Postsecondary Residency Classifications: The Application of Complex Legislation to the Complex Circumstances of Students

IHELG Monograph 89-6

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BACKGROUND

By the late 1800s and the early 1900s, many state-supported colleges and universities had begun the practice of assessing higher tuition rates to their nonresident or out-of-state students. Legislators, wanting to advantage their constituents, assessed nonresidents a higher tuition rate (Elliot, 1936, p. 10). They did so despite the principle of accessibility reflected in their states' statutes and constitutions which favored low or minimal tuition (Chambers, 1972, p. 57). Although the additional revenues from charging higher tuition to nonresidents were small, the practice gained popularity and spread across the states. By 1927, University of Oregon registrar Carlton Spencer (p.332) wrote, "Most of the tax supported higher educational institutions of the United States discriminate among their students in the matter of tuition fees, basing this discrimination on the residence of the students; the purpose being to collect an additional fee from nonresidents."

Basing tuition rates upon residency continues to be commonplace and is unique to state-supported colleges and universities. Unlike private institutions which are funded primarily by tuition and private donations, public institutions depend primarily upon funding from the state and secondarily upon the revenues generated by tuition. The primary source of state funds is taxation. In theory, then, residents¹ have contributed to the tax base and therefore to the state's colleges and universities. Logically, they are entitled to a lower tuition than nonresidents who have made little or no monetary contribution prior to enrollment.

¹A resident is: Any person who occupies a dwelling within the State, has a present intent to remain within the State for a period of time, and manifests the genuineness of that intent by establishing an ongoing physical presence within the State together with indicia that his presence within the State is something other than merely transitory in nature (Black's Law Dictionary, 5th Ed., 1979, p. 1177)
The definition of "nonresident" for tuition purposes has remained fairly constant throughout the years. Most state courts, colleges and universities, define "nonresident" students as those who leave their parents' home or their own homes to attend another state's colleges and universities (Chambers, 1972, p. 59). The definition seems simple and straightforward. In practice, however, determining residency can be complex and difficult. How can students who enter a state to attend college be distinguished from those who enter the state primarily to make their home and secondarily to continue their education? Once classified as nonresidents, should students retain that classification throughout their enrollment? Under what conditions can they be reclassified? Is intent to become a resident a significant factor in determining residency? If so, how can purpose or intent be demonstrated? These questions are significant in determining bona fide\(^2\) state residents.

Varying strategies have been adopted by legislatures, governing bodies of higher education, and individual institutions in distinguishing bona fide residents from temporary residents. As society has changed, so too have the strategies so that today, "the basis for making tuition classification decisions is characterized by a bewildering variety of laws, regulations, criteria, and procedures" (Carbone, 1973, p. 7).

The lowering of the age of majority to 18 in 1971 added to the complexity of residency classification. It meant that students could "declare financial independence...[and] establish residency by means not previously available (as in owning property, acquiring credit, and voting), and...secure a domicile different from their parents" (Olivas, 1983, p. 157). Other changes have also contributed to what Olivas (1983, p. 157) refers to as "a patchwork of residency requirements." The

\(^2\)In or with good faith; honestly, openly, and sincerely; without deceit or fraud. Truly; actually; without simulation or pretense (Black's Law Dictionary, 5th Ed., 1979, p. 160)
changes have taken the form of special exceptions or exemptions inserted or appended to the original legislation or regulations. This has been especially true regarding "classes of persons who are mobile (military, migrants) or for whom domicile is difficult to determine (aliens, spouses)" (Olivas, 1986, p. 271). Unfortunately, the exemptions and exceptions have themselves become problematic due to their great number and their use to confer residency as a benefit (tuition waivers) without any relation to duration of residence or domiciliary intent (Olivas, 1986, p. 271). The failure of the states to comprehensively revise residency regulations has increased their complexity without changing their basic structure. As new patterns of mobility, relationships, and expectations about advanced education evolve, current methods of residency determination are likely to become less capable of distinguishing the unique situations of students and providing them with equitable treatment.

Focus Of The Study

The complexity and diversity of residency requirements across the fifty states and the increasingly unique and complex circumstances of students who cross state lines to pursue an education have increased the possibility that within the same state, similarly situated\(^3\) students may be classified differently for tuition purposes. In a 1970 report, the Education Commission of the States (ECS) noted that "the inconvenience and even injustice, to which such dissimilarity [in requirements] gives rise,...is neither in the interest of the students, of the states, nor of the nation" (Carbone, 1970 in Olivas, 1983, p. 158).

\(^3\)Similar: Nearly corresponding; resembling in many respects; somewhat like; having a general likeness, although allowing for some degree of difference (Black's Law Dictionary, 5th Ed., 1979, p. 1240). Situation: State of being placed; posture. Position as regards conditions and circumstances; state; condition (p. 1244)
The study by ECS found that there was little consistency across states and institutions in defining and determining residency and that a wide range of exemptions used to circumvent existing regulations and legislation resulted in further dissimilarities in the treatment of similarly situated students. The 1970 report highlighted the possibility that even within the same state, two similarly situated students might receive different treatment, opening the state's residency requirements to the charge that they are "arbitrary and discriminatory" (Carbone in Olivas, p. 158).

The study described in this monograph was undertaken to examine the process by which residency classifications are made at public institutions of higher education in the State of Texas. Because the state legislature determines residency policies to be implemented by all of the state-supported institutions of higher education, little variability should occur in the treatment of similarly situated students. To see if variability does occur, twelve hypothetical student profiles were created and used to complete a composite residency questionnaire. The questionnaire was drawn from those used at several different Texas colleges. After the twelve questionnaires were completed, they were submitted for classification to the residency determination officers of nine Texas institutions. The same student profiles were used at each of the nine colleges in order to see if substantial variation would occur in the classification of not only similarly but identically situated students. In addition to using hypothetical student profiles, telephone interviews of the residency determination officers were conducted as part of the study. The purpose of the interviews was to identify structural and procedural factors that influence residency determination by either encouraging or reducing variability.
The Literature

Scholars have pointed to the need to examine residency determination at the institutional level in order to understand the consequences and problems generated by the complex process. Said Carbone (1973, p. 8), "Most classification officers would be likely to stress that the difficulties of making either-or determinations in individual cases should not be underestimated." Like Carbone, Olivas (1983, p. 158) wrote that "frequently, there are considerable redefinition and interpretation that occur between the enactment of statutes and determination of student status." He also stated that the situation results in "a strong likelihood that students similarly situated will be treated unlike each other, often even by the same institutions." To examine residency at the institutional level, a review of existing literature on residency was undertaken to identify those factors that influence or are likely to influence residency determination.

Carbone (1973) and Olivas (1983) suggested two factors that influence residency classifications: the complexity of the statutes, rules, and regulations, and the diversity of the life situations of students. The study adopted the hypothesis that substantial variation occurs in the residency classification of similarly situated students due to the complexity of the residency rules and the complex life situations of students.

Recognizing that the finding of substantial variation in the classification of similarly situated students might result from factors other than the two already mentioned and because of the limited literature on the process of residency determination, the theoretical framework of the study was extended to include research on the behavior of individuals within complex organizations. This monograph is intended as a summary of the original research and does not present the review of the literature that was undertaken for the study. It is important, however, for the reader to be aware of some of
the sources that were used. To that end, the sources are listed briefly as are the factors they helped identify that may influence the process of residency determination.

The study examined residency as a process that occurs within a bureaucracy. The features of a bureaucracy and the influence exerted by bureaucratic structure were examined using the works of Downs (1966) and Bailey (1973). The study also drew upon the works of Katz and Kahn (1978, pp. 433-434), O'Reilly (1978, p. 329), and Herbert Simon (1976, pp. 162-163). Their works lent credence to the notion that similarly situated students might receive different residency classifications due to the complexity of the residency rules, the process of applying them, and the distortion and alteration that occur in the normal process of communication.

