

**Residence
Determination
Official**

Each institution, including each college district, shall designate an individual who is employed by the institution as a Residence Determination Official who shall be knowledgeable of the requirements set out in 19 Administrative Code Chapter 21, Subchapter B and the applicable statutes and is responsible for residency determinations for the institution. *19 TAC 21.29*

Definitions

“Census Date”

“Census date” means the date in an academic term on which an institution of higher education, including a college district, is required to certify a student’s enrollment to the Coordinating Board for purposes of determining formula funding for the institution. *Education Code 54.0501(1); 19 TAC 21.22(1)*

“Clear and
Convincing
Evidence”

“Clear and convincing evidence” means that degree of proof that will produce a firm conviction or a firm belief as to the facts sought to be established. The evidence must justify the claim both clearly and convincingly. *19 TAC 21.22(2)*

“Dependent”

“Dependent” means a person who:

1. Is less than 18 years of age and has not been emancipated by marriage or court order; or
2. 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(2); 19 TAC 21.22(5)

“Domicile”

“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(7)*

“Established
Domicile in Texas”

“Established domicile in Texas” means physically residing in Texas, with the intent to maintain domicile in Texas, for at least the 12 consecutive months immediately preceding the census date of the term of enrollment, allowing for documented temporary absences. *19 TAC 21.22(10)*

“Maintain Domicile”

“Maintain domicile” means physically residing in Texas such that the person always intends to return to the state after a temporary absence. The maintenance of domicile is not interrupted by a temporary absence from the state, as provided in 19 Administrative Code 21.22(30). *19 TAC 21.22(16)*

“Parent”

“Parent” means a natural or adoptive parent, managing or possessory conservator, or legal guardian of a person. The term would not otherwise include a step-parent. *Education Code 54.0501(5); 19 TAC 21.22(20)*

“Regular Semester”	“Regular semester” means a fall or spring semester, typically consisting of 16 weeks. <i>19 TAC 21.22(24)</i>
“Residence”	“Residence” means a person’s home or other dwelling place; where a person resides. <i>Education Code 54.0501(6); 19 TAC 21.22(25)</i>
“Temporary Absence”	“Temporary absence” means an absence from the state of Texas by a person who previously met the criteria for in-state residency, with the intention to return, generally for a period of short duration (i.e., less than one year). However, in some situations, the absence can be significantly longer.

For example, 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, U.S. Public Health Service, U.S. 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 Texas is his permanent residence.

19 TAC 21.22(29)

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 Education Code Title 3:

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, including a college district; and
 - b. Maintained that domicile continuously in the state 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(a); 19 TAC 21.24(a)(2)

If a person applies for resident status under this provision, the person shall submit the following information to an institution of higher education to establish resident status under Education Code Chapter 54, Subchapter B:

- a. A statement of the dates and length of time the person has resided in this state, as relevant to establish resident status; and

- b. 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(1)

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(a)(2); 19 TAC 21.24(a)(3)

If a person applies for resident status under this provision, the person shall submit the following information to an institution of higher education to establish resident status under Education Code Chapter 54, Subchapter B:

- a. 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; and
- b. 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(2)

3. A person who:

- a. Graduated from a public or accredited private high school in this state or 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:
 - (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.

Education Code 54.052(a)(3); 19 TAC 21.24(a)(1)

If a person applies for resident status under this provision, the person shall submit the following information to an institution of higher education to establish resident status under Education Code Chapter 54, Subchapter B:

- a. A statement of the dates and length of time the person has resided in this state, as relevant to establish resident status; and
- b. 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. An affidavit signed by a person enrolled and classified during any part of the 2011–12 academic year or later must be retained in a paper or electronic format permanently by the institution or until the student (current and former) provides proof that the student has applied for permanent resident status.

