

ADMISSIONS AND ATTENDANCE
RESIDENCY

FBC
(LEGAL)

RESIDENTS AND
NONRESIDENTS

Texas residency shall be determined according to statute and Coordinating Board rules. *Education Code 54.052; 19 TAC 21.21*

RESIDENCE
DETERMINATION
OFFICIAL

The College District shall designate an individual who is employed by the College District as a Residence Determination Official and who shall be knowledgeable of the requirements set out in 19 Administrative Code Chapter 21, Subchapter B and the applicable statutes. *19 TAC 21.30*

DEFINITIONS

In this subchapter:

1. "Census date" means the date in an academic term on which the College District is required to certify a student's enrollment to the Coordinating Board for purposes of determining formula funding for the College District. *Education Code 54.0501; 19 TAC 21.22(1)*
2. "Dependent" means a person who:
 - a. Is less than 18 years of age and has not been emancipated by marriage or court order; or
 - b. Is eligible to be claimed as a dependent of a parent of the person for purposes of determining the parent's income tax liability under the Internal Revenue Code of 1986.

Education Code 54.0501; 19 TAC 21.22(4)

3. "Domicile" means a person's principal, permanent residence to which the person intends to return after any temporary absence. *Education Code 54.0501(3); 19 TAC 21.22(5)*

A domicile in Texas is presumed if, at least 12 months prior to the census date of the semester in which he or she is to enroll, the person owns real property in Texas, owns a business in Texas, or is married to a person who has established a domicile in Texas. Gainful employment other than work-study and other such student employment can also be a basis for establishing domicile. *19 TAC 21.24(d)*

The temporary presence of a person or a dependent's parent in Texas for the purpose of service in the U.S. Armed Forces, Public Health Service, Department of Defense or service with the U.S. Department of State, or as a result of any other type of employment assignment does not preclude the person or parent from establishing a domicile in Texas. *19 TAC 21.24(f)*

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4. "Established a domicile in Texas" means a person has met the conditions shown in 19 Administrative Code 21.24(d). 19 TAC 21.22(7)
5. "Maintain a residence" means to physically reside in a location. The maintenance of a residence is not interrupted by a temporary absence from the state, as provided in 19 Administrative Code 21.24(e). 19 TAC 21.22(14)
6. "Parent" means a natural or adoptive parent, managing or possessory conservator, or legal guardian of a person. The term does not include a step-parent. *Education Code 54.0501(5)*; 19 TAC 21.22(18)
7. "Regular semester" means a fall or spring semester, typically consisting of 16 weeks. 19 TAC 21.22(22)
8. "Residence" means a person's home or other dwelling place. *Education Code 54.0501(6)*; 19 TAC 21.22(23)
9. "Temporary absence" means an absence from the state of Texas with the intention to return, generally for a period of less than five years. 19 TAC 21.22(26)

The temporary absence of a person or a dependent's parent from the state for the purpose of service in the U.S. Armed Forces, Public Health Service, Department of Defense, U.S. Department of State, as a result of an employment assignment, or for educational purposes, shall not affect a person's ability to continue to claim that he or she is a domiciliary of this state. The person or the dependent's parent shall provide documentation of the reason for the temporary absence.
19 TAC 21.24(e)

RESIDENTS

Subject to the other applicable provisions of Education Code Chapter 54, Subchapter B governing the determination of resident status, the following persons are considered residents of this state for purposes of this title:

1. A person who:
 - a. Established a domicile in this state not later than one year (12 months) before the census date of the academic term in which the person is enrolled in an institution of higher education; and
 - b. Maintained that domicile continuously for the year (12 months) immediately preceding the census date of the academic semester in which the person enrolls in an institution.

Education Code 54.052; 19 TAC 21.24(a)(2)

To apply for residence status under this provision, a person must submit the following information:

- c. A statement of the dates and length of time the person has resided in this state, as relevant to establish resident status under this subchapter; and
- d. A statement by the person that the person's presence in this state for that period was for a purpose of establishing and maintaining a domicile.

Education Code 54.053

- 2. A dependent whose parent:
 - a. Established a domicile in this state not later than one year (12 months) before the census date of the academic term in which the dependent is enrolled in an institution of higher education; and
 - b. Maintained that domicile continuously for the year (12 months) immediately preceding the census date of the academic semester in which the person enrolls in an institution.

