



OVERVIEW

Eligibility for In-State Tuition and State Financial Aid Programs

Who pays in-state tuition?

Texas law authorizes persons classified as Texas residents to pay a rate of tuition that is lower than those classified as nonresidents. Section 54.052 of the Texas Education Code outlines specific guidelines for determining whether a student enrolling at an institution of higher education qualifies for classification as a Texas resident. Section 54.053 of the Texas Education Code defines the information required to establish Texas resident status for in-state tuition and state financial aid.

Can a non-U.S. Citizen/Permanent Resident who is not in the U.S. on a visa qualify for classification as a Texas resident?

Yes. A person who is not a U.S. Citizen, or Permanent Resident of the U.S., may be classified as a resident under Section 54.052(a)(3) of the Texas Education Code, under certain conditions.

Texas law specifies three paths to residency. Two paths require the student (or parent), including a non-U.S. Citizen/Permanent Resident with a visa that allows him or her to establish legal residency in the United States, to establish domicile in Texas. The third path (TEC 54.052(a)(3)) does not have citizenship requirements. Instead, eligibility through this path is based on a number of factors, including the period of time a student resides in the state prior to graduating from a Texas high school or acquiring a GED in Texas, and whether the student resided in Texas the year prior to enrolling in college. If a person who is not a U.S. Citizen or Permanent Resident meets these eligibility requirements, he/she must also complete an affidavit stating an intent to apply for permanent resident status in the United States as soon as he/she meets federal eligibility requirements for such status.

Can a non-U.S. Citizen qualify for state financial aid?

Yes. All currently-funded state financial aid programs, with exception of the B-On-Time loan program, require recipients to be Texas residents and defer to residency guidelines established in Section 54.052 of the Texas Education Code. Therefore, students meeting those guidelines qualify for state financial aid programs, depending on financial need and other program-specific requirements. This includes students who are classified as non-U.S. Citizens according to federal statute.

How has Texas law regarding establishing residency for in-state tuition changed over time?

Prior to 2001, residency was established only through the two pathways mentioned above which require the establishment of domicile:

- 1) An independent person could claim residency if he or she established a domicile in Texas and maintained it for one year prior to enrollment; or
- 2) A dependent person could claim residency if his or her parent established a domicile in Texas and maintained it for one year prior to enrollment.

The only non-U.S. Citizens who could establish a claim to residency were those who held visa classifications or other federal immigration status that allowed them to remain in the state long enough to establish domicile and maintain it for a year.

In 2001, the 77th Texas Legislature passed House Bill 1403 that made several changes to the Texas Education Code, including creating a path for non-U.S. Citizens who did not claim legal residency status with the federal government to gain access to in-state tuition rates at Texas public institutions of higher education. To qualify, the legislation required a student to reside continuously in Texas with a parent or guardian for the 36-months leading up to high school graduation or receipt of a GED. The statute limited this pathway to resident status to non-U.S. Citizens and required such students to sign an affidavit indicating intent to apply for Permanent Resident status.

The 79th Texas Legislature further amended the residency requirements in 2005 through the passage of Senate Bill 1528. The additional amendments maintained the 36-month pathway for non-U.S. Citizens, but extended it to all U.S. citizens. Prior to these amendments, many U.S. Citizens were inadvertently prevented from attaining Texas residency status because of unanticipated circumstances.

For example, students born and raised in Texas but whose parents moved out of state before they had enrolled in college were previously classified as nonresidents unless they had enrolled in college prior to their parents' departure. Additionally, students raised by grandparents or other family members who had never gone to court to acquire legal custody were considered residents of the state in which their parents lived. Current statutes allow students in both of these cases, and other similar circumstances, to qualify for Texas resident status.

Does Texas statute make provisions for U.S. Citizens who have lived outside of Texas to attain Texas resident status for in-state tuition?

Current Texas statute identifies several pathways for U.S. Citizens to attain Texas resident status. A U.S. Citizen may establish residency by being gainfully employed in Texas for at least a 12-month period or by establishing domicile and maintaining it for a 12-month period. As mentioned above, Senate Bill 1528 also opened the 36-month approach to residency to U.S. Citizens.

Who maintains and monitors affidavits completed by non-U.S. Citizens seeking eligibility for in-state tuition and state financial aid programs?

Each institution of higher education is responsible for acquiring and maintaining signed affidavits completed by non-U.S. Citizens seeking Texas residency status for in-state tuition purposes via TEC 54.052(a)(3). In addition, Coordinating Board rules require institutions to remind affidavit students each year of their obligation to apply for Permanent Resident status as soon as they are eligible to do so. The same rules call for the institutions to refer students to the appropriate federal agency for instructions on how to achieve Permanent Resident status at such time federal legislation makes this possible.

Does the new policy released by the Department of Homeland Security regarding "deferred action for childhood arrivals" have any impact on state law?

No. Provisions outlined in TEC 54.052(a)(3) are not impacted by the policy or guidance issued by the federal government. Texas students must continue to comply with Texas statute and rules related to in-state tuition, including completing an affidavit if applicable.

How many students currently qualify for classification as Texas residents by meeting the TEC 54.052(a)(3) provisions and completing an affidavit?

