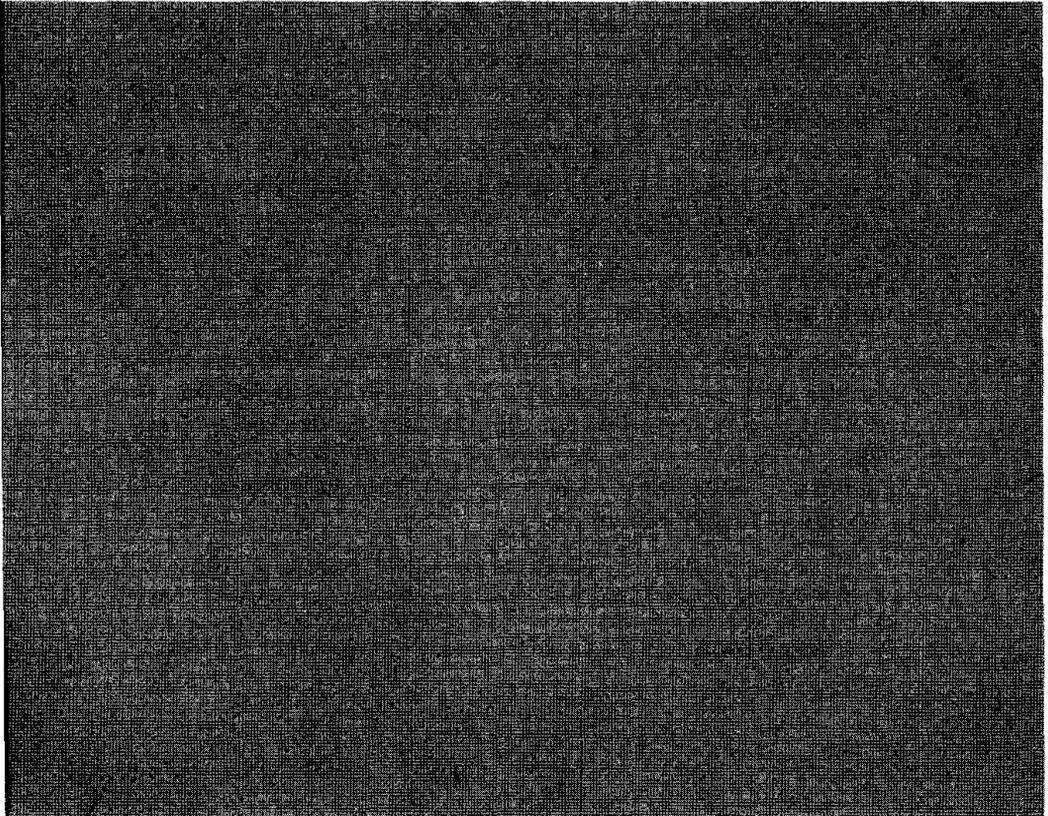


# Appendix A



## RULES AND REGULATIONS FOR DETERMINING RESIDENCE STATUS

A student entering The University of Texas at San Antonio for the first time, or a student re-entering The University after an absence of more than one semester, should carefully read the rules governing the determination of residence, as stated below, so that he may be prepared, in the event of his classification as a nonresident of Texas, to pay the required tuition fee. This fee must be paid at the time of registration.

Chapter 54, Subtitle A, Title 3 of the Texas Education Code sets forth the regulations governing nonresident students in institutions of senior collegiate rank, effective January 20, 1973.

