelor of science or master of science degree program in radiological sciences at Midwestern State University by instructional telecommunication will be entitled to pay tuition fees and other fees or charges provided for Texas residents if they began the program while stationed at an Air Force base in Texas. In this subsection, "instructional telecommunication" means instruction delivered primarily by telecommunication technology, including open-channel television, cable television, closed-circuit television, low power television, communication and/or direct broadcast satellite, satellite master antenna system, microwave, videotape, videodisc, computer software, computer networks, and telephone lines.*

### **Coordinating Board Rules, Chapter 21, Subchapter B, Section 21.26(b)(11)(k):**

Members of the U.S. Armed Forces stationed outside the State of Texas who are enrolled in a bachelor of science or master of science degree program in radiological sciences at Midwestern State University by instructional telecommunication will be entitled to pay tuition and other fees or charges provided for Texas residents if they began the program of study while stationed at a military base in Texas.

## **RESIDENCY DURING TRANSITION FROM WAIVER RECIPIENT TO TEXAS RESIDENT**

Some nonresident students who pay the resident tuition rate as a result of waivers can acquire the right to be reclassified as residents. To do so, they must be U.S. citizens or permanent residents, or foreign individuals eligible to domicile in the United States, or fall in a category identified as eligible to be treated as permanent residents. See pages 3-8 of this document (relating to "General Rules"). In addition, they must follow the procedures for reclassification. See pages 8-11 of this document (relating to "Procedures"), and show that they currently meet the requirements for classification as a resident.

## TEXAS EDUCATION CODE CROSS REFERENCE

Beneficiaries of Texas Tomorrow Fund  
§54.621  
Competitive Scholarship Recipients  
§54.064(a) and (b)  
§54.065  
Economic Development and Diversification  
§54.052(h)  
Foreign Service Officers  
§54.069  
Foreign Students  
§54.057(a), (b) and (j)  
Homeless Individuals  
§54.052(i)  
Independent Students  
§54.052 (e), (f) and (g)  
Lowered Tuition – No Reciprocity  
§54.0601  
Lowered Tuition – Reciprocity  
§54.060(a) and (g)  
Lowered Tuition – Residents of Mexico  
§54.060(b)  
Married Students  
§54.056  
Military Personnel, Spouse and Dependents  
§54.058(b), (c), (d), (f), (g), (h), (i)

Minors and Dependents:  
§54.052 (a), (b), (c) and (d)  
§54.0551  
Minors or Dependents Enrolled Before the  
Parents Move out of State  
§54.055  
NATO Forces  
§54.057(b)  
Penalties  
§54.0521(c)  
§54.053  
Persons Temporarily Absent from the State  
§54.052(g)  
Reclassification  
§54.054  
Registered Nurses in Postgraduate Nursing  
§54.069  
Research and Teaching Assistants, their  
Spouses and Dependents  
§54.063  
Student Responsibilities  
§54.0521 (a) and (b)  
Teachers, Professors and their Dependents  
§54.059

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