The number of students meeting statutory requirements for establishing Texas resident status for in-state tuition under TEC 54.052(a)(3) totaled 18,623 in FY 2011, or about 1 percent of total public institution enrollment. Each of these students qualified for in-state tuition and met the residency requirement for competing for state financial aid. Below is a breakdown by sector of these students for both FY 2010 and FY 2011:

Higher Education Sector	Total Affidavit Students (TEC 54.052(a)(3))	
	FY 2010	FY 2011
Public Universities	4,403	5,068
Public Community, Technical and State Colleges	12,028	13,449
Public Health Related Institutions	45	106
Total All Public Institutions	16,476	18,623

What types of financial aid may affidavit students receive?

There are three categories of financial aid.

State-Supported Grant Aid	Financial aid in the form of grants supported with general revenue via state appropriations.
State-Authorized Loan Aid	Financial aid in the form of loans (which require repayment) authorized by the state. Funding for this aid is generated from the sale of bonds and loan repayments, <u>not</u> general revenue via state appropriations.
Institutional/Other Financial Aid	Financial aid which may be in the form of grants or loans provided from institutional or other resources, <u>not</u> general revenue via state appropriations.

Each financial aid program has specific eligibility requirements for recipients. For example, recipients of state-authorized loan aid must meet credit worthiness requirements to receive a loan, or secure a co-signer that meets these requirements and assumes ultimate financial responsibility for repayment.

How many financial aid awards are provided to qualifying affidavit students?

In Fiscal Year 2011, 9,144 financial aid awards were provided to 4,548 students who met statutory requirements for Texas resident status and in-state tuition under TEC 54.052(a)(3). This represents less than 1 percent of students who received financial aid. Of state-supported financial aid programs, 2,803 awards were provided to 2,606 students. The charts below detail these awards by higher education and financial aid sector for both FY 2010 and FY 2011:

Financial Aid Source	Total Financial Aid Awards to Affidavit Students	
	FY 2010 ¹	FY 2011
State-Supported Grant Aid	2,590	2,803
State-Authorized Loan Aid	102	113
Institutional/Other Financial Aid (Non-state)	7,308	6,228
Total All State/Local Awards	10,000	9,144

1. FY 2010 reflects revised data submitted by one institution after end of FY report was complete and distributed

How much state general revenue (GR) is used to support affidavit students via institutional formula funding?

The Coordinating Board estimates for state GR appropriations for institutional formula funding to support affidavit students is disaggregated by higher education sector below:

Higher Education Sector	Formula Funding General Revenue for Affidavit Students ²	
	FY 2010	FY 2011
Public Universities	\$1.98M	\$2.16M
Public Community, Technical and State Colleges	\$9.56M	\$10.07M
Public Health Related Institutions	\$0.43M	\$1.57M
Total All Public Institutions	\$11.98M	\$13.79M

2. Formula Funding General Revenue (GR) is calculated using the average funding per semester credit hour for the general academic, health-related and community college institutions. The Coordinating Board does not have course-level data on each affidavit student to calculate an actual formula funding rate. The funding rates are different for each level (undergraduate/graduate) and course area (liberal arts or engineering for instance). The funding amounts indicated include a 5% reduction in GR for FY10 and 10% reduction in GR for FY11 due to budget cuts.

How much GR is used to support qualifying affidavit students via state-supported grant aid programs?

State-supported grant aid programs are funded by state GR appropriations. These programs are designed to assist qualifying Texas students by providing grants to help cover college costs. Recipients are not required to repay these funds to the state. The Coordinating Board estimates of state GR appropriations for state-supported grant aid programs used by qualifying affidavit students are below:

	State-Supported Grant Aid for Affidavit Students	
	FY 2010	FY 2011
Total	\$8.72M	\$11.04M

What additional state-sponsored programs do affidavit students qualify for?

Texas operates the College Access Loan (CAL) Program that offers low-interest, alternative loans to assist students with college costs. Students are required to repay all funds received, in addition to applicable interest. The CAL program is not supported by state GR. The program operates with student loan repayments. Affidavit students may qualify for the CAL program. However, they must meet the same credit and other requirements mandated for all borrowers and are subject to the same repayment responsibilities. The Coordinating Board estimates of CAL loan disbursements for qualifying affidavit students are below:

	College Access Loan Disbursements to Affidavit Students	
	FY 2010	FY 2011
Total	\$0.86M	\$1.11M

What institutional or other financial aid do affidavit students qualify for?

In addition to state-supported or state-sponsored financial aid, institutions often provide access to various financial aid programs for students. These programs and available resources will vary by campus. Such financial aid resources may include merit-based grants, work study, or short-term loans. These resources are not supported by state GR. The Coordinating Board estimates of institutional or other financial aid program provided to qualifying affidavit students are below:

	Institutional/Other Financial Aid For Affidavit Students	
	FY 2010³	FY 2011
Total Institutional or Other Financial Aid	\$21.6M	\$22.0M

3. FY 2010 reflects revised data submitted by one institution after end of FY report was complete and distributed

What is the total of tuition and fees paid by students who completed an affidavit as required by statute?

Institutions of higher education report students who completed an affidavit paid approximately \$31.1 million in tuition and fees in Fiscal Year 2010 and \$37.0 million in tuition and fees in Fiscal Year 2011.

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