### I. Minors\*

*Statute: Section 54.052(b) An individual, under twenty-one (21) years of age, who is living away from his family, and whose family resides in another state or has not resided in Texas for the 12-month period immediately preceding the date of registration shall be classified as a nonresident student;*

*Section 54.052(c) An individual, twenty-one (21) years of age or under, whose family has not resided in Texas for the 12-month period immediately preceding the date of registration shall be classified as a nonresident student regardless of whether he has become the legal ward of residents of Texas or has been adopted by residents of Texas while he is attending an educational institution in Texas, or within a 12-month period before his attendance, or under circumstances indicating that the guardianship or adoption was for the purpose of obtaining status as a resident student;*

*Section 54.055 An individual, 21 years of age or under, whose parents were formerly residents of Texas is entitled to pay the resident tuition fee following the parents' change of legal residence to another state, as long as the individual remains continuously enrolled in a regular session in a state-supported institution of higher education.*

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\*In accordance with provisions of Senate Bill 123, 63rd Texas Legislature, effective August 27, 1973, and with Attorney General's Opinion H-82, August 13, 1973, any reference to age "twenty-one" in these *Rules and Regulations for Determining Residency Status* should be interpreted to mean age "eighteen."

## **A. Death or Divorce of Parents**

The legal residence of a minor under 21 years of age is usually that of the father. Upon the death of the father, the legal residence of the minor is that of the mother. Upon divorce or legal separation of the parents, the residence of the minor is determined by the residence of the parent with whom the minor is making his home at the time of registration.

## **B. Custody by Court Order**

If the custody of the minor has been granted by court order (ē.g., divorce decree, child custody action, guardianship or adoption proceedings) to some person other than the parent, the residence of that person shall control; provided, however, that such grant of custody was not ordered during or within a year prior to the minor's enrollment in an institution of higher education (defined as any public junior college, public senior college or university, medical or dental unit or other agency of higher education) and was granted under circumstances indicating that such guardianship was not for the purpose of obtaining status as a resident student.

If the minor is not making his home with either parent, and there is no court-appointed guardian, the residence of the parent with whom the minor last resided shall be presumed to control. If, however, the minor has made his home with, and has been dependent upon a grandparent for more than a year prior to enrollment in an institution of higher education, the residence of that natural guardian shall be regarded as his residence. The residence of a person other than a parent or a natural or legal guardian, who may furnish funds for payment of tuition, fees, or living expenses shall in no way affect the residence classification of a minor.

## **C. Abandoned Child**

In the case of an abandoned child, the residence of a person who has stood *in loco parentis* for a period of time may determine the residence of such abandoned child. The fact of abandonment must be clearly established and must not have been for the pur-

pose of affecting the residence of the minor, and the minor must have actually resided in the home of such person for two years immediately prior to registering in an institution of higher education in Texas and must have received substantially all of his support from such person. In the event that the *in loco parentis* relationship has not existed for the full two year period, a lesser period of time is acceptable in unusual hardship cases, such as death of both parents.

#### **D. Orphan**

An orphan who has lived for longer than a year in an established orphan's home in Texas operated by a fraternal, religious, or civic organization and has been graduated from the orphan's home shall be considered a resident of Texas provided he remains in Texas from the time of such graduation until he enters an institution of higher education.

#### **E. Emancipated Child**

Under certain circumstances, a minor may become emancipated or freed from parental control. If the minor's parents have ceased to exercise parental control and responsibility, if the minor is responsible for all of his or her own decisions and affairs, and if the minor is financially independent of parents, the minor may establish emancipation. A minor is financially independent if he or she receives less than \$600 a year from parents, and if the parents do not claim the minor as a dependent. If emancipation is clearly proven, the residence classification of the minor is determined by the residence of the minor rather than the residence of the parents, and after 12 months in Texas under such circumstances, the minor may be classified as a resident, if he or she otherwise satisfies the statutory requirements applicable to those over 21 (e.g., see presumption arising from residence while a student). Proof of emancipation is the responsibility of the minor.

## **F. Married Minors**

A minor who is married shall have the power and capacity of a single person of full age and is entitled to select his or her own place of legal residence. After 12 months' residence in Texas under such circumstances, the minor may be classified as a resident if he or she otherwise satisfies the statutory requirements applicable to those over 21 years of age. The residence classification for tuition purposes of a nonresident who marries a Texas resident shall be governed by the provisions of the tuition statute (Texas Education Code, S 54.056) and of these rules and regulations as hereinafter set out.

