

CHAPTER 21. STUDENT SERVICES

SUBCHAPTER B. DETERMINATION OF RESIDENT STATUS AND WAIVER PROGRAMS FOR CERTAIN NONRESIDENT PERSONS

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21.21. Authority and Purpose.

Texas Education Code, Section 54.075, requires the Board to adopt rules to carry out the purposes of Texas Education Code, Subchapter B, concerning the determination of resident status for tuition purposes.

21.22. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) Census date – The date in an academic term for which an institution is required to certify a person’s enrollment in the institution for the purposes of determining formula funding for the institution.
- (2) Clear and Convincing Evidence – 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.
- (3) Coordinating Board or Board – The Texas Higher Education Coordinating Board.
- (4) Core Residency Questions – The questions promulgated by the Board to be completed by a person and used by an institution to determine if the person is a Texas resident. For enrollments prior to the 2008-2009 academic year, institutions may use the core questions developed and distributed by the Board in 1999 or later, including the core questions included in the Texas Common Application, or the core questions set forth in current Board rules or posted on the Texas Higher Education Coordinating Board web site. The core questions to be used for enrollments on or after

the 2008-2009 academic year shall be the core questions in the Texas Common Application or core questions posted on the Board web site.

(5) Dependent – 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.

(6) Domicile – A person's principal, permanent residence to which the person intends to return after any temporary absence.

(7) Eligible for Permanent Resident Status – A person who has filed an I-485 application for permanent residency and has been issued a fee/filing receipt or notice of action by the United States Citizenship and Immigration Services (USCIS) showing that his or her I-485 has been reviewed and has not been rejected.

(8) Established domicile in Texas – 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.

(9) Eligible Nonimmigrant – A person who has been issued a type of nonimmigrant visa by the USCIS that permits the person to establish and maintain domicile in the United States.

(10) Financial need – An economic situation that exists for a student when the cost of attendance at an institution of higher education is greater than the resources the family has available for paying for college. In determining a student's financial need an institution must compare the financial resources available to the student to the institution's cost of attendance.

(11) Gainful employment – Employment intended to provide an income to a person or allow a person to avoid the expense of paying another person to perform the tasks (as in child care) that is sufficient to provide at least one-half of the individual's tuition and living expenses or that represents an average of at least twenty hours of employment per week. A person who is self-employed or who is living off his/her earnings may be considered gainfully employed for purposes of establishing residency, as may a person whose primary support is public assistance. Employment conditioned on student status, such as work study, the receipt of stipends, fellowships, or research or teaching assistantships, does not constitute gainful employment.

(12) General Academic Teaching Institution – As the term is defined in Texas Education Code, Section 61.003.

(13) Institution or institution of higher education – Any public technical institute, public junior college, public senior college or university, medical or dental unit, or other agency of higher education as defined in Texas Education Code, Section 61.003(8).

(14) Legal guardian – A person who is appointed guardian under the Texas Probate Code, Chapter 693, or a temporary or successor guardian.

(15) Maintain domicile – To physically reside in Texas such that the person intends to always 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 subsection 21.22(27) of this section.

(16) Managing conservator – A parent, a competent adult, an authorized agency, or a licensed child-placing agency appointed by court order issued under the Texas Family Code, Title 5.

(17) Nonresident tuition – The amount of tuition paid by a person who does not qualify as a Texas resident under this subchapter unless such person qualifies for a waiver program under Section 21.29 of this title, (relating to Waiver Programs for Certain Nonresident Persons).

(18) Nontraditional secondary education – A course of study at the secondary school level in a nonaccredited private school setting, including a home school.

(19) Parent – A natural or adoptive parent, managing or possessory conservator, or legal guardian of a person. The term would not otherwise include a step-parent.

(20) Possessory conservator – A natural or adoptive parent appointed by court order issued under the Texas Family Code, Title 5.

(21) Private high school – A private or parochial school in Texas.

(22) Public technical institute or college – The Lamar Institute of Technology or any campus of the Texas State Technical College System.

(23) Regular semester – A fall or spring semester, typically consisting of 16 weeks.

(24) Residence – A person's home or other dwelling place.

