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The following information was obtained from THECB and the University of Texas - Austin. Texas A&M University requests applicants to contact them directly for information.

Type and Citation: Statutory. TEX.EDUC.CODE, TITLE 3, 54.052 *et seq.* The Texas Higher Education Coordinating Board (THECB) promulgates residency classification rules and regulations based on legislative statutes. These apply to all TX public junior, community and senior colleges and universities, public health service centers and Technical Institutes.

Requirements for Resident Classification: Independent individuals aged 18 years and older who are gainfully employed in Texas for twelve months before registration in a public institution of higher learning are entitled to resident status while maintaining legal Texas residence. An Oath of Residency may be required before registering.

Minors and dependents receive resident status if their parents or court-appointed legal guardians have resided in Texas for 12 months prior to registration. Minors are unmarried and under 18 years of age; dependents are those claimed as a dependent for federal income tax purposes by the parent or legal guardian in the year of enrollment and in the tax year prior to enrollment. This rule applies even if students become legal wards of or adopted by TX residents while attending an educational institution there, or within 12 months before they begin attending a TX educational institution, or under circumstances indicating that the guardianship or adoption was for the purpose of obtaining resident student status.

In the case of divorce, a minor or dependent student assumes the residence of the parent 1) who has custody at the time of enrollment, 2) who has claimed the dependent for federal income tax purposes both at enrollment and for the previous tax year, or 3) with whom the dependent has resided for the 12 months before enrollment. In cases where custody is legally granted to someone other than the parent, the residence of that person will control, provided that such custody was not ordered during or within a year before enrollment and was not granted for the purpose of receiving in-state tuition.

In the case of abandoned children, the residence of those who stand *in loco parentis* may determine the residence classification. The fact of abandonment must be clearly established and must not be for the purpose of affecting a minor's residency. Minors must actually reside with and receive substantially all support from those who stand *in loco parentis* for 2 years before enrollment, although the 2-year requirement may be waived in unusual hardship cases, e.g., death of both parents.

Minors who are enrolled as resident students when their parents move their legal residence from the state will be classified as nonresidents, but are entitled to pay resident tuition fees while continuously enrolled in a regular session in a TX public higher education institution.



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A minor who has been legally emancipated may establish his/her own claim to residency following the rules applicable to independent individuals 18 years of age or older.

Nonresidents who marry TX residents must establish their own residency by meeting the standard requirements. TX residents who marry nonresidents keep resident status until they take steps to change their legal residence.

Under Texas House Bill 1403 (effective 2001) addressing the issue of undocumented students qualifying for resident status for tuition purposes, international students who meet all of the following requirements and do not establish a residence outside Texas will qualify for TX residency regardless of INS status: 1) graduate from a TX high school (public or private) or receive a GED after attending for three consecutive years; 2) live with a parent, legal guardian or conservator during that time; 3) register as an entering student in a higher education institution *not earlier than* the Fall 2001 semester; and 4) sign an affidavit stating that they meet the above qualifications and will apply for permanent residency at the earliest opportunity they are eligible to do so.

An alien living in the U.S. under a visa permitting permanent residence or who is permitted by U.S. law to establish a domicile in this country has the same privileges of qualifying for resident status as a U.S. citizen. These categories include: holders of asylum or parolee/refugee status; students who have applied for adjustment of status to permanent residency (green card application); and holders of specific A, E, G, H, K, L, O, R, V and NATO visas.

Evidence of Domicile: Nonresident students who seek reclassification as residents must withdraw from school and be gainfully employed in Texas for 12 months before reentry into an educational institution. Accumulation of summer and other vacation periods will not satisfy the 12-month requirement. They may also be reclassified if they present facts which unequivocally indicate a fixed intention to reside permanently in the state, such as full-time employment in Texas and the nature of such employment while a student; purchase of a TX homestead with a substantial down payment; and dependency upon a parent/guardian who has resided in Texas for at least 12 months before enrollment. All such facts are weighed in light of the fact that a student's residence while in school is primarily for the purpose of education and not to establish residence.

Military members who entered service from another state are presumed to maintain legal domicile there unless they show abandonment of the previous domicile and establishment of a new TX domicile during the term of active service, along with clear and unequivocal proof of such intent. The following is considered: abandonment of domicile of original entry, as evidenced by establishment of TX domicile; and proof that Texas has remained the person's domicile when stationed outside of Texas after having established Texas as his/her domicile.



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Establishment of TX domicile requires first the filing of a State of Legal Residence Certificate with the military, declaring Texas as state of legal residence, followed by 12 months physical presence in the state. Four of the following additional actions are required to prove TX domicile, both initially and during subsequent duty station outside Texas: 1) purchasing a residence and claiming it as a homestead; 2) registering to vote and voting in local elections; 3) registering automobiles in Texas and paying personal property taxes thereon; 4) maintaining a TX driver's license; 5) maintaining checking or savings accounts or safety deposit boxes in Texas; 6) having wills or other legal documents indicating TX residence; 7) having membership in professional or other state organizations; and/or 8) establishing a business in Texas.

Others Who Pay Fees and Tuition Equal to Texas Resident Fees: 1) Military personnel who are assigned to permanent duty in Texas and are not in Texas only for training, their spouses and dependent children; 2) the spouse and children of a military member assigned to duty elsewhere immediately following an assignment in Texas if they continue to reside in Texas [In order for the member's dependent children to qualify, the other parent must remain in Texas.]; 3) spouses and children of military personnel stationed outside of Texas who reside in Texas and file a letter of intent to establish TX residence with the institution of higher education they plan to attend; and 4) the spouse and children of an armed forces member who dies or is killed, if they become TX residents within sixty days of the member's death. For additional provisions affecting U.S. or Texas military personnel, consult the College for Texans website.

Nonresident, Foreign and Nonimmigrant Alien Students: 1) *Nonresident and foreign students holding competitive academic scholarships of at least \$1000 for the academic year or summer for which they are enrolled; 2) nonimmigrant aliens, their spouses/children, residing in TX under NATO agreements; 3) residents of bordering states [AR, LA, NM or OK] who enroll in a TX public junior or technical college situated in counties immediately adjacent to the state(s) where they reside, or in any TX public higher education institution with reciprocity agreements for resident tuition; and 4) residents of Mexico who register in general academic teaching institutions in TX counties immediately adjacent to Mexico and who show financial need.

*Such students must have competed with TX residents and been awarded a scholarship by a scholarship committee officially recognized by the administration and approved by THECB.

Others: 1) Nonresidents whose families have been transferred to Texas by a company in keeping with the state's Economic Development and Diversification Program are entitled to pay resident tuition as soon as they move to TX if they show intent to establish TX domicile; 2) teachers or professors at institutions of higher learning who are employed at least half-time on a regular monthly salary basis, their spouses and children [This also applies to teaching/research assistants and their spouses and children who are employed in positions



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which relate to their degree programs.]; 3) beneficiaries of the Texas Tomorrow Fund (fees covered by prepaid tuition contracts); 4) Foreign Service Officers assigned to a U.S. Department of State office located in Mexico who are enrolled in a higher education institution; and 5) Registered Nurses enrolled in postgraduate nursing degree programs who intend to teach in a TX licensure program.

Temporary Absence from the State: 1) Minors whose parents move to another state or country and continue to claim legal residence in Texas may be classified as residents if they show conclusive evidence of the parents' legal claims to residence status and their intent to return to the state. 2) Persons who leave Texas and return within one year may reestablish TX residency and pay resident tuition if they have lived in Texas at least 5 years before moving. Minors and dependents also receive resident status if their parents qualify under this rule.

For specific institutional requirements, contact:

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