## **G. Minors Whose Parents Moved to Another State or Foreign Country**

If the parents of a minor who is enrolled as a resident student move their legal residence to another state or foreign country, on or after August 15, 1971, the minor shall be classified as a nonresident at all subsequent registration periods. Under the provisions of Section 54.055, the minor will be entitled to pay the resident tuition fee as long as he remains continuously enrolled in a regular session in a public institution of higher education. The minor student must re-enroll for the next available regular semester immediately following the parents' change of legal residence to another state.

If the parents of a minor move to another state or foreign country, or reside outside the state or in a foreign country at the time of enrolling in an institution of higher education, but claim legal residence in Texas, conclusive evidence must be presented that the father is still claiming legal residence in the State of Texas and that he has the present intent to return to the state. A certificate from the employer of the parents that the move outside the state was temporary and that there are definite plans to return the parents to Texas by a determinable future date may be considered in this connection.

If a minor whose parents have moved their legal residence to another state or foreign country resides in Texas for 12 consecutive months following his 21st birthday and by his actions clearly indicates that his intention is to establish permanent residence in the state, he may be classified as a resident student effective

with the beginning of the term or semester following his 22nd\* birthday despite the fact that his entire period of residence in Texas has been as a student.

When the parents of a minor who have established their legal residence in another state or foreign country return and reestablish their legal residence in Texas, the minor must be classified as a nonresident until the first registration after the parents have resided in the state for a 12-month period following their return.

## **II. Residence of Individuals Over Twenty-One**

*Statute: Section 54.052 (d) An individual, twenty-one (21) years of age or over, who has come from outside Texas and who is gainfully employed in Texas for a 12-month period immediately preceding registration in an educational institution shall be classified as a resident student as long as he continues to maintain a legal residence in Texas; and*

*Section 54.052 (e) An individual, twenty-one (21) years of age or over, who resides out of the state or who has come from outside Texas and who registers in an educational institution before having resided in Texas for a 12-month period shall be classified as a nonresident student.*

*Section 54.054 A nonresident student classification is presumed to be correct as long as the residence of the individual in the state is primarily for the purpose of attending an educational institution. After residing in Texas for at least twelve (12) months, a nonresident student may be reclassified as a resident student as provided in the rules and regulations adopted by the Coordinating Board, Texas College and University System. Any individual reclassified as a resident student is entitled to pay the tuition fee for a resident of Texas at any subsequent registration as long as he continues to maintain his legal residence in Texas.*

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\*The reference to the 22nd birthday should be interpreted as the 19th birthday.

## **Establishment of Residence**

Any individual 21 years of age or over who moves into the state and who is gainfully employed within the state for a period of 12 months prior to enrolling in an educational institution (defined as any institution of higher education, public or private, above the high school level), is entitled to classification as a resident. If such 12 months' residence, however, can be shown not to have been for the purpose of establishing legal residence in the state but to have been for some other purpose, the individual is not entitled to be classified as a resident. Any student registering in an educational institution prior to having resided in the state for 12 months immediately preceding registration shall be classified as a nonresident for tuition purposes.

A person classified as a nonresident student upon his first enrollment in an institution of higher education is presumed to be a nonresident for the period during which he continues as a student. If such nonresident student withdraws from school and resides in the state while gainfully employed for a period of 12 months, upon re-entry into an institution of higher education he will be entitled to be reclassified as a resident for tuition purposes. Accumulations of summer and other vacation periods do not satisfy this requirement. A student is not entitled to reclassification after a residence in the state for 12 months merely on the basis of his or his wife's employment, registration to vote, registration of a motor vehicle and payment of personal property taxes thereon, or the securing of a Texas driver's license. The presumption of a "nonresident" is not a conclusive presumption, however, and other facts may be considered to determine if the presumption has been overcome. Material to this determination is business or personal facts or actions unequivocally indicative of a fixed intention to reside permanently in the state. Such facts may include, but are not limited to the length of residence and full-time employment prior to registering in the institution, the fact of full-time employment and the nature of such employment (regular industrial, business or professional employment as distinguished from student-type employment) while a student, purchase of a homestead with substantial down-payment, dependency upon a parent or guardian who has resided in Texas for at least 12 months immediately preceding the student's registration, and marriage to a resident of Texas. All of these facts are weighed in the light of the fact that a

student's residence while in school is primarily for the purpose of education and not to establish residence, and that decisions of an individual as to residence are generally made after the completion of an education and not before.