(25) Residence Determination Official – The primary individual at each institution who is responsible for the accurate application of state statutes and rules to individual student cases.

(26) Resident tuition – The amount of tuition paid by a person who qualifies as a Texas resident under this subchapter.

(27) Temporary absence – Absence from the State of Texas with the intention to return, generally for a period of less than five years. 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 or her domicile.

(28) United States Citizenship and Immigration Services (USCIS) – The bureau of the U.S. Department of Homeland Security that is responsible for the administration of immigration and naturalization adjudication functions and establishing immigration services policies and priorities.

#### 21.23. Effective Date of this Subchapter.

Each institution shall apply these rules beginning with enrollments for the Fall Semester, 2006. Changes to these rules adopted in January 2011 are effective with residency decisions made for the Fall Semester, 2011.

#### 21.24. Determination of Resident Status.

(a) The following persons shall be classified as Texas residents and entitled to pay resident tuition at all institutions of higher education:

(1) 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:

(i) the thirty-six months immediately preceding the date of graduation or receipt of the diploma equivalent, as applicable; and

(ii) the 12 months preceding the census date of the academic semester in which the person enrolls in an institution.

(2) a person who:

(A) established domicile in this state not less than 12 months before the census date of the academic semester in which the person enrolls in an institution; and

(B) maintained domicile continuously in the state for the 12 months immediately preceding the census date of the academic semester in which the person enrolls in an institution.

(3) a dependent whose parent:

(A) established domicile in this state not less than 12 months before the census date of the academic semester in which the person enrolls in an institution; and

(B) maintained domicile continuously in the state for the 12 months immediately preceding the census date of the academic semester in which the person enrolls in an institution.

(b) The student has the burden of proof to show by clear and convincing evidence that residence or domicile, as appropriate, has been established and maintained in accordance with subsections (a)(1), (a)(2), and (a)(3) of this section.

(c) The following non-U. S. citizens are eligible to establish and maintain domicile in this state for the purposes of subsection (a)(2) or (3) of this section:

(1) a Permanent Resident;

(2) a person who is eligible for permanent resident status, as defined in subsection 21.22(7) of this title (relating to Definitions);

(3) an eligible nonimmigrant who holds one of the types of visas posted on the Coordinating Board's web site;

(4) a person classified by the USCIS as a Refugee, Asylee, Parolee, Conditional Permanent Resident, or Temporary Resident;

(5) a person holding Temporary Protected Status, and Spouses and Children with approved petitions under the Violence Against Women Act (VAWA), an applicant with an approved USCIS I-360, Special Agricultural Worker, and a person granted deferred action status by USCIS;

(6) a person who has filed an application for Cancellation of Removal and Adjustment of Status under Immigration Nationality Act 240A(b) or a Cancellation of Removal and Adjustment of Status under the Nicaraguan and Central American Relief Act (NACARA), Haitian Refugee Immigrant Fairness Act (HRIFA), or the Cuban Adjustment Act, and who has been issued a fee/filing receipt or Notice of Action by USCIS; and

(7) a person who has filed for adjustment of status to that of a person admitted as a Permanent Resident under 8 United States Code 1255, or under the "registry" program (8 United States Code 1259), or the Special Immigrant Juvenile Program (8 USC 1101(a)(27)(J)) and has been issued a fee/filing receipt or Notice of Action by USCIS.

(d) The domicile of a dependent's parent is presumed to be the domicile of the dependent unless the dependent establishes eligibility for resident tuition under subsection (a)(1) of this section.

(e) Although not conclusive or exhaustive, the following factors occurring throughout at least 12 consecutive months immediately preceding the census date of the semester in which a person seeks to enroll may lend support to a claim regarding his/her intent to establish and maintain domicile in Texas:

(1) sole or joint marital ownership of residential real property in Texas by the person seeking to enroll or the dependent's parent, having established and maintained domicile at that residence;

(2) ownership and customary management of a business, by the person seeking to enroll or the dependent's parent, in Texas which is regularly operated without the intention of liquidation for the foreseeable future;

(3) gainful employment in Texas by the person seeking to enroll or the dependent's parent;

(4) marriage, by the person seeking to enroll or the dependent's parent, to a person who has established and maintained domicile in Texas.