The work of Lawrence and Lorsch (1967), suggested that structural differences in the university setting in which a particular residency officer works, could also account for variability in the way the residency statutes and regulations are applied. Simon (1976, p. 170) identified training as another factor that might affect the way residency officers apply the rules and regulations. From Bell (1967, p. 93), the study employed the Simplified Merton Model to examine the effects of bureaucratic structure on the actual functioning of organizations. Merton (in Etzioni, 1961, pp. 56-57) and Bell, (1967, p. 102) suggested that an individual's perception of the discretion they could exercise and the extent to which they were supervised affects their ability to search for alternatives in complex decision-making.

The final factor suggested by the literature on organizational behavior was that of "bias" which in other works was also expressed as "satisficing behavior." March and Simon (in Perrow, 1979, pp. 144-145) proposed that individuals, because of their limitations, attend only to that which demands their attention at the time, and as a consequence minimize and simplify the reality around them. Downs (1967, pp. 76-78) described the tendency to simplify policies and their
implementation as an expression of the biases of each administrator. "Bias," in Downs' framework, refers to divergencies in goals held by individual officials that result in different or "biased" behaviors. Bias in Downs' sense is entirely relative and implies no moral disapproval.

In all, seven factors were hypothesized to influence the consistency with which similarly situated students are classified as residents or nonresidents for tuition purposes: 1) the complexity of the statutes, rules, and regulations, 2) the complexity of student circumstances, 3) coding or the distortion of information, 4) structural differences among the institutions, 5) training received by the residency officers, 6) real or perceived discretion of residency officers in making residency determinations, and 7) satisficing, the simplification of complex rules and complex student circumstances, or the simplification of the search for alternatives: "biased" behavior.

RESEARCH DESIGN

One of the primary objectives of this study was to determine if, as hypothesized, variability occurs when similarly situated students are classified as residents or nonresidents by Texas institutions of higher education for tuition purposes. Another prime objective was to ascertain the presence (or absence) of the seven factors suggested by the review of the literature on residency and organizational behavior. Although the seven factors were incorporated into the theoretical framework that guided this study, it was assumed that additional factors influence residency. Identifying and better understanding any additional factors was also an aim of the study. To accomplish the research objectives, two forms of survey research were used: a written survey instrument and a telephone survey.

The residency determination officers of nine colleges in Texas participated in the study. The participants were asked
to categorize twelve hypothetical students as residents or nonresidents for tuition purposes. The written survey instrument also required them to explain the rationale for their classifications. To minimize information problems and duplicate the conditions under which residency officers make determinations, a composite questionnaire was created from actual questionnaires used at Texas colleges. The questionnaires were completed using the hypothetical profiles and also included information routinely requested of students by residency officers.

The second survey instrument used in the study was a moderately scheduled telephone interview. The interview was conducted after the subjects completed the written survey. Separating the two procedures ensured that ideas or concerns raised during the interview did not influence the residency classifications made by the subjects.

The Subjects

Table 1 describes the range of characteristics found in the participating institutions.
Table 1

CHARACTERISTICS OF THE INSTITUTIONS PARTICIPATING IN THE STUDY

<table>
<thead>
<tr>
<th>DESCRIPTIVE CHARACTERISTIC</th>
<th>RANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Student Population:</td>
<td>2,700 to 48,000</td>
</tr>
<tr>
<td>Entrance Requirements:</td>
<td>open admission to very competitive</td>
</tr>
<tr>
<td>Geographic Location:</td>
<td>across the state: rural, small city, urban, metropolitan</td>
</tr>
<tr>
<td>Type of Student Body:</td>
<td>primarily commuter, primarily residential, mixed</td>
</tr>
<tr>
<td>Minority Students:</td>
<td>8% to predominantly minority (Black and Mexican-American)</td>
</tr>
<tr>
<td>International Students:</td>
<td>1% to 30%</td>
</tr>
<tr>
<td>Texas Residents:</td>
<td>70% to 97%</td>
</tr>
<tr>
<td>Type of Campus:</td>
<td>single campus to part of a university system</td>
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<tr>
<td>Degree Offerings:</td>
<td>primarily undergraduate to comprehensive research institutions that grant doctoral degrees</td>
</tr>
</tbody>
</table>
Data taken primarily from Baron's Profiles of American Colleges: 1985 Update and Peterson's Annual Guide to Undergraduate Study (1987). Baron's profiles include data on both undergraduate and graduate students. Peterson's guide was used only when data from Baron's profiles were incomplete or not available. Information on one university not listed in either publication was obtained directly from the institution.

THE FINDINGS

The findings of this study are presented in two major parts. Findings from the written survey instrument are the first to be presented followed by the findings from the telephone interviews. Cross-references between the two parts of the presentation are made to show linkages among the data collected by both research instruments. The cross-references are also used to present those factors identified in the study which influence the process of residency determination.

The Written Survey Instrument

Twelve hypothetical student profiles were created and submitted for classification to the residency officers of 9 public colleges and universities in the state of Texas. An analysis of the classifications made by the residency officers found that identical hypothetical students were classified differently. Table 2 provides a summary of the findings
TABLE 2

Classifications of the Twelve Hypothetical Students

<table>
<thead>
<tr>
<th>Institutions</th>
<th>Student Enrollments</th>
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<tr>
<td>IA, IIA, IIIA</td>
<td>25,000+</td>
</tr>
<tr>
<td>IB, IIB, IIIB</td>
<td>8,000 - 24,999</td>
</tr>
<tr>
<td>IC, IIC, IIIC</td>
<td>2,000 - 7,999</td>
</tr>
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</table>

N = Nonresident    R = Resident    - = No classification

INSTITUTIONS

<table>
<thead>
<tr>
<th>HYPOTHETICAL STUDENTS</th>
<th>IA</th>
<th>IIA</th>
<th>IIIA</th>
<th>IB</th>
<th>IIB</th>
<th>IIIB</th>
<th>IC</th>
<th>IIC</th>
<th>IIIC</th>
<th>R</th>
<th>N</th>
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Profile 3, Institution IIIC, classification -*

The residency officer participated in the pretest. Ambiguity in this profile was corrected prior to its inclusion with the other subjects in the study.

Profile 9, Institution IA, classification R*

The residency officer operated from an assumption that taxes were filed from a Texas address. No other residency officer made this assumption.
Variability in the Residency Classifications

Table 2 lists the classifications made by the residency officers from the 9 institutions participating in the study. As can be seen quite readily, variability occurred in the classifications of hypothetical students 1A, 2, 4, and 10. In each of those cases, the residency officers were almost evenly split in assigning classifications. Variability also occurred in the residency classifications of hypothetical students 1B, 3, 5, 6, 8, 9, 11, and 12, although to a lesser extent. Only hypothetical student 7 received a unanimous classification as a nonresident. None of the hypothetical students received unanimous classifications as residents and in no case were the facts presented in a profile unanimously considered as insufficient or unclear so as to prevent classification.

During the analysis of the data, the reasons cited by the residency officers for their classifications were carefully examined. Hypothetical Student 2, Gerard Brown (gainful employment) serves as a good example of the variability that occurred in the classification of the hypothetical students. He was classified as a resident by 4 of the residency officers, as a nonresident by 4 residency officers, and one residency officer did not feel there was enough evidence to make a clear residency classification. It is clear that variability occurred in the classification. Why did it occur? The four residency officers classifying the student as a resident indicated that the determining fact was the student's residence in the state for 12 months prior to enrollment. The four residency officers who classified the student as a nonresident cited insufficient ties with the state and 3 of the four added that his employment for
only 3 - 4 months contributed to the classification. The residency officer who chose not to classify the student cited essentially the same evidence as the other residency officers but felt additional information was needed to make a classification.