### **III. Married Students**

*Statute: Section 54.056 A nonresident who marries and remains married to a resident of Texas, classified as such under this Act at the time of the marriage and at the time the nonresident registers, is entitled to pay the resident tuition fee regardless of the length of time he has lived in Texas, and any student who is a resident of Texas who marries a nonresident is entitled to pay the resident tuition fee as long as he does not adopt the legal residence of the spouse in another state.*

### **Nonresident Who Marries a Resident of Texas**

The nonresident male or female student who marries a resident of Texas is entitled to pay the resident tuition at the registration period next following the date of marriage upon submission of evidence of such marriage and of the spouse's legal residence in Texas. Such marriage evidence is a certified copy of the marriage license or other certified documentary evidence of marriage as filed with the county clerk. The legal residence of a husband and wife are normally presumed to be the same; however, it is possible for either the husband or wife to establish a residence different from the other spouse. In such a situation, the normal standards are followed. (See II.) In the event a nonresident student marries a resident of Texas and subsequently is divorced within 12 months, such nonresident student shall be classified as a nonresident for all enrollment periods subsequent to the date of such divorce; provided, however, the nonresident may establish Texas residence pursuant to normal standards. (See II.)

### **IV. Military Personnel and Veterans**

*Statute: Section 54.058 (a) Military personnel are classified as provided by this section in the following manner:*

*(b) An officer, enlisted man or women, selectee or draftee of the Army, Army Reserve, Army National Guard, Air National Guard, Texas State Guard, Air Force, Air Force Reserve, Navy, Navy Reserve, Marine Corps, Marine Corps Reserve, Coast Guard, or Coast Guard Reserve of the United States, who is assigned to duty in Texas is entitled to register himself, his spouse, and their children in a state institution of higher education by paying the tuition fee and other fees or charges required of Texas residents, without regard to the length of time he has been assigned to duty or resided within the state. However, out-of-state Army National Guard or Air National Guard members attending training with Texas Army or Air National Guard members under National Guard Bureau regulations may not be exempted from nonresident tuition by virtue of that training status nor may out-of-state Army, Air Force, Navy, Marine Corps, or Coast Guard Reserves training with units in Texas under similar regulations be exempted from nonresident tuition by virtue of such training status. It is the intent of the legislature that only those members of the Army or Air National Guard, Texas State Guard, or other reserve forces mentioned above to be exempted from the nonresident tuition fee and other fees and charges only when they become members of Texas units of the military organizations mentioned above.*

*(c) As long as they reside continuously in Texas, the spouse and children of a member of the Armed Forces of the United States who has been assigned to duty elsewhere immediately following assignment to duty in Texas are entitled to pay the tuition fees and other fees or charges provided for Texas residents.*

*(d) If nonresident military personnel are attending an institution of higher education under a contract between the institution and any branch of the Armed Forces of the United States, in which the tuition of the member of the military is paid in full by the United States Government, the student shall pay the nonresident tuition fee;\**

*(e) A Texas institution of higher education may charge to the United States Government the nonresident tuition fee for a vet-*

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\*Subparagraph (d), Section 54.058 has been repealed by House Bill 736, 63rd Legislature, effective August 27, 1973.

eran enrolled under the provisions of a Federal law or regulation authorizing educational or training benefits for veterans;