(f) 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.

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

#### 21.25. Information Required to Initially Establish Resident Status.

(a) To initially establish resident status under section 21.24 of this title (relating to Determination of Resident Status),

(1) a person who qualifies for residency under section 21.24 (a)(1) shall provide the institution with:

(A) a completed set of Core Residency Questions; and

(B) if the person is not a Citizen of the United States or a Permanent Resident of the U.S., the person shall, in addition to the other requirements of this section, provide the institution with a signed affidavit (in the form provided in Chart I, which is incorporated into this subchapter for all purposes), stating that the person will apply to become a Permanent Resident of the U.S. as soon as the person becomes eligible to apply.

(2) a person who qualifies for residency under section 21.24 (a)(2) or (a)(3) shall provide the institution with a completed set of Core Residency Questions.

(b) An institution may request that a person provide documentation to support or clarify the answers to the Core Residency Questions. Appropriate documents are not limited to those listed in Chart II, which is incorporated into this subchapter for all purposes. In addition, the institution may request documents that support the information the student may provide in the Core Residency Questions, Section H.

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

#### 21.26. Continuing Resident Status.

(a) Except as provided under subsection (c) of this section, 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 state under Subchapter B, Chapter 54, Texas Education Code, 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 following fall semester. If an institution acquires documentation that a person is a continuing student who was classified as a resident at the previous institution, no additional documentation is required. The person is not required to complete a new set of Core Questions.

(b) Except as provided by subsection (c) of this section, a person who has established resident status under this subchapter is entitled to pay resident tuition in each subsequent academic semester in which the person enrolls at any institution.

(c) A person who enrolls in an institution after two or more consecutive regular semesters during which the person is not enrolled in a public institution shall submit the information required in Section 21.25 of this title, (relating to Information Required to Establish Resident Status), and satisfy all the applicable requirements to establish resident.

#### 21.27. Reclassification Based on Additional or Changed Information.

(a) 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 with supporting documentation as described in Revised Chart III, which is incorporated into Section 21.25(b) of this title (relating to Information Required to Initially Establish Resident Status).

(b) A person shall provide the institution with any additional or changed information which may affect his or her resident or nonresident tuition classification under this subchapter.

(c) An institution may reclassify a person who had previously been classified as a resident or nonresident under this subchapter based on additional or changed information provided by the person.

(d) 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.

21.28. Errors in Classification.

(a) If an institution erroneously permits a person to pay resident tuition and the person is not entitled or permitted to pay resident tuition under this subchapter, the institution shall charge nonresident tuition to the person beginning with the semester following the date that the institution discovers the error.

(b) Not later 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 under this subchapter information; 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 under this subchapter.

(c) If the institution provides notice under subsection (b) of this section, 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.

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

(e) If an institution erroneously classifies a person as a nonresident and the person is a resident under this subchapter, the institution shall refund the difference in resident and nonresident tuition for each semester in which the student was erroneously classified and paid the nonresident tuition rate.

21.29. Waiver Programs for Certain Nonresident Persons.

A person who is classified as a nonresident under the provisions of this section shall be permitted to pay resident tuition, if the person qualifies for one of the following waiver programs:

(1) Economic Development and Diversification Program.

(A) A nonresident person, (including a Citizen, a Permanent Resident of the U.S., a person who is eligible to be a Permanent Resident of the U.S., and an eligible nonimmigrant) whose family has been transferred to Texas by a

company established as part of the state's Economic Development and Diversification Program not earlier than five years before the relevant enrollment date, and a person's spouse and children, shall pay resident tuition as soon as they move to Texas, if the person provides the institution with a letter of intent to establish Texas as his/her home. A person who moves to Texas to attend an institution before his/her family is transferred is permitted to pay the resident tuition beginning with the first semester or term after the family moves to the state.

(B) After the family has maintained a residence in Texas for 12 months, the person may request a change in classification in order to pay resident tuition.

(C) A current list of eligible companies is maintained on the Coordinating Board web site at [www.collegeforalltexas.com](http://www.collegeforalltexas.com).

(2) Program for Teachers, Professors, their Spouses and Dependents.