Institutionalized Rules

Although the residency officers in the previous example disagreed on the classification of the hypothetical student, the facts they cited in making their determinations were the same. The decision turned on the basis of how the particular facts were viewed or weighed. The same process was evident in almost all of the residency classifications made by the residency officers. In classifying hypothetical student 4, Frank J. Barton (full-time busboy, part-time student), however, some of the residency officers assigned the same classification but for different reasons. An examination of the rationales used by the residency officers in classifying Barton yielded one of the major findings of this study. An unanticipated factor was identified that influenced residency determination during the study and appears to influence the process "in the field." In classifying Barton the residency officer from institution IIA used what can be termed as "institutionalized rules." The residency officer reported that students who were employed full time were allowed to register for 4 credit hours without negatively affecting their ability to qualify for residency status. The criterion is an example of "institutionalized rules" because the residency rules do not specifying a number of

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4Section 54.052(e) of the Texas Education Code: An individual who is 18 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.
credit hours for which one can be of enrollment while employed full time.

The example of institutionalized rules found in the analysis of the data from the written survey instrument is echoed in the findings from the interviews. During an interview, the residency officer from institution IIIB described using a criterion similar to the one used by the residency officer from institution IIA. Unlike institution IIA, however, at institution IIIB students employed full time were allowed to register for 6 credit hours without negatively affecting their qualification for resident status. Both residency officers used standards unique to their respective institutions in classifying hypothetical student Barton. "Institutionalized rules," appear to serve residency officers as informal rules or personal "smell tests" for making judgment calls in determining residency.

Another example of institutionalized rules was found during the interviews. A residency officer reported that a neighboring institution had established a policy that automatically granted residency status to immigrants after they had resided in the state for one year from the date of receiving a "green card" (permanent residence card). The officer registered displeasure because at his own institution, implementation of the residency rules required that immigrants meet the same criteria as those required of citizen students from outside the state. An example of institutionalized rules was found during another interview. The residency officer, (not from the "neighboring" institution just referenced) reported using what appears to be an institutionalized rule that favored one particular class of students, refugees. The officer related that in the case of many Vietnamese students, he takes a more lenient stance since they "clearly have abandoned their domicile."

In the examples of institutionalized rules that have been cited, the unique rules adopted by the residency officers appear to have stemmed from their own efforts to interpret and
apply the residency rules. By adding their own criteria to the residency rules, they simplified the process. While adding unwritten criteria appears to complicate rather than simplify the rules, the unwritten criteria allowed the residency officers to make residency decisions more quickly because they limited their alternatives. Simplification of a complex process is a form of "coding" behavior anticipated in the study based on the literature review.

Other examples of institutionalized rules were found during the analysis of the classifications made by the residency officers. Unlike the examples identified thus far, the classifications of Students 1a (Sandra Livingstone, marriage to a Texas resident) and 2 (Gerard Brown, unemployment and 12 month residency requirement) represent a different type of institutionalized rule, because they stemmed not from the individual residency officer's attempt to interpret and apply the residency rules, but from inconsistent information received by the residency officers. The inconsistent information was then adopted or institutionalized. To demonstrate the influence of the second type of institutionalized rules on the classification of the hypothetical students, it is necessary to first examine a finding from the interviews.

During the interview with one of the residency officers, two examples were cited in which residency classification practices "in the field" were inconsistent with the wording of the residency rules. The first instance had to do with the wording of the rules requiring 12 months of continuous residence in the state while "gainfully employed," prior to enrolling in classes. According to the residency officer, "normal practice is not to enforce gainful employment" if the person meets the 12 month durational residency requirement. The second discrepancy between the wording of the rules and actual practice was found in the classification of students married to Texas residents. According to the letter of the law, spouses must meet the residency requirements on their own merits. The residency officer reported consulting with a
member of the Coordinating Board staff and having been informed that after a year of marriage to a Texas resident, the spirit of the law allowed reclassification. Both examples represent "unwritten" modifications to the residency rules.

Not surprisingly, both of the unwritten interpretations described by the residency officer appear to have contributed to the variability that occurred in some classifications. The classifications of hypothetical students Livingstone and Brown serve as examples. The residency officers based their classifications of the two hypothetical students on the same fact patterns but reached very different conclusions. Some clearly applied the unwritten criteria espoused by Coordinating Board staff while others did not. Those that applied the unwritten rules had institutionalized them--they adopted standards different from those used at other institutions. The variability that occurred in the classification of at least two of the hypothetical students was due, not to differences of interpretation, but to the application of different standards by different institutions. The existence of the second type of institutionalized rules points to another unanticipated factor that influenced residency determination in the study and is likely to affect the residency determinations made by residency officers across the state. That factor is "inconsistent information.

Communication Problems

The practice of using unwritten or institutionalized rules is problematic because it creates standards for making residency determinations that differ from institution to institution. The different standards contribute to inconsistent residency determinations for similarly situated students. A factor that contributed to the use of institutionalized rules in the study was "inconsistent information." Inconsistency in the information passed on to the residency officers strongly suggests a problem in
communication. The source of the problem was difficult to pinpoint but the data collected in the study suggested several explanations. Communication of inconsistent information may have been due to differences in the frequency with which residency officers consulted the Coordinating Board; differences in the interpretations made by staff of the Coordinating Board or lack of clarity in communicating the interpretations; or problems experienced by the residency officers in recording and recalling the unwritten guidelines.

Nearly all of the residency officers said they called the Coordinating Board's Assistant Commissioner for Student Services to get help in making particularly difficult residency cases. They also reported calling about policy questions or changes in the law that affected residency. The frequency of that contact was not high for most residency officers. One officer reported doing so only three times a year and others said they called infrequently or occasionally. Consultation with the staff of the Coordinating Board, although done with the intention of receiving correct interpretations of the residency rules, may actually have contributed to variability. Residency officers who call the Coordinating Board staff less frequently than their counterparts may simply not have been aware of the unwritten criteria.

During the course of the interviews, three of the residency officers voiced a concern that the information provided by the Coordinating Board was unclear and might sometimes be inconsistent. Said one of the residency officers, "Consulting them [Coordinating Board] is sometimes helpful and sometimes not. For example, when new statutes, rules, or regulations [are issued], you may get different interpretations." A similar concern was voiced by another residency officer who said, "What I find most difficult is that you don't get definite answers from the Coordinating Board."

A third residency officer referring to the overall structure of the residency rules stated, "The system is solid, but only if we all are getting and giving the same information
to the Coordinating Board." The concern voiced by the residency officers about the consistency of the information communicated by the Coordinating Board clearly suggests that a problem exists. An example of that problem can be seen in the residency classifications given by the residency officers to hypothetical student 10, Lawrence Aronowski (political asylee). Three distinct standards were applied by the residency officers in making their classifications. One residency officer stated flatly that "political asylee status is not recognized by Texas for changing residency status for tuition purposes." A totally opposite view was expressed by another residency officer who claimed "a 12 month waiting period is not required of political asylees." Between the two extremes, several of the residency officers differed in their understanding of when to "start the clock" in measuring the 12 month durational residency requirement they believed was necessary for political asylees. Only one of the residency officers cited a 1986 memorandum from the Assistant Commissioner for Student Services of the Coordinating Board describing the application of a legal opinion issued by the Office of the General Counsel, U.S. Dept. of Justice, Immigration and Naturalization Service. The residency officer quoted the memorandum stating that the 12 month residency requirement begins on the "date the student physically arrived in Texas with intention to remain in the state for residence purposes." Olivas (1986) found that variability in when to "start the clock" was evident in most states. The different rationales used by the residency officers and their references to Coordinating Board guidelines that are at odds suggest strongly that there exists a problem in communication.