(f) *The spouse and children of a member of the Armed Forces of the United States who dies or is killed are entitled to pay the resident tuition fee, if the wife and children become residents of Texas within 60 days of the date of death; and*

(g) *If a member of the Armed Forces of the United States is stationed outside Texas and his spouse and children establish residence in Texas by residing in Texas and by filing with the Texas institution of higher education at which they plan to register a letter of intent to establish residence in Texas, the institution of higher education shall permit the spouse and children to pay the tuition, fees and other charges provided for Texas residents without regard to length of time that they have resided within the State.*

#### **A. Certification of Assignment to Duty in Texas**

Subsection (b) provides that military personnel assigned to duty within the State of Texas, their husband or wife as the case may be and their dependent children, shall be entitled to pay the same tuition as a resident of Texas regardless of the length of their physical presence in the state. To be entitled to pay the resident tuition fees, such military personnel shall submit at the time of each registration a statement from his commanding officer or personnel officer certifying that he is then assigned to duty in Texas and that same will be in effect at the time of such registration in an institution of higher education. This subsection also provides that a nonresident member of an out-of-state National Guard unit who is temporarily training with a Texas National Guard unit will not be entitled to pay the resident tuition.

#### **B. Spouse and Children of Member of Armed Services**

Subsection (c) provides that the spouse and dependent children of a member of the armed forces assigned to duty outside the State of Texas immediately after assignment in Texas may be entitled to pay the resident tuition as long as they reside continuously in Texas.

Subsection (g) provides that the spouse and dependent children of a member of the armed forces who is assigned to duty outside the State of Texas and sends his family to the state of Texas may be entitled to pay the resident tuition if they file with the institution of higher education at which the student intends to register a letter of intent, an affidavit or other evidence satisfactory to the institution stating that they intend to become permanent residents of Texas.

Subsection (f) provides that a member of the immediate family (which shall include spouse or dependent children) of a member of the armed forces who dies or is killed in action while in military service may qualify to pay the resident tuition if they become residents of Texas within 60 days of the date of death. To qualify under this provision, the student shall submit to the institution of higher education satisfactory evidence establishing the date of death and residence in Texas.

The military personnel spouse and dependent children enumerated in (b), (c), (f), and (g) are classified as nonresidents but shall be entitled to pay the resident tuition regardless of their length of residence in Texas if they comply with the provisions of the statute and these rules and regulations.

### **C. Nonresidents Attending College Under Federal Benefits Programs for Veterans**

Subsection (e) provides that the institution of higher education may charge the nonresident tuition fee for a nonresident veteran to the United States Government under the provisions of any federal law or regulation authorizing educational or training benefits for veterans.

### **D. Legal Residence of Person in Military Service**

A person in military service is presumed to maintain during his entire period of active service the same legal residence which was in effect at the time he entered military service. A person stationed in a state on military service is presumed not to establish a legal residence in that state because his presence is not voluntary but under military orders. It is possible for a member of the military service to abandon his domicile of original entry

into the service and to select another, but to show establishment of a new domicile during the term of active service, there must be clear and unequivocal proof of such intent. An extended period of service alone is not sufficient. The purchase of residential property is not conclusive evidence unless coupled with other facts indicating an intent to put down roots in the community and to reside there after termination of military service. Evidence which will be considered in determining this requisite intent includes, but is not limited to a substantial investment in a residence and the claiming of a homestead exemption thereon, registration to vote, and voting in local elections, registration of an automobile in Texas and payment of personal property taxes thereon, obtaining a Texas driver's license, maintaining checking accounts, savings accounts, and safety deposit boxes in Texas banks, existence of wills or other legal documents indicating residence in Texas, change of home-of-record and designation of Texas as the place of legal residence for income tax purposes on military personnel records, business transactions or activities not normally engaged in by military personnel, membership in professional or other state organizations, and marriage to a resident of Texas. Purchase of property during terminal years of military service preceding retirement generally is given greater weight than a similar purchase made prior to such terminal period.