(A) A nonresident person (including a Citizen, Permanent Resident of the U.S., a person who is eligible to be a Permanent Resident of the U.S., and an eligible nonimmigrant) employed as a teacher or professor at least half time on a regular monthly salary basis (not as hourly employee) by an institution shall pay resident tuition at any institution in the state and the spouse and dependent children of the nonresident person shall also pay resident tuition.

(B) This waiver program is applicable only during the person's periods of employment.

(C) If a spouse or dependent child of the teacher or professor attends an institution other than the employing institution, the employing institution shall provide a letter to the spouse or child's institution verifying the employment of the teacher or professor.

(3) Program for Teaching Assistants and Research Assistants, their Spouses and Dependents.

(A) A nonresident person (including a Citizen, Permanent Resident of the U.S., a person who is eligible to be a Permanent Resident of the U.S., and an eligible nonimmigrant) employed by an institution as a teaching or research assistant on at least a half-time basis in a position related to his/her degree program shall pay resident tuition at any institution in this state and the spouse and dependent children of the nonresident person shall also pay resident tuition.

(B) The employing institution shall determine whether or not the person's employment relates to the degree program.

(C) If a spouse or dependent child of the teacher or professor attends an institution other than the employing institution, the employing institution shall

provide a letter to the spouse or child's institution verifying the employment of the teaching or research assistant.

(D) This waiver program is applicable only during the person's periods of employment.

(4) Program for Competitive Scholarship Recipients.

(A) A nonresident person (including a Citizen, Permanent Resident of the U.S., a person who is eligible to be a Permanent Resident of the U.S., and an eligible nonimmigrant) who receives a competitive scholarship from the institution may be allowed to pay resident tuition.

(B) In order for the person to be eligible for this waiver program, the competitive scholarship must:

(i) total at least \$1,000 for the period of time covered by the scholarship, not to exceed 12 months; and

(ii) be awarded by a scholarship committee authorized in writing by the institution's administration to grant scholarships that permit this waiver of nonresident tuition; and

(iii) be awarded according to criteria published in the institution's paper or electronic catalog, available to the public in advance of any application deadline; and

(iv) be awarded under circumstances that cause both the funds and the selection process to be under the control of the institution; and

(v) permit awards to both resident and nonresident persons.

(C) The scholarship award shall specify the semester or semesters for which the scholarship is awarded and a waiver of nonresident tuition under this provision shall not exceed the semester or semesters for which the scholarship is awarded.

(D) If the scholarship is terminated for any reason prior to the end of the semester or semesters for which the scholarship was initially awarded, the person shall pay nonresident tuition for any semester following the termination of the scholarship.

(E) The total number of persons receiving a waiver of nonresident tuition in any given semester under this provision shall not exceed 5 percent of the students enrolled in the same semester in the prior year in that institution.

(F) 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 person 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 institutions awards a competitive scholarship to a person, the person is entitled to a waiver of nonresident tuition at the second institution.

(G) If a nonresident person is awarded a competitive academic scholarship or stipend under this provision and the person 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.

(H) A student awarded a competitive scholarship prior to fall 2009 that entitled him or her to pay resident tuition in the 2009-2010 academic year is entitled to continue paying resident tuition in subsequent semesters if awarded competitive scholarships in keeping with subsection (4) of this section and if the student remains enrolled in the same certificate or degree program. This provision expires August 1, 2014.

(5) Programs for Lowered Tuition for Individuals from Bordering States or Mexico.

(A) Programs that Require Reciprocity. Waivers of nonresident tuition made through each of the following three programs for persons from states neighboring Texas must be based on reciprocity and the institution shall not grant these waivers unless the institution has been provided with a current written agreement with a similar institution in the other state, agreeing to lower tuition for Texas students attending that institution. A participating Texas institution shall file a copy of such agreements with the Board and the agreements shall not be more than 2 years old. The amount of tuition charged shall not be less than the Texas resident tuition rate.

(i) Persons residing in New Mexico, Oklahoma, Arkansas or Louisiana may pay a lowered nonresident tuition when they attend Texas A&M-Textarkana, 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.

(ii) Persons residing in New Mexico and Oklahoma may pay a lowered nonresident tuition when they attend a public technical college located within 100 miles of the border of their home state.