Guidelines for determining the residency status of asylees are not specifically stated in the manual, Rules and Regulations: Residence Status (Spring 1986, Coordinating Board, Texas College & University System). Generally, information not contained in the manual is communicated to the residency officers by the Coordinating Board either through oral
consultation or in written form as a memorandum with an attached Attorney General's Opinion. In a few cases, as in the previous example, an opinion of the General Counsel of the Immigration and Naturalization Service might accompany the memorandum from the Coordinating Board. The data collected during the study suggest that not only is the communication of unwritten criteria problematic, but that the written system may also contribute to variability. In the case of hypothetical student Aronowski, (the political asylee), why didn't all of the residency officers cite the same memorandum? Why was there confusion among the residency officers? The problem appears to exist in the filing and retrieving of updates to the residency rules.

One residency officer described the Coordinating Board as having issued a "flurry of letters, explanations, and implications." The combination of unwritten standards and frequent written modifications to the residency rules can explain the problems that occurred in classifying hypothetical student Aronowski. That combination also suggests that inconsistent information was a factor that contributed to variability in the classification of the hypothetical student and is likely to contribute to variability in the classifications of similarly situated students across the state.

Length of Experience as a Residency Officer

Another unanticipated factor was found to have influenced the residency classifications of the hypothetical students in the study. The analysis of the data from the written survey

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5Attorney General's Opinions (A.G.O.s) are issued when changes in state laws or their interpretation have taken place. They are also issued when legal questions are formally submitted for an opinion. It is common practice for a representative of the Coordinating Board to communicate the A.G.O.s to the residency officers when they deal with issues impacting residency determination
instrument combined with data from the interviews identified the factor as the "length of experience" of the residency officer. The length of a residency officer's experience in making residency determinations contributed to the variability that occurred in the classifications of several of the hypothetical students. The residency officer from institution IIIB had been responsible for residency for only 4 months at the time of the study. In three cases, (classifying hypothetical students: 1B, Sandra Livingstone (marriage to a Texas Resident); 3, Janie Schiller (minor whose parents moved out of the state); and 6, Francis Ryan (non-monetary compensation) the residency officer made a classification different from the other eight officers. He was the outlier. The residency officer from institution IIB had 1 year of experience at the time of the study. That officer was the outlier in the classifications of hypothetical students 5, Jimmy Sanchez (military duty) and 8, Jason Bell (son of a military pilot killed on duty). The residency officer from institution IIC also had only one year of experience and was the outlier in the classification of hypothetical student 2, Brown (unemployment). Two veteran residency officers were outliers only once and the other veteran residency officers were always in agreement with at least one other officer.

On the strength of the numerical data alone, chance might have explained what appeared to be the link between experience and the residency classifications. An examination of the reasons stated by the residency officers for their classifications provided additional evidence of the link. In the classification of hypothetical student Livingstone, the residency officer from institution IIIB took what appeared to be a "letter of the law" approach. Unlike the other residency officers who believed that the purchase of a home, along with the other facts in the case, overcame the presumption of nonresidence, the residency officer from IIIB did not assign a resident classification because he required documentation of
the size of the downpayment made on the purchase. The classification might also have been an expression of a preference for strict interpretation of the residency rules, but his classification made in the case of hypothetical student 3, Schiller (parents moved out of state) contradicted that explanation. In classifying Schiller he took what appeared to be a liberal approach and assigned a classification of resident when six of the other residency officers assigned a nonresident classification and two did not believe there was sufficient information to make a classification. The reason given for classifying Schiller as a resident was that the student had resided in the state for 12 months under the care of her grandparents. The classification, on the surface, appeared to have been a "spirit of the law" approach. If that is what it was, it stood in direct contradiction to the classification assigned to Livingstone (purchase of a home). The classification given to hypothetical student 6, Ryan (non-monetary compensation), was the result of a misreading of the facts presented in the student profile.

As with almost any activity, proficiency increases with experience. The more complex an activity, the greater is the need for experience and training. The apparent link between length of experience and variability underscores the complexity of the residency determination process. Applying complex rules to the complex circumstances of students requires a great deal of knowledge and judgment.

The Telephone Interviews

The concept of "balancing the scales" suggested by the telephone interview data will be used to analyze the findings. The rules governing residency represent the interests of the

6The residency rules state that the facts to be considered in determining if a student overcomes the presumption of nonresidence include 'purchase of a homestead with substantial downpayment.'
State of Texas in controlling the process by which students are classified as residents or nonresidents for tuition purposes. They serve, for the purpose of illustration, as a set of imaginary balance scales. In one dish of the scales is the presumption of nonresidence. In the other dish, evidence provided by the student is weighed as the student attempts to overcome the presumption. One of the roles of the residency officer is to ensure that a proper measurement occurs. To ensure a proper measurement, the residency officer must use the residency rules to weigh the particular circumstances of individual students against the presumption of nonresidence. It was an hypothesis of this study that the complexity of the residency rules contributes to variability in the classification of similarly situated students. During the telephone interviews, the residency officers were asked if they believed the residency rules to be complex.

Complexity of the Residency Rules

As can be seen from the following statements of the residency officers, all but two believed that the residency rules were complex. They stated that the statutes, rules, and regulations are not clearly written, the Coordinating Board rules sometimes confuse the meaning of the statutes rather than clarify them, and the terminology used in the residency rules is often vague. The study found that to compensate for the complexity, the residency officers created "institutionalized rules." They simplified the residency process by creating their own standards. Why did they attempt to simplify the process? The responses of the residency officers when asked to categorize the complexity of the rules can help answer the question. Said one residency officer:

I would rate the statutes, rules, and regulations as complex. Some people seem to think that it is very easy [to make classifications] but in wading through them, just when we think we understand [a particular rule] another factor comes up and we don't really understand.
Another residency officer was even more specific in assessing the complexity of the rules. He focused upon the lack of clarity in the terminology and what he saw as problems in the way the material was organized:

They are complex. I feel that they are not well written. You look at the Coordinating Board Rules and Regulations and the parts that are supposed to explain [the statutes] sometimes seem to be contradictory. And if you look at the interpretations listed under other sections, they seem to contradict what you have just read.

A similar viewpoint was expressed by still another residency officer:

Complex, the statutes are definitely complex and interpretation is equally complex. So many people do not understand them and so many people have the same questions. The wording is fairly straightforward but there is no quantification....If you read parts it appears that you should classify one way but if you read another section it seems to change.

In the preceding quote, the residency officer referred to a lack of quantification. Again the analogy of the "balance scales" is useful in understanding the residency officer's statement. The residency officers are confronted with the problem of interpreting the "weight" of the presumption of nonresidence and the "weight" of the pieces of evidence presented by the students in an attempt to counterbalance the presumption. The following statement by a fourth residency officer referring to the complexity of the residency rules helps exemplify the problem of weighing evidence:

[The rules are] complex; there are a lot of ambiguities that are not defined. As [I] mentioned [earlier], what is gainful employment? Over the years that has come to mean full-time employment. But that is not stated in the statutes. The legal terminology of the statutes is not easily read, it should be clearer. The Coordinating Board rules and regulations help but are still not readily interpreted.
In the previous quotation, the residency officer pointed out an important feature of the residency rules. As was shown earlier in this study, the "rules" are made up of state statutes (laws) and companion rules and regulations issued by the Coordinating Board. The residency officer was correct in saying that the term "full-time employment" was not used in the statutes. The state statutes consistently use the term "gainful employment." The accompanying rules and regulations provided by the Coordinating Board, however, use four terms to describe the employment criterion--"gainful" (as in the statutes), "significant," "full-time," and "nature of such employment while a student." In attempting to define the meaning of the statutes, the companion rules have actually confused the situation. Even some of the residency officers who felt that the residency rules were only somewhat complex described problems with the rules' structure. Said one of those officers:

They are somewhat complex in that the wording used is open to interpretation....It sometimes gets confusing in going back and forth between the rules, regulations, and statutes. They are easy to read but it is hard to make a judgment.