### **E. Residence Classification of Veterans Upon Separation from Military Service**

A person who enrolls in an institution of higher education following separation from military service must be classified as a nonresident student unless, (1) the individual was a legal resident of Texas at the time of entry into military service and has not relinquished that residence, (2) the individual can prove that during military service he or she has, in fact, established a bona fide, legal residence in Texas at a time at least 12 months prior to registration, or (3) the individual has resided in Texas other than as a student for 12 months prior to registration and subsequent to discharge from service. The nonresident classification is a presumption, however, which can be overcome pursuant to the guidelines and standards for establishing Texas residence. (See II.)

## **V. Employees of Institutions of Higher Education Other Than Students**

*Statute: Section 54.059 A teacher, professor, or other employees of a Texas institution of higher education is entitled to register himself, his spouse, and their children in a state institution of higher education by paying the tuition fee and other fees or charges required for Texas residents without regard to the length of time he has resided in Texas. A teacher, professor, or other employee of a Texas institution of higher education is any person employed at least one-half time on a regular monthly salary basis by a state institution of higher education.*

A person employed at least half-time on a regular monthly salary basis (not an hourly employee) by any public institution of higher education, with an effective date of employment on the 12th class day of a regular semester or the 4th class day of a summer term, may pay the same tuition as a resident of Texas for self, husband or wife as the case may be and their children, regardless of the length of residence in the state. To be entitled to pay the resident tuition fees such employee must submit prior to the time of each registration a statement certifying employment from the Director of Personnel or a designated representative of the institution of higher education by which he is employed.

## **VI. Student Employees**

*Statute: Section 54.051(o) A teaching assistant, research assistant, or other student employee of any institution covered by this section is entitled to register himself, his spouse, and their children in a state institution of higher education by paying the tuition fees and other fees or charges required for Texas residents, without regard to the length of time he has resided in Texas; provided that said student employee is employed at least one-half time in a position which relates to his degree program under rules and regulations established by the employer institution. This exemption shall continue for students employed two consecutive semesters through the summer session following such employment if the institution is unable to provide employment and, as determined under standards established by the institution, if the employee has satisfactorily completed his employment.*

A student employed at least half-time by any public institution of higher education in a position which relates to his degree program, with an effective date of employment on or before the 12th class day of a regular semester, or the 4th class day of a summer term, may pay the same tuition as a resident of Texas for himself, his husband or wife as the case may be, and their children regardless of the length of residence in the state. In order to be eligible under this provision, the student employee's position must relate academically to the degree program he is pursuing. That is, it must relate to his academic program educationally and intellectually and cannot merely be a means of support in an unrelated field or activity. In order to insure consistent and equitable interpretation and application of this section, the chief administrative officers may not delegate the determination in these cases below the dean's level. If a student is employed by an institution of higher education for consecutive Fall and Spring semesters and he was further eligible to pay the tuition charged to Texas residents during those Fall and Spring semesters because of the provisions of this subsection, then the student may continue to pay the resident tuition rate during the summer session following the Spring employment if the institution is unable to provide employment and if the student has satisfactorily completed his employment.

## **VII. Competitive Scholarships**

*Statute: Section 54.051(p) A nonresident student holding a competitive scholarship of at least \$200 for the academic year or summer for which he is enrolled is entitled to pay the fees and charges required of Texas residents without regard to the length of time he has resided in Texas, provided that he must compete with other students, including Texas residents, for the scholarship and that the scholarship must be awarded by a scholarship committee officially recognized by the administration of the institution of higher education.*

To be eligible under this provision a nonresident student must receive a scholarship of at least \$200 awarded to him in competition with other students, including Texas residents. The scholarship must be awarded by a scholarship committee recognized by the chief administrative officer of the institution, and the funds must flow through the institution rather than being awarded di-

rectly to the individual by an outside person, group, or agency. The chief administrative officers shall develop their own institutional criteria for officially recognizing a scholarship committee and shall not delegate the responsibility for officially recognizing such scholarship committees below the vice-presidential level.

