November 12, 2004

TO: Registrars, Admissions Officers, and Chief Fiscal Officers
All Institutions of Higher Education in Texas

FROM: Raymund A. Paredes

SUBJECT: Correction to 2004 Update on Visas for Non-Citizen Students

Upon further review, and with the help of some astute university registrars and admissions officers, we have discovered an error in the Question and Answer section of our July 28, 2004, memorandum regarding student requirements for residency based on Section 2 of House Bill 1403, codified as Texas Education Code (TEC) Section 54.052(j).

Question 21 in the July memorandum INCORRECTLY stated:

21. Is there any minimum amount of high school required of the GED recipient? No. The GED student simply needs to have lived in Texas for the 3 years prior to receiving the GED certificate. A part of that time must have been with a parent or court-appointed legal guardian.

The answer should have been “Yes.” TEC Section 54.052(j) states that, in order to be eligible, the student must have lived with a parent, guardian or conservator while attending a public or private high school in this state…” (See underlined section, below). The student who did not attend high school, but rather only pursued and acquired a GED, could not meet this requirement.

TEC 54.052(j). Notwithstanding any other provision of this subchapter, an individual shall be classified as a Texas resident until the individual establishes a residence outside this state if the individual resided with the individual’s parent, guardian, or conservator while attending a public or private high school in this state and:

(1) graduated from a public or private high school or received the equivalent of a high school diploma in this state;

(2) resided in this state for at least three years as of the date the person graduated from high school or received the equivalent of a high school diploma;

(3) registers as an entering student in an institution of higher education not earlier than the 2001 fall semester; and

(4) provides to the institution an affidavit stating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so.
The memo on the CollegeforTexans web site entitled “2004 Update on Visas for Non-Citizen Students” has been changed to reflect this correction. You may find the memo at http://www.collegefortexans.com/residency. Click on “THECB Policy Regarding Residency for Non-Citizens.”

The affidavit that students sign in keeping with item (4) of the statute also needs to reflect this change. A new draft affidavit is enclosed for your consideration.

I apologize for any confusion that might have been caused. If you have any questions regarding this issue, please contact me or Jane Caldwell at 512-427-6455 or jane.caldwell@thecb.state.tx.us.

cc: The Honorable Rick Noriega
    The Honorable Leticia Van de Putte
AFFIDAVIT

STATE OF TEXAS

COUNTY OF ________________

Before me, the undersigned Notary Public, on this day personally appeared ______________________________________________________, known to me, who being by me duly sworn upon his/her oath, deposed and said:

1. "My name is ________________________________________________________. I am over the age of 18 years and am fully competent to make this affidavit. I have personal knowledge of the facts stated herein and they are all true and correct."

2. I attended a public or private accredited high school in Texas and, for at least a part of that time, resided with my parent, court-appointed legal guardian, or conservator."

3. "I graduated from a Texas high school or received my GED certificate in Texas."

4. "I resided in Texas for the three years immediately preceding graduation from high school or the receipt of my GED certificate and,

5. "I have not taken any hours through any institution of higher education prior to Fall 2001 that required me to apply for admission and be admitted to the college or university."

6. "I will file or have filed an application to become a permanent resident at the earliest opportunity that I am eligible to do so."

In witness whereof, this ____________ day of _______________________, ________.

___________________________________
(Signature)

___________________________________
(Printed Name)

___________________________________
(Student I.D. #)

SUBSCRIBED TO AND SWORN TO BEFORE ME, on the _______________ day of _______________________, __________________________, to certify which witness my hand and official seal.

__________________________________
Notary Public in and for the State of Texas

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