

RESIDENCY

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Texas Higher Education
Coordinating Board

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Conference



Legislative/Rules Updates

No legislative changes to Texas residency

BUT

Possible residency rule revisions



Possible Rule Changes

| Citation | Change required | Notes |
|----------------|---|--|
| 21.22(6) | Consider broadening it to include "living with a custodial biological parent in Texas even if the student is not claimed as a tax dependent." | Some students, such as those in A-2 visa status, live with their Texas resident parents who have established domicile in Texas, but the parents don't file U.S. income taxes because of their visa status. |
| 21.22(6) | Delete "parent." Possibly add "legal guardian" | Some students are claimed by other relatives. |
| 21.24(a)(3) | Add "legal guardian" | Current rule just says "parent" |
| 21.24(b) | Change heading to "Residing in Texas" | Currently rule says "Texas Residency," which is confusing and makes one think this is how you establish residency. |
| 21.24(d)(2) | Change reference from 21.22(7) to 21.22(8) | 21.22(7) defines "domicile" and not "eligible for permanent resident status." |
| 21.24(d)(7) | Remove language re: permanent resident | Already included in Sec. 21.24(d)(2) by referencing the definition at Sec. 21.22(d)(7). |
| 21.24(d)(6) | Add "unless not eligible to domicile" text | Conflicts when F-1 student applies for permanent residence. |
| 21.24(e) | Add (a)(2) to end of sentence | One can establish residency by both |
| 21.24(f)(1)(A) | Remove the term "consecutive" and clarify. | What is the purpose of "consecutive"? Example of student who was in an accident and had to stop working for awhile. |
| 21.24(f)(1)(D) | Clarify % of business ownership required | Some have claimed as little as 1% ownership |

Highlights

- Affidavit Students
- Presumption and Intent
- DACA
- Residency determinations for medical and dental schools

Affidavit Students

- Graduated from a TX high school or equivalent
- Maintained a residence continuously in Texas for three years preceding graduation or receiving the equivalent and the 12 months preceding the academic term
- Sign affidavit

Affidavit Students

Texas Administrative Code: “thirty-six months”

Vs.

Texas Education Code: “three years”

Scenario: Affidavit Students

I work for a Texas community college and am trying to figure out **if SB1528 status ever expires.**

Would the student have to prove once more that they qualify for this status or would it essentially be, "once you qualify as SB1528, you stay SB1528" unless your residential status changes?

Deferred Action for Childhood Arrivals (DACA)

Deferred action

Lawfully present during the
period deferred action is in effect

Can establish domicile but
NOT an automatic grant of in-state tuition.

Scenario: DACA

I am having trouble filling out my application on *ApplyTexas*. I don't understand the part where it asks about citizenship.

- I have a social security and a temporary work permit because of **DACA**.
- I have lived in Texas since I was 7 years old.
- I graduated from a Texas high school.
- I am currently attending a community college and am trying to transfer to a university.

Question: How do I fill out the application? Also will I get to pay residential tuition?

Establish Domicile

Overcoming the Presumption

21.24(g)

“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.”

Suggested ways to overcome a non-resident presumption:

Establish Domicile

Overcoming the presumption

1. Non-student employment for 12 consecutive months averaging 20 hours per week
2. Sole ownership of residential property in Texas
3. Ownership and operation of a business in Texas
4. Marriage for one year to a Texas resident

Clear intent indicating that primary residence in Texas is for reasons other than educational objectives

Scenario: Intent

I moved to Texas to live with my grandparent as a temporary care-taker but have not worked, owned property, owned a business and am not married to a resident.

- I decided to take classes at a local college after moving here.
- I have been in Texas for one year now and I did get a Texas drivers license and registered to vote.

Question: Can I qualify for Texas residency?

Refunds

Regardless of the reason for the error



Residency for Texas Medical and Dental Applicants

Texas Medical and Dental Schools Application Service is the application service and makes residency determinations for all public medical, dental, and veterinary schools in the State of Texas (18 institutions)

12 Medical schools

- UT System schools (6)
- Texas Tech System (2)
- Texas A&M System (1)
- UNT System (1)
- University of Houston (1-proposed)
- Sam Houston State University (1-proposed)

4 Dental Schools

- UT System (2)
- Texas A&M (1)
- Texas Tech System (1-proposed)

2 Veterinary Schools

- Texas A&M System
- Texas Tech System (proposed)

Residency for Texas Medical and Dental Applicants

Texas Education Code §51.803 (a-6.2.j):

90% of incoming medical and dental class must be Texas residents.

Census Date: Established residency by October 1 of application year

- If claiming domicile, must establish residency by this date.
- If out of state more than one year, letters are required confirming temporary absence
- TMDAS accepts previous Texas residency determinations from other institutions (*I am sure many of you have been getting these requests from applicants!*)
- If initially denied Texas residency: applicants are granted ONE appeal, reviewed by committee
- Other notes: Upon matriculation, residency is reevaluated for incoming students for tuition purposes
- F-1, DACA applicants are not considered for admission at *most* of our institutions



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Rules Revisions

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Please contact Deana or Mike if you have suggested revisions or comments. Thank you.

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Thank you for serving
Texas students!

Questions?

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FAQs at www.thech.state.tx.us under Residency.

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