A scholarship awarded under the scholarship fund for needy students created by the legislature from tuition revenues will not qualify a nonresident student under this section.

If a nonresident student obtains a competitive scholarship of \$200 or more as defined above, he may pay the same tuition as a resident of Texas during the registration period in which the scholarship is in effect. The student must present a statement from the student financial aid officer certifying that such scholarship will be in effect at the time of registration.

### **VIII. Citizens of Any Country Other Than the United States of America**

*Statute: Section 54.057 An alien who is living in this country under a visa permitting permanent residence or who has filed with the proper Federal immigration authorities a declaration of intention to become a citizen has the same privilege of qualifying for resident status for fee purposes under this Act as has a citizen of the United States. A resident alien residing in a junior college district located immediately adjacent to Texas boundary lines shall be charged the resident tuition by that junior college.*

An alien living in the United States under a visa permitting permanent residence, or one who has filed with the proper Federal authorities a declaration of intention to become a citizen, has the same privilege of qualifying for Texas resident status for tuition purposes as has a citizen of the United States.

### **IX. Student Responsibilities**

#### **A. Student Responsibility to Register Under Proper Classification**

The responsibility of registering under the proper residence classification is that of the student, and if there is any question

of his right to classification as a resident of Texas, it is his obligation, prior to or at the time of his registration, to raise the question with the administrative officials of the institution in which he is registering and have such officially determined.

## **B. Notification Upon Becoming a Nonresident**

Every student who is classified as a resident student but who becomes a nonresident at any time by virtue of a change of legal residence by his own action or by the person controlling his domicile is required to notify the proper administrative officials of his institution at once.

## **X. Official Change of Residence Status**

### **A. Application for Reclassification**

Every student classified as a nonresident student shall be considered to retain that status until such time as he shall have made written application for reclassification in the form prescribed by the institution and shall have been officially reclassified in writing as a resident of Texas by the proper administrative officers of the institution.

### **B. Reclassification as a Nonresident**

Every person who has been classified as a resident of Texas shall be reclassified as a nonresident student whenever he shall report, or there is found to exist, circumstances indicating a change in legal residence to another state. If any student who has been classified as a resident of Texas shall be found to have been erroneously so classified, he shall be reclassified as a nonresident and shall be required to pay the difference between the resident and nonresident fees for such semesters in which he was so erroneously classified. In addition, he shall be required to pay back all monies borrowed from the Texas Opportunity Plan Fund.

### **C. Reclassification as a Resident**

If any student has been erroneously classified as a nonresident student and subsequently proves to the satisfaction of the appropriate officials of an institution of higher education that he should have been classified as a resident student, he shall be reclassified as a resident of Texas and shall be entitled to a refund of the difference between the resident and nonresident fees for the semester in which he was so erroneously classified.

### **XI. Penalties**

*Statute: Section 54.053 The governing board of each institution required by this Act to charge a nonresident tuition or registration fee is subject to the rules, regulations, and interpretations issued by the Coordinating Board, Texas College and University System, for the administration of the nonresident tuition provisions of this Act. The rules, regulations, and interpretations promulgated by the Coordinating Board shall be furnished to the presidents or administrative heads of all Texas public senior and junior colleges and universities.*

*Section 54.061 The governing board of an institution of higher education may assess and collect from each nonresident student who fails to comply with the rules and regulations of the boards concerning nonresident fees a penalty not to exceed \$10 a semester.*

### **Student Compliance with Institutional Rules and Regulations**

Each institution has been authorized by statute to assess and collect from each nonresident student failing to comply with the provisions of the tuition statute and with these interpretations concerning nonresident fees a penalty not to exceed \$10.00 a semester. In addition, if a student has obtained residence classification by virtue of deliberate concealment of facts, or misrepresentation of fact, he may be subject to appropriate disciplinary action, in accordance with the rules and regulations that may be adopted by the governing boards of the respective institutions of higher education.