Education Code 54.053(3); 19 TAC 21.25(a)(1)(B), (c), .30(a), (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(b); 19 TAC 21.24(e)*

Non-Citizens

Non-U.S. citizens listed in 19 Administrative Code 21.24(d) are eligible to establish and maintain domicile in this state for the purposes of 19 Administrative Code 21.24(a)(2) or (3) above. *19 TAC 21.24(d)*

A public or independent institution of higher education that enrolls and classifies a nonimmigrant as a resident under 19 Administrative Code 41.24(a)(1) shall instruct such a student upon admission, annually while the student is enrolled, and upon graduation of his or her obligation to apply for Permanent Resident status as soon as the person is eligible to do so and refer the student to the appropriate federal agency for instructions on how to achieve such status. *19 TAC 21.30(b)*

Presumption of Resident Status

A member of the U.S. Armed Services whose home of record with the military is Texas is presumed to be a Texas resident, as are his or her spouse and dependent children. A member whose home of record is not Texas but who provides the institution leave and earnings statements that show the member has claimed Texas as his or her place of residence for the 12 consecutive months prior to en-

rollment is presumed to be a Texas resident, as are his or her spouse and dependent children. *19 TAC 21.24(h)*

Evidence of Resident Status

To initially establish resident status under 19 Administrative Code 21.24, a person who qualifies for residency shall provide the institution, including a college district, with a completed set of Core Residency Questions. A person who qualifies for residency under 19 Administrative Code 21.24(a)(1) and who is not a Citizen of the United States or a Permanent Resident of the United States shall, in addition to the other requirements of this section, provide the institution with a signed affidavit in the form provided in 19 Administrative Code 21.25 Chart I stating that the person will apply to become a Permanent Resident of the U.S. as soon as the person becomes eligible to apply.

An institution may request that a person provide documentation to support or clarify the answers to the Core Residency Questions. The following is a list of documents that may provide support to a claim of physical residence in Texas:

1. Utility bills for the 12 consecutive months preceding the census date;
2. Canceled checks that reflect a Texas residence for the 12 consecutive months preceding the census date;
3. A current credit report that documents the length and place of residence of the person or the dependent's parent to be in Texas and the length of residence to be at least 12 consecutive months preceding the census date;
4. Texas voter registration card that was issued at least 12 months prior to the census date;
5. Lease or rental of residential real property in the name of the person or the dependent's parent for the 12 consecutive months immediately preceding the census date; and
6. Texas high school transcript for full senior year immediately preceding the census date or a transcript from a Texas institution of higher education showing presence in the state for the 12 consecutive months preceding the census date.

Appropriate documents are not limited to those listed above. In addition, the institution may request documents that support the information the student may provide in the Core Residency Questions, Section H.

An institution shall not impose any requirements in addition to the requirements established in this section for a person to establish resident status.

Education Code 54.075(b); 19 TAC 21.24(b), .25

**Intent to Establish
and Maintain
Domicile in Texas**

Although not conclusive or exhaustive, the following factors occurring throughout a consecutive 12-month period prior to the census date of the semester in which a person seeks to enroll may lend support to a claim regarding the person's intent to establish and maintain domicile in Texas. Continued presence in the state from the end of that period until the census date of the semester in which a person seeks to enroll, except for temporary absences as defined in 19 Administrative Code 21.22(29), may lend support to a claim of maintaining domicile in Texas:

1. Establishment of Domicile:
 - a. Significant Gainful Employment:
 - (1) An employer's statement of dates of employment in Texas (beginning and current or ending dates) that encompass at least 12 consecutive months prior to the census date of the term in which the person enrolls or pay stubs for 12 consecutive months prior to the census date, reflecting significant gainful employment in Texas. However, employment conditioned on student status, such as work study, the receipt of stipends, fellowships, or research or teaching assistantships does not constitute gainful employment for the purposes of 19 Administrative Code Chapter 21, Subchapter B.
 - (2) For a person who is unemployed and living on public assistance, written statements from the office of one or more social service agencies located in Texas that attest to the provision of services to the person for the 12 consecutive months prior to the census date of the term in which the person enrolls.
 - b. Residential Real Property. Sole or joint marital ownership of residential real property in Texas with documentation to verify 12 consecutive months of ownership prior to the census date of the term in which the person enrolls, such as a Warranty Deed, with the person or the dependent's parent having established and maintained domicile at that residence.
 - c. Marriage to a Person who has Established and Maintained Domicile in Texas. Marriage certificate or Declara-

tion of Registration of Informal Marriage with documentation to support that spouse has established and maintained domicile in Texas for 12 consecutive months prior to the census date of the term in which the person enrolls.