Education Code 54.052; 19 TAC 21.24(a)(3)

To apply for residence status under this provision, a person must submit the following information:

- c. A statement of the dates and length of time any parent of the person has resided in this state, as relevant to establish resident status under this subchapter; and
- d. A statement by the parent or, if the parent is unable or unwilling to provide the statement, a statement by the person that the parent's presence in this state for that period was for a purpose of establishing and maintaining a domicile.

Education Code 54.053

- 3. A person who:
 - a. Graduated from a public or accredited private high school in this state or, as an alternative to high school graduation, received the equivalent of a high school diploma in this state, including the successful completion of a nontraditional secondary education; and
 - b. Maintained a residence continuously in this state for:

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- (1) The three years (36 months) immediately preceding the date of graduation or receipt of the diploma equivalent, as applicable; and
- (2) The year (12 months) preceding the census date of the academic term in which the person is enrolled in an institution of higher education.

Education Code 54.052; 19 TAC 21.24(a)(1)

To apply for residence status under this provision, a person must submit the following information:

- c. A statement of the dates and length of time the person has resided in this state, as relevant to establish resident status under this subchapter; and
- d. If the person is not a citizen or permanent resident of the United States, an affidavit stating that the person will apply to become a permanent resident of the United States as soon as the person becomes eligible to apply.

Education Code 54.053; 19 TAC 21.25(a)(1)(B), (c)

For purposes of this section, the domicile of a dependent's parent is presumed to be the domicile of the dependent unless the person establishes eligibility for resident status under the third option.

Education Code 54.052; 19 TAC 21.24(c)

Non-U.S. citizens may establish a domicile in this state, as allowed by law. *19 TAC 21.24(b)*

EVIDENCE OF
RESIDENT STATUS

An institution of higher education may not require a person to provide evidence of resident status that is not required by Coordinating Board rule. *Education Code 54.075(b); 19 TAC 21.25(d)*

CONTINUING
RESIDENT STATUS

A person classified by an institution of higher education as a resident of this state under Education Code Chapter 54, Subchapter B is entitled, without submitting the information required by Education Code 54.053, to be classified as a resident by that institution in each subsequent academic term in which the person enrolls.

A person classified by an institution of higher education as a resident is entitled, without submitting the information required by Education Code 54.053 to the subsequent institution, to be classified as a resident by another institution of higher education in which the person subsequently enrolls.

Education Code 54.054(a), (b)

A person who was enrolled in an institution for any part of the previous state fiscal year and who was classified as a resident of this

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state under Education Code Chapter 54, Subchapter B in the last academic period of that year for which the person was enrolled is considered to be a resident of this state for purposes of this subchapter, as of the beginning of the fall 2006 semester. If the College District acquires documentation that a person is a continuing student who was classified as a residence at the previous institution, no additional documentation is required. *19 TAC 21.26(a)*

EXCEPTIONS

BREAK IN
ENROLLMENT

A person who enrolls in an institution of higher education after two or more consecutive regular semesters during which the person is not enrolled in an institution of higher education must submit the information required by Education Code 54.053 and 19 Administrative Code 21.25 and satisfy all applicable requirements to establish resident status for that enrollment. If the person is classified as a resident on that enrollment, Education Code 54.054(a) and (b) apply to the person in a subsequent enrollment. *Education Code 54.054(c); 19 TAC 21.26(c)*

ADDITIONAL OR
CHANGED
INFORMATION

On the basis of additional or changed information, an institution of higher education may reclassify as a resident or nonresident of this state under Education Code Chapter 54, Subchapter B a person who has previously been classified as a resident or nonresident under the subchapter. A reclassification does not apply to an academic term if the reclassification is made on or after the census date of that term. If the reclassification is made prior to the census date, it will apply to the current semester. *Education Code 54.055; 19 TAC 21.27*

ERRORS IN
CLASSIFICATION

If an institution of higher education erroneously classifies a person as a resident of this state and the person is not entitled or permitted to pay resident tuition under Education Code Chapter 54, Subchapter B, the institution of higher education shall charge nonresident tuition to the person beginning with the first academic term that begins after the date the institution discovers the error. *Education Code 54.056; 19 TAC 21.28 [See FBB(LEGAL)]*

If an institution erroneously classified a person as a resident of this state and the person is entitled or permitted to pay resident tuition, that person is not liable for the difference between resident and nonresident tuition under this section. *19 TAC 21.28(d)*