(iii) Persons residing in counties or parishes of New Mexico, Oklahoma, Arkansas or Louisiana adjacent to Texas may pay a lowered nonresident tuition at any institution.

(iv) If a person or a dependent child's family moves to Texas from a bordering state after the person or dependent child has received a waiver of nonresident tuition based on reciprocity as described in this

section, the person is eligible for a continued waiver of nonresident tuition for the 12-month period after the relocation to Texas.

(B) Programs That Do Not Require Reciprocity. Persons who reside in another state may pay a lowered nonresident tuition not less than \$30 per semester credit hour above the current resident tuition rate when they attend a general academic teaching institution located within 100 miles of the Texas border if:

(i) the governing board of the institution approves the tuition rate as in the best interest of the institution and finds that such a rate will not cause unreasonable harm to any other institution; and

(ii) the Commissioner approves the tuition rate by finding that the institution has a surplus of total educational and general space as calculated by the Board's most current space projection model. This obligation to obtain the approval of the Commissioner is continuing and approval to participate in this waiver program must be obtained at least every two years.

(C) Programs for Residents of Mexico. Subject to the following provisions, persons who are currently residents of Mexico and those persons who are temporarily residing outside of Mexico but with definite plans to return to Mexico shall pay resident tuition.

(i) An unlimited number of residents of Mexico who have demonstrated financial need and attend a general academic teaching institution or a component of the Texas State Technical College System, if the institution or component is 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 shall pay resident tuition.

(ii) A limited number of residents of Mexico who have financial need may attend a general academic teaching institution or campus of the Texas State Technical College System located in counties not adjacent to Mexico and pay resident tuition. This waiver program is limited to the greater of two students per 1000 enrollment, or 10 students per institution.

(iii) An unlimited number of residents of Mexico who have demonstrated financial need and register in courses that are part of a graduate degree program in public health conducted by an institution in a county immediately adjacent to Mexico shall pay resident tuition.

(6) Program for the beneficiaries of the Texas Tomorrow Fund. A person who is a beneficiary of the Texas Tomorrow Fund shall pay resident tuition and required fees for semester hours paid under the prepaid tuition contract. If the person is not a Texas resident, all tuition and fees not paid under the contract shall be paid at the nonresident rate.

(7) Program for Inmates of the Texas Department of Criminal Justice. All inmates of the Texas Department of Criminal Justice shall pay resident tuition.

(8) Program for Foreign Service Officers. A Foreign Service officer employed by the U.S. Department of State and enrolled in an institution shall pay resident tuition if the person is assigned to an office of the U.S. Department of State that is located in Mexico.

(9) Program for Registered Nurses in Postgraduate Nursing Degree Programs. An institution may permit a registered nurse authorized to practice professional nursing in Texas to pay resident tuition and fees without regard to the length of time that the registered nurse has resided in Texas, if the nurse:

(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.

(10) Programs for Military and Their Families. Members of the U.S. Armed Forces, Army National Guard, Air National Guard, Army, Air Force, Navy, Marine Corps or Coast Guard Reserves and Commissioned Officers of the Public Health Service, and their Spouses or Dependent Children.

(A) Assigned to Duty in Texas. Nonresident members of the U.S. Armed Forces, members of Texas units of the Army or Air National Guard, Army, Air Force, Navy, Marine Corps or Coast Guard Reserves and Commissioned Officers of the Public Health Service who are assigned to duty in Texas, and their spouses, or dependent children, shall pay resident tuition. To qualify, the person shall submit during his or her first semester of enrollment in which he or she will be using the waiver program, a statement from an appropriately authorized officer in the service, certifying that he or she (or a parent) will be assigned to duty in Texas on the census date of the term he or she plans to enroll and that he or she, if a member of the National Guard or Reserves, is not in Texas only to attend training with Texas units. Such persons shall pay resident tuition so long as they reside continuously in Texas or remain continuously enrolled in the same degree or certificate program. For purposes of this subsection, a person is not required to enroll in a summer semester to remain continuously enrolled.