Four of the nine residency officers considered the residency rules as complex. Three residency officers said they considered them somewhat complex. One of the residency officers said he considered them simple but that he knew others found them complex to read, and the ninth residency officer said that he considered them generally simple but some of them could be somewhat complex.

Given the evident complexity of the residency rules, it is not surprising that residency officers differ in the amount and type of evidence they require before the "scales" tip in favor of the student seeking a resident classification. The residency officers arrive at different opinions regarding the weight of pieces of evidence, possibly because each has
different internal or "coded" standards that have been created to cope with the ambiguity and the complexity of interpreting the residency rules.

An excellent example of weighting differences can be seen in the classification of hypothetical student 4, Barton (busboy, part-time student). In that classification the residency officers acknowledged the same facts about the student's circumstances but they interpreted them differently. The rationales cited by three of the residency officers illustrate the weighting problem. The residency officer from institution IC acknowledged that the student was employed full time, but because the employment was as a busboy, he did not feel enough evidence was presented to qualify him as a resident. The residency officers from institutions IIB and IIC cited insufficient evidence and "softness" of the facts presented in attempting to qualify. Their classifications differed from that of their colleagues because they differed in the "weight" they accorded to the facts. The residency rules make no specific distinctions concerning types of employment other than the vague reference to "nature of such employment." It appears, then, that the residency scales tip more readily at some institutions than at others because of differences in weighing evidence requirements.

Complexity of Student Circumstances

The process of making residency determinations is made still more difficult when the complexity of student situations is considered. During the interviews with the residency officers, they reported that some of the student situations difficult to assess included: length, extent, and type of employment; military personnel wishing to establish residency but having entered the military from outside the state; dependents remaining in Texas after parents leave the state; legal guardianship when parents are divorced or living apart; dependents over 18 years of age; and reclassifying immigrants
after they have held a permanent residence card for one year. One of the residency officers, responding to the question about the applicability of the residency rules to the circumstances of students observed:

The rules are set in stone but the situations of people change. Sometimes [the rules] do not take into account changes in individual situations or those occurring in the state or country—like immigration changes. I get emotionally upset when native Texans leave and their dependents in high school can't qualify for residency. Here at our institution sometimes they can't even get admitted. We can exercise some discretion with admissions but not with the statutes.

Another residency officer stated that there should be greater flexibility in applying the statutes to the unique circumstances of students. He cited the example of a resident of the state for 20 years who left the state and returned after an absence of just over two years; this person was required to reestablish residency on the same terms as someone that entered the state for the first time. In some student circumstances, use of the same "test" fails to acknowledge differences between students. A similar problem was reported by a different residency officer in cases dealing with employment. The officer stated that the term "immediately preceding enrollment" found in the residency statutes was given two separate interpretations. If a student was not employed but resided in the state for twelve months before having ever enrolled in the state, common practice (contrary to the wording of the residency rules) was to waive gainful employment. In contrast to that interpretation, if the student was previously enrolled but withdrew for twelve months, gainful employment was required during the twelve month residency period. In this case dissimilar requirements are applied to students that are arguably in similar situations.

The problems in implementing the residency rules stem as much from the complexity of student situations as from the complexity of the rules themselves. No matter how
comprehensively the residency rules have been written, the circumstances of some students will simply not have been anticipated. The result is that residency rules are "stretched" to cover student circumstances that were not originally foreseen. The residency officers stretch them in the actual application, and as has already been shown, the companion rules "stretch" or extend the original meaning of the statutes.

The complexity of student circumstances was also demonstrated in the responses of several of the residency officers when they were asked Question 23, (Describe your experience in making residency determinations for the 12 hypothetical students...) of the interview schedule. Those officers from the larger institutions felt that the circumstances depicted in the hypothetical student cases were not as complex as they might have been. One of the officers suggested that he could have provided many cases that were "a whole lot more complicated." The residency officers from the smaller institutions felt that the cases were mixed, some being "cut and dry" while others were less common. They all felt that the hypothetical student profiles were very realistic and acknowledged having had cases in "real life" that were similar.

Four of the residency officers pointed out an additional factor that adds to the complexity of student circumstances. They indicated that besides the student situations, they also had to sort through the documentation provided by the students. That documentation, they pointed out, added to the difficulty in making residency classifications because it was sometimes inconsistent, contradictory, incomplete, or in the words of one of the officers, "completed in a flippant manner." Given the complexity of the residency rules and the complexity of the circumstances of students, why is it that greater variability did not occur in the classification of the hypothetical students in the study? A partial answer to the question can be found in the use of training by the state in its attempt to
exercise control of the residency process. Training was a factor anticipated to influence the residency process.

Balancing the Scales

Earlier in this article, the process of residency determination was compared to the use of balance scales. One of the roles of the residency officer, it was said, was to ensure a proper measurement. As in the case of real scales, proper measurement requires that the scales themselves be properly balanced. Because the imaginary residency scales are located within the mind of the residency officer, training represents the attempt of the state and the individual institution to ensure that prior to making a residency classification, the empty dishes of the scale are in balance and that the types of evidence to be placed into the dishes are accorded the same "weight."

The primary form of training provided by the state is in written form. The residency rules are contained in a 21 page manual distributed to those involved in making residency classifications. In responding to the interview question about training, the residency officers frequently referred to the Coordinating Board manual. In addition to the manual, the residency officers reported having received written updates and interpretations from the Coordinating Board and the state's Attorney General as changes in the law occurred or in response to questions they had submitted for formal opinions. The residency officers also reported that on an infrequent basis, the Coordinating Board had sponsored workshops on residency. They also reported consulting by telephone with the Coordinating Board's staff member primarily responsible for residency determination issues. When asked to categorize the "formal training" they had received, six said they had received "little", one said he had received "some," and one said he had received "substantial" formal training. The remaining residency officer did not categorize his formal training but
stated that "very few meetings by the state or anyone else" had been provided. Formal training was operationally defined as training received from sources outside the universities of the residency officers in the study. In addition to the training manual distributed by the state that lists the residency rules, and the Coordinating Board workshops and letters, another source of formal training identified by two residency officers was provided by a professional organization, the Texas Association of Collegiate Registrars and Admissions Officers. One residency officer described having attended meetings of the association and another referred to a workshop at which residency practices were discussed.

By contrast to the small amount of formal training, four of the residency officers described the extent of their "informal training" as extensive, and three as substantial. The remaining two did not categorize the extent of their informal training but suggested that they had received more informal than formal training. The contrasting levels of training received by the residency officers indicate an important way in which organizational structure can influence the actions of the residency officers.

Most of the training received by the residency officers came from their own institutions. They appear to have learned how to make residency classifications based upon their own reading of the residency rules and by the example of others from their own institutions. "My training has been on-the-job training and working experience....People in our business are reflections of the character of the institution and our predecessors."

Five of the residency officers described their training by referring to it as "on-the-job training." Those that did not use the term "on-the-job" described their training as a learning by doing experience with direct supervision in the early stages:
The training I have comes from talking with the registrar and two assistants. The office gave me 15 questionnaires. I evaluated them using the booklet and the file we have. I then discussed the evaluations with the three other people and looked at the discrepancies.

The training can best be described as a type of internship. One of the residency officers described the "internship" in a very personal way:

I received father-to-son training. I came in as Associate Registrar and received training from the Registrar. I was given the [residency manual from the Coordinating Board] and told, 'Here, read this. If you have any questions we'll discuss it.' I received good answers to my questions.