- d. Ownership of a Business Entity. Documents that evidence the organization of the business in Texas that reflect the ownership interest of the person or dependent's parent, and the customary management of the business by the person or dependent's parent without the intention of liquidation for the foreseeable future.
2. Maintenance of Domicile: A person who established domicile through one of the actions described in item 1 and continues to reside in the State of Texas, except for temporary absences as defined in 19 Administrative Code 21.22(29), is considered to have maintained domicile in Texas for that period of time unless he or she takes specific steps to change his or her domicile to a different location.

An individual whose initial purpose for moving to Texas is to attend an institution of higher education as a full-time student will be presumed not to have the required intent to make Texas his or her domicile; however, the presumption may be overruled by clear and convincing evidence.

An individual shall not ordinarily be able to establish domicile by performing acts that are directly related to fulfilling educational objectives or that are required or routinely performed by temporary residents of the state.

19 TAC 21.24(f)–(h)

Burden of Proof

The student has the burden of proof to show by clear and convincing evidence that domicile has been established and maintained as required by 19 Administrative Code 21.24(a)(2) and (a)(3). *19 TAC 21.24(c)*

Continuing Resident Status

A person classified by an institution of higher education, including a college district, 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 classified by an institution of higher education as a resident of this state under this subchapter is entitled, without submitting the information required by 19 Administrative Code 21.24 and 21.25, to be classified as a resident by any institution in each subsequent academic term in which the person enrolls unless the person provides information to the institution that indicates a change in resident status is appropriate as indicated in 19 Administrative Code 21.27. *19 TAC 21.26(a)*

Break in Enrollment

If a person is not enrolled in an institution of higher education for two or more consecutive regular semesters, then the person must reapply for resident status and shall submit the information required in 19 Administrative Code 21.24 and 21.25 and satisfy all the applicable requirements to establish residency. *Education Code 54.054(c); 19 TAC 21.26(b)*

**Additional or
Changed Information**

If a person is initially classified as a nonresident based on information provided through the set of Core Residency Questions, the person may request reclassification by providing the institution, including a college district, with supporting documentation such as described in 19 Administrative Code 21.24 and 21.25. A person shall provide the institution with any additional or changed information that may affect his or her resident or nonresident tuition classification.

An institution may reclassify a person who had previously been classified as a resident or nonresident based on additional or changed information provided by the person. Any change made under this section shall apply to the first succeeding semester in which the person is enrolled, if the change is made on or after the census date of that semester. If the change 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, including a college district, erroneously classifies a person as a resident, the institution of higher education shall charge nonresident tuition to the person beginning with the first semester that begins after the date the institution discovers the error.

Not earlier than the first day of the following semester, the institution may notify the person that he or she must pay the difference between resident and nonresident tuition for each previous semester in which the student should not have paid resident tuition, if:

1. The person failed to provide to the institution, in a timely manner after the information becomes available or on request by the institution, any information that the person reasonably should know would be relevant to an accurate classification by the institution; or
2. The person provided false information to the institution that the person reasonably should know could lead to an erroneous classification by the institution.

If the institution provides the notice described above, the person shall pay the applicable amount to the institution not later than the 30th day after the date the person is notified of the person's liability for the amount owed. After receiving the notice and until the amount is paid in full, the person is not entitled to receive from the institution a certificate or diploma, if not yet awarded on the date of the notice, or official transcript that is based at least partially on or includes credit for courses taken while the person was erroneously classified as a resident of this state.

If an institution erroneously classified a person as a nonresident of this state and the person is entitled or permitted to pay resident tuition, the institution shall charge resident tuition to the person beginning with the semester in which the institution discovered the error. Regardless of the reason for the error, the institution shall immediately refund to the person the amount of tuition the person paid in excess of resident tuition.

Education Code 54.056; 19 TAC 21.28 [See FD(LEGAL)]