(B) After Assignment to Duty in Texas. A spouse and/or dependent child of a nonresident member of the U.S. Armed Forces, or of a Commissioned Officer of the Public Health Service who has been reassigned elsewhere after having been assigned to duty in Texas shall pay resident tuition so long as the spouse or child resides continuously in Texas. For purposes of this subsection, a person is not required to enroll in a summer semester to remain continuously enrolled.

(C) **Out-of-State Military.** A spouse and/or dependent child of a member of the U.S. Armed Forces, or of a Commissioned Officer of the Public Health Service who is stationed outside of Texas shall pay resident tuition if the spouse and/or child moves to this state and files a statement of intent to establish residence in Texas with the institution that he or she attends.

(D) **Survivors.** A spouse and/or dependent child of a member of the U.S. Armed Forces, or of a Commissioned Officer of the Public Health Service who died while in service, shall pay resident tuition if the spouse and/or child moves to Texas within 60 days of the date of death. To qualify, a person shall submit satisfactory evidence to the institution that establishes the date of death of the member and that the spouse and/or dependent child has established domicile in Texas.

(E) **Spouse and Dependents who Previously Lived in Texas.** A spouse and/or dependent child of a member of the U.S. Armed Forces, or of a Commissioned Officer of the Public Health Service who previously resided in Texas for at least six months shall pay resident tuition, if the member or commissioned officer, at least 12 months prior to the census date of the spouse's or dependent child's enrollment in an institution:

(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; and

(ii) registered to vote in Texas, and

(iii) has satisfied a least one of the following requirements for the 12 months prior to the first day of the relevant 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 deposited with a county clerk in Texas that indicates he/she is a resident of Texas.

(F) **Honorably Discharged Veterans.** A former member of the U.S. Armed Forces or Commissioned Officer of the Public Health Service and his/her spouse and/or dependent child shall pay resident tuition for any semester beginning prior to the first anniversary of separation from the military or health service, if the former member:

(i) had, at least one year preceding the census date of the term or semester, executed a document with U.S. Armed Forces or Public Health Service that is in effect on the census date of the term or semester and that changed his/her permanent residence to Texas and

designated Texas as his/her place of legal residence for income tax purposes; and

(ii) had registered to vote in Texas for at least 12 months prior to the census date of the term or semester, and

(iii) provides documentation that the member has, not less than 12 months prior to the census date of the term in which he or she plans to enroll, taken 1 of the 3 following actions:

(I) purchased real estate in Texas with no delinquent property taxes;

(II) registered an automobile in Texas, or

(III) executed a currently-valid will that has been deposited with a county clerk in Texas that indicates he/she is a resident of Texas.

(G) NATO Forces. Non-immigrant aliens stationed in Texas under the agreement between the parties to the North Atlantic Treaty regarding status of forces, their spouses and dependent children, shall pay resident tuition.

(H) Radiological Science Students at Midwestern State University. 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 shall pay resident 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.

(I) Persons Eligible for Federal Education Benefits for Veterans, their Spouses and Children. Persons eligible for benefits under the federal Post 9/11 Veterans Educational Assistance Act of 2008 or any other federal law authorizing educational benefits for veterans are eligible to pay the resident tuition rate without regard to the length of time they have been in the state, as are their spouses and children (including stepchildren), if they meet the following conditions:

(i) file a letter of intent with their institution to establish residency in Texas;

(ii) reside in this state while enrolled in the institution; and,

(iii) if qualifying as a child, be 25 years of age or younger on the first day of the term in which the person is registering unless meeting the hardship provisions described in clause (iv) of this subparagraph.

*(iv)* If the child applying for an exemption under this provision is 25 years of age or older but can provide proof to the institution of severe illness or other debilitating condition that affected the person's ability to use the benefit before reaching that age, the child's period of eligibility to use the waiver shall be extended for a length of time equal to the period of illness or incapacity.

(11) Program for the Center for Technology Development and Transfer. Under agreements authorized by Texas Education Code, Section 65.45, a person employed by the entity with whom the University of Texas System enters into such an agreement, or the person's spouse or child, may pay resident tuition when enrolled in a University of Texas System institution.

#### 21.29. Residence Determination Official.

Each institution shall designate an individual that is employed by the institution as a Residence Determination Official who shall be knowledgeable of the requirements set out in these rules and the applicable statutes.