The type of training received by the residency officers is important. If this study had found that extensive formal training was provided to the residency officers, then it would have been reasonable to expect that they would have classified the hypothetical students with greater consistency than actually occurred during the study. However, they received little formal training. The primary source of their training was informal and consisted of internship-type experiences provided by their own institutions.

Because most of their training was provided by their institution, the residency classifications they made during the study may have reflected an altered or "coded" understanding of the residency rules. Coding was identified earlier as the tendency of individuals, groups, and organizations, to omit, select, refine, elaborate, distort, and transform communication that is received. The tendency was said to be due to internal categories developed by individuals to assist them in understanding and passing on information. The internal categories, however, can have a negative effect if they act as a filter, screening out or simplifying the important information. That negative effect was exemplified in the creation of "institutionalized rules" described earlier. The
negative effect of coding is even more pronounced because of the predominance of informal training.

In an informal internship-type training environment, the coding that was done by the predecessors or coworkers of the residency officers would very likely have been institutionalized. During an internship-type training the procedures and interpretations of a predecessor or a coworker would have been presented as the right way to make residency determinations. Individuals who understood their position to be that of an intern would almost certainly have incorporated the procedures and interpretations of their predecessors into their own frames of reference. This negative effect of informal training is not likely to have been significantly moderated by the limited formal training received by the residency officers. The "residency scales" then, appear to have been balanced unevenly across institutions. The primary reliance upon informal training by most institutions appears to have served to perpetuate coded understandings of the residency rules which in turn have been adopted and perpetuated in the form of institutionalized rules.

Bias and Variability

A factor similar to coding was expected to be found during the study. That factor was "bias." It is similar to coding because it too is a distortion or simplification of the residency rules. In the case of bias, the distortion or simplification reflects the personal preference of an administrator in utilizing particular rules, procedures, or criteria. The preference can be for or against their use or express itself in the frequency with which they are used. It is important to note that the term "bias" is not reflective of a moral judgment. According to Downs (1967), it is a term used in the research literature on bureaucratic behavior that attempts to explain decision-making by bureaucrats that ultimately results in behavior. In the case of residency, bias
could express itself as favoring the use of one residency criteria over all or most others, showing preference for certain types of student circumstances, or tending to favor strict or liberal interpretation of the statutes, rules, and regulations.

Surprisingly, while comments by the residency officers expressed biases, they were generally expressions of their preferences only and not how they actually made their classifications. For example, one of the residency officers felt that there should be special provision made for elementary and high school teachers recruited from outside the state, because the state benefits from their presence. He reasoned that the intent of teachers coming from outside the state was clearly to teach, rather than to attend school. They enrolled in classes only to meet the state's required certification courses, yet were required to pay nonresident tuition. The residency officer felt strongly that change was needed but gave no indication of having been more lenient in applying the residency rules to teachers in the circumstance described.

A similar bias was voiced by another residency officer regarding university staff members. Staff members without faculty ranking who are hired from another state by a Texas public college or university must pay nonresident tuition if they enroll in classes prior to living in the state for 12 months. Although they have clearly entered the state to work in higher education, they do not qualify for the waiver accorded to faculty members or to part-time students in teaching assistant positions. Again, the residency officer felt very strongly and expressed a bias against the regulation but gave no indication of having made exceptions based on his personal viewpoint. In two cases a link between bias and

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7 Statute:Section 54.063 "A teaching assistant or research assistant of any institution of higher education and the spouse and children of such a teaching assistant or research assistant are entitled to...pay the tuition and fees and other fees or charges required for a Texas resident..."
variability was found. The first has already been presented in the finding of institutionalized rules. In that case a residency officer reported taking a "more lenient" approach to classifying refugees from Vietnam because he felt that they had "clearly abandoned their domicile." Additional comments made by the residency officer provide further evidence of the linkage. He stated that he sometimes made reclassifications for refugee students in some cases even when they could not provide much written documentation.

The second example of a possible link between bias and decision-making was found in the bias expressed by a number of the residency officers for making conservative residency classifications. The term "conservative" was a self describing adjective used by several of the residency officers. During the analysis of the data obtained from the interviews, one of the categories used to code or sort the data was "bias for strict interpretation" of the residency rules. Those residency officers that expressed that bias were placed in rank order according to the frequency with which they described themselves or their approach to residency determination as conservative, strict, or a similar adjective. The rank order grouping of the residency officers was then compared to the frequency with which individual residency officers made classifications as residents, nonresident, or made no classification. It was hypothesized that those expressing a stronger bias for conservative application of the residency rules would make fewer resident classifications than their colleagues. As hypothesized, three of the four residency officers expressing the bias classified only 3 of the hypothetical students as residents and the fourth officer classified only 4 of the hypothetical students as residents.

The frequencies with which individual residency officers used each of the three possible classifications is detailed in Table 3.
TABLE 3

Classifications Made
By The Residency Officers

\[ f = \text{frequency} \quad R = \text{rank} \]

| College | Resident | | | Nonresident | | | No Classification | | |
|---------|----------|---|---|-------------|---|---|-----------------|---|
|         | \( f \) | \( R \) | | \( f \) | \( R \) | | \( f \) | \( R \) | |
| IA.     | 6        | 1  | | 6        | 4  | | 1        | 3  | |
| IIA.    | 3        | 4  | | 10       | 1  | | 0        | 4  | |
| IIIA.   | 5        | 2  | | 5        | 5  | | 3        | 2  | |
| IB.     | 4        | 3  | | 8        | 2  | | 1        | 3  | |
| IIB.    | 3        | 4  | | 7        | 3  | | 3        | 2  | |
| IIIIB.  | 4        | 3  | | 6        | 4  | | 3        | 2  | |
| IC.     | 4        | 3  | | 6        | 4  | | 3        | 2  | |
| IIC.    | 3        | 4  | | 7        | 3  | | 3        | 2  | |
| IIIC.   | 5        | 2  | | 4        | 6  | | 4        | 1  | |

Totals: 37 Residents 59 Nonresidents 23 Not Classified

Structural Differences

Like training, coding, and bias, another anticipated factor found in the study was "structural differences." To examine structural differences a set of contextual factors was identified based on the review of the literature on complex organizations. Questions designed to elicit them were then built into the interview schedule. Using the contextual factors the study sought to examine the setting in which residency officers work and identify any links between structural differences and variability.

Residency officers do not engage in the practice of residency determination in a vacuum. They work within the broad
bureaucratic structure of the state and also within the more defined structures of their institutions. The literature on the behavior of individuals in complex organizations suggested that differences in organizational structure affect the actions of the individuals working within them. Said Hall (1982, p. 55), "structural characteristics and personal characteristics interact. Indeed, things that might appear to be a consequence of individual actions can turn out to have important structural linkages." A finding of markedly different structural settings within which residency officers work might help to explain the variability that was found in the classifications of the hypothetical students. Differences were found in the institutional structures within which residency officers made their residency classifications. Those differences are detailed in Tables 4a and 4b.

### TABLE 4a

**Contextual Factors**

<table>
<thead>
<tr>
<th>YEARS OF EXPERIENCE</th>
<th>% OF JOB</th>
<th>ANNUAL CLASSIFICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>PERSONALLY INSTITUTION</td>
</tr>
<tr>
<td>IA. 6</td>
<td>10</td>
<td>25 900-1000</td>
</tr>
<tr>
<td>IIA. 13</td>
<td>20-25</td>
<td>1000-1500 1000-1500</td>
</tr>
<tr>
<td>IIIA. 6</td>
<td>50</td>
<td>2000 3000</td>
</tr>
<tr>
<td>IB. 9</td>
<td>2</td>
<td>60 75-100</td>
</tr>
<tr>
<td>IIB. 1</td>
<td>15-20</td>
<td>500-700 500-700</td>
</tr>
<tr>
<td>IIIB. 4 months</td>
<td>5</td>
<td>100 300</td>
</tr>
<tr>
<td>IC. 16</td>
<td>2</td>
<td>50 1200</td>
</tr>
<tr>
<td>IIC. 1</td>
<td>5</td>
<td>200 200</td>
</tr>
<tr>
<td>IIIC. 15</td>
<td>very small</td>
<td>250-300 2000</td>
</tr>
</tbody>
</table>
# Table 4b

## Contextual Factors

<table>
<thead>
<tr>
<th>Residency Coworkers</th>
<th>Job Title</th>
<th>Department</th>
<th>Size of Total Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>IA.</td>
<td>Manager of Records</td>
<td>Registration and Records</td>
<td>35</td>
</tr>
<tr>
<td>IIA.</td>
<td>Associate Registrar</td>
<td>Registrar</td>
<td>75</td>
</tr>
<tr>
<td>IIIA.</td>
<td>Residency Officer</td>
<td>Admissions</td>
<td>80</td>
</tr>
<tr>
<td>IB.</td>
<td>Director</td>
<td>Admissions and Records</td>
<td>18</td>
</tr>
<tr>
<td>IIB.</td>
<td>Registrar</td>
<td>Registrar</td>
<td>15</td>
</tr>
<tr>
<td>IIIIB.</td>
<td>Assistant Registrar</td>
<td>Records Department</td>
<td>10</td>
</tr>
<tr>
<td>IC.</td>
<td>Assistant Vice Pres.</td>
<td>Enrollment Services</td>
<td>11</td>
</tr>
<tr>
<td>IIC.</td>
<td>Director</td>
<td>Enrollment Services</td>
<td>23</td>
</tr>
<tr>
<td>IIIIC.</td>
<td>Registrar</td>
<td>Registrar</td>
<td>16</td>
</tr>
</tbody>
</table>
As can be seen from Tables 4a and 4b, the residency officers worked in different departments and at different levels of administration within their institutions, were responsible for a wide variety of responsibilities in addition to residency classifications, were a part of different sized departmental staffs, had from no to three coworkers sharing the responsibility for making residency classifications, and differed in their level of involvement in making residency classifications. The study also found that some of the residency officers did nearly all of the residency classifications for their institutions while others reported making only a small percentage of their institution's residency classifications.

Those residency officers who reported making a small percentage of their institutions' residency determinations served as supervisors of the staff members who did the bulk of the classifications. They also reported that they worked with the more difficult cases. The following statement made by one residency officer is representative of the statements made by his counterparts that also reported making a small number of classifications, "I used to do virtually all of the residency classifications but am now the final [recourse]. I do about 2%, but they are the tough 2%.

The differences found in the settings and administrative levels within which the residency officers worked were reflective of the different organizational structures of the institutions. Great care was taken in the selection process to ensure that any differences that were found would be due to organizational structure and not simply to differences in the participants that were chosen. Before beginning the study, telephone conversations were held first with the registrars and then with the residency officers to identify the most appropriate participants. The residency officers who participated in the study were selected because they were responsible for the residency classifications of students who were either appealing their initial classifications or had been
enrolled as nonresidents and were seeking reclassification. They were those individuals who by nature of their responsibility for residency determination were required to use their judgment and were most likely to exercise discretion in making the classifications.

During the process of selecting the participants it became apparent that although they held common responsibilities in the area of residency determination, they worked at different levels of authority within their institutions and were directly involved with making residency classifications to varying degrees. The differences in the levels of involvement reported by the residency officers are important. In one case a residency officer reported that on the average he had personal contact with 2,500 to 3,000 students a year and made approximately 2,000 residency classifications. By contrast, another residency officer stated:

"We don't see students; the secretary does and gives them the form and describes the procedure. The secretaries give [the questionnaires] back to us and we do the determination and return the decision back to the secretary. They pull up a form letter and send it out. We only find out about appeals accidentally."

The residency officer from institution IIA who reported high contact with large numbers of students and who had no coworkers made residency classifications in a work setting very different from that of his counterpart at institution IIIB. The residency officer at institution IIIB reported that residency determination was shared with two residency coworkers and and he did not have direct contact with students. Structural differences at the two institutions served to regulate contact with students in very distinct fashions. Later in this monograph, the data will reveal that high contact with students could affect residency determination because of the "pressure" exerted by students on the residency officers. As will be shown, the residency officer from institution IIA reported that he sometimes felt "attacked" by students and had
taken the attacks personally because he always tried to explain his classifications. By contrast, the residency officer who reported having no contact with students and who had two residency coworkers was almost totally insulated from student pressure. The differences in structural setting may influence residency determination because they serve to regulate student access to the residency officers. A link is suggested and will be further illustrated later in the monograph.

Another structural difference that was found to influence residency determination was the collegial or "professional" nature of the universities and the departments in which residency officers work. In professional organizations, high discretion is given to individuals. They are treated as colleagues and given wider latitude in decision-making than in a typical bureaucracy where management pyramids can be quite "tall." The professional status given to the residency officers and the collegial authority accorded them can be seen in the degree of discretion they exercised in making residency determinations. Every one of the residency officers reported receiving almost no supervision once they had completed their initial internship-type training. They were also quick to add that they preferred having little to no supervision. Several of the officers who were also supervisors reported that they did not supervise their staff closely in the area of residency determination.

As would be expected of individuals who were not supervised closely, most of the residency officers reported that they had a high degree of discretion in making residency determinations. Said one of the residency officers:

I have complete discretion. No one will question me or look at a file. I could make a resident out of anyone if I wanted to. But I base [the classifications] on the laws, rules, and regulations.

Not all of them reported having a high degree of discretion. When one of the residency officers was asked about
the degree of discretion he had in making residency classifications, he said he did not have much discretion because "the statutes, rules, and regulations are pretty cut and dry" and another stated that he did not have a lot of discretion and "plays it very conservatively [because] it is a conservative statute." The other residency officers described having two levels of discretion. On the one hand, they reported that since no one reviewed their classifications, they had "a lot of discretion." On the other hand they acknowledged that the structure of the residency rules limited the discretion they had in making interpretations. The qualifying statement "but I base it on the laws, rules, and regulations" demonstrated the tempering effect of the residency rules on the more loosely structured institutional settings within which they worked. While their work setting provided them with high discretion, they also expressed that they had a responsibility to apply the rules fairly and consistently. This is an example of how the bureaucratic structure shared by state institutions served to limit or control variability.

A factor related to discretion that was also found to influence residency determination was "frequency of consultation with colleagues." Based upon the literature on professional organizations, it was anticipated that the study would find a high degree of consultation among residency officers. Considering the complexities of residency determination, the numerous factors that appear to add to the difficulty of making accurate residency classifications, and the lack of supervision, it was expected that residency officers would consult each other frequently. The anticipated purpose of that consultation would have been to arrive at residency classifications that were consistent within their own institutions and across institutions. Surprisingly, the opposite was found. Four of the residency officers reported that they consulted with their colleagues at other institutions only infrequently. The other five said they normally did not consult with other residency officers. Those residency
officers who said they did consult with their colleagues said they did so only when confronted by particularly difficult residency cases.

An important and unanticipated finding of this study is that residency officers work in relative isolation. As shown by the review of the contextual factors that make up the organizational structures within which they work, those differences are likely to contribute to variability because the residency officers have high discretion, are not supervised, and rarely consult with each other. Additionally, the relative lack of formal training given to residency officers means that there is little structure provided to temper the effects of the many factors that contribute to variability.

What structure or other factors limit variability in the classification of similarly situated students? The study found evidence of an important structural feature of universities that appears to have helped limit the variability that occurred in the residency classifications of the hypothetical students. The residency officers of individual universities are part of a larger bureaucratic structure that is designed to control the process of residency classification. Residency officers, in addition to serving as officials of their own college or university, are also aware that they are part of the state's bureaucratic structure. When asked about their role as residency officers, a common response was that they were charged with applying the residency rules in a fair and consistent manner. Several of them also stated that part of their role was to protect the income due the state from nonresident students. Their perceptions of their roles as part of a structure that transcended their individual institutions and their reliance upon the residency manual provided by the Coordinating Board served to limit variability. It is also important to note that while it was previously shown that the informal internship-type training received by most residency officers tended to perpetuate the coding of the residency rules and institutionalization of unpublished or unwritten rules,
there is a positive feature to internship-type training. It can be a very effective means of training. The problem lies not in the use of informal training but rather in the lack of formal training that can serve as a statewide standard against which the accuracy of informal training can be checked or measured. The concept "concern about variability" can help to illustrate how the broader bureaucratic structure of the state influenced the self perceived roles of the residency officers and thereby served to limit variability.

Concern About Variability

An important finding of this study was that the concern about variability voiced in the research literature was also a conscious concern of practicing residency officers. While the residency officers in the study were aware that the written survey instrument was designed to examine variability, during the interviews they were never asked if they believed or were concerned that variability might be occurring. At various points, without prompting, seven of the nine residency officers voiced their concern that they and their colleagues were applying the residency rules in a dissimilar manner. They also stated the reasons for their belief. In response to Question 14 of the interview schedule, (How satisfied are you with the current structure of residency determination?), one of the residency officers expressed his concern quite emphatically, "I basically believe that the state is losing millions of dollars in erroneous classifications because there doesn't seem to be uniformity in the way we interpret the rules and regulations. "Later in the interview he stated why he believed that little uniformity existed in residency classification, "You are left to your own devices to apply [the residency rules] in a fair and equitable manner. That is because we have no formal training to make it consistent." Another residency officer stated, "Different people make different interpretations. In
calling my colleagues at other institutions, I find that they have their own interpretations."

Each of the residency officers, in stating their concern about variability, acknowledged that there were standards that they were responsible to follow but also pointed out that there were problems in the way the standards were disseminated and interpreted. They stated that they found those problems to be disconcerting because although they attempted to implement the residency rules accurately and consistently, their day-to-day experience suggested that variability occurred. Three of the residency officers described encounters with students that were classified at other Texas colleges in a manner with which they did not agree. Said one of the three, "I am uncomfortable when the students say they can go somewhere else and be classified as residents. [I am also uncomfortable when] they are concurrently enrolled—they [have gone] somewhere else and been classified as residents."

Consistent in each of the interviews was a clear intent on the part of the residency officers to make accurate residency determinations. The influence of the residency rules, their own understanding of their roles as representatives of the state, and their experience of problem situations, worked together to heighten in them a concern about variability. That concern appeared to strengthen the resolve of the residency officers to apply the residency rules in a consistent manner based upon their best interpretations. As a consequence, the broader bureaucratic structure of the state served to limit variability.

Applied Pressure

An important, unanticipated factor found during the study was "applied pressure." The residency officers participating in the study referred frequently to the emotional pressure to which they were sometimes subjected by students. Applied pressure is different from persistence. Students are usually
persistent in arguing their "claim" to a classification as a resident. Some students may even be persistent enough to go through one or more appeals processes. Hellmuth (1981) reported that at the University of West Virginia, 1,211 students appealed their initial classifications, 405 entered an appeal at a second level, 131 appealed to a third level, 8 made a fourth appeal, and three students made a fifth appeal of their residency classifications by going to the president of the university. Although none did so in the example of the University of West Virginia, some students may even be persistent to the point of initiating legal suits. "Applied pressure" differs in that it refers to strategies used by students that has nothing to do with the law. For example, students may plead hardship in an attempt to receive a change in residency status based on emotion. Other students might be rude or insulting. The intent implied in the concept "applied pressure" is to get the residency officer to "give in," on a basis other than the rules. One residency officer described his reaction to applied pressure, "I take it personally when I am attacked [by students] because I always try to explain, give details, and give them the procedure for appeal." In another part of the interview, the same residency officer described the process of residency classification as "volatile and sensitive because of the monies involved" and added that the classifications have a "large emotional impact." Another residency officer described the emotional pressure of making residency classifications when dealing with particularly difficult or very uncooperative students, "It is also difficult to try to handle people that holler at me and rant and rave. How can you be fair with them and mean with people who are nice?"

That the impact of making residency classifications is felt strongly by both the person making the classification and by the student being classified can be seen in the response to the question, "How satisfied are you with the current structure for residency determination?" One residency officer
responded, "I am not at all satisfied! I want out. I would much prefer being out of it. It is time consuming and heart rending."

From the data collected during this study, it was not possible to link the pressure under which the residency officers work to the variability that occurs in the classification of similarly situated students. Interactions with students were not "built into" the classifications made of the hypothetical students. There also was no question in the interview that asked them specifically if they believed that their own decisions or those of their colleagues were actually influenced by the pressure to which they are sometimes subjected by the students. Although no clear link could be established, a link is suggested at two levels: The first is based on the concern about the pressure expressed by the residency officers even though no specific question was asked about it; and the second is the experience reported by two residency officers who reported having had to reclassify students as the result of "political pressure."

Two residency officers referred to individual occasions when variability occurred within their own institutions. While the circumstances were slightly different, the problems both residency officers faced were essentially the same. The description of one of the residency officers captured the situation both experienced:

I denied residency to a student. The student went to a legislator, and then word came to me from our legal counsel and the president that I should make him a resident. I was not happy with that one. The potential exists to have people litigate all kinds of suits.

That two of the nine residency officers indicated having had to reclassify students at the direction of their superiors and indirectly because of pressure from a legislator, strongly suggests that a problem exists. This type of pressure will be termed "external pressure." Although the primary source is
still the student, an individual who is not part of the university is enlisted to "apply the pressure" on behalf of the student. This is different from other instances in which a student attempts to circumvent the normal "chain of command" by going to a residency officer's superior in pressing for a reclassification.

The statement of another residency officer pointed to an additional type of "pressure" that may be placed upon residency officers. Said the residency officer, "Some people don't want to take the heat. They don't apply them [the residency rules] like the guidelines tell them to....Some take a lax view because of fear of affecting enrollments." As was stated, earlier, there is "heat", or pressure, involved in dealing with the reactions of students who are dissatisfied with their residency classifications. But another form of applied pressure may come from the university administration. As implied by the previous quotation, one of the residency officers believed that some of his colleagues interpreted the residency rules somewhat loosely in order to increase enrollments of students from outside the state, or maintain those already enrolled. While no link was found between the statement by the residency officer and the actual practice or statements of other residency officers in the study, a link could exist. In an atmosphere in which the administration of a university is stressing the need for increased enrollments, or there is great concern about decreasing enrollments, it is possible for a residency officer's decisions to be influenced. The linkage from the data in this study is tentative. Olivas (1987, p.21) also suggested a link between enrollment patterns and the level of scrutiny applied in residency determination. There is clearly a need for additional study in this area.

Reaching a better understanding of the different types of pressure to which residency officers are subjected is an important direction for future research. Several specific points should be explored. Do they believe others change their classifications as a result of student pressure? Have they ever
changed their own initial classifications as a result of student pressure even though they felt the reclassification was unwarranted based upon the facts? Have they ever experienced being "told" to reclassify a student either because of pressure from a legislator or from someone within the institution not normally in the residency decision-making chain?

Conservatism

As has already been described, residency classifications are influenced simultaneously by the state structure and the institutional structure within which residency officers work. A good example of how both structures influence residency classifications can be seen in the distinct ways in which individual residency officers view their role. The residency officers in the study expressed a conscious concern about the variability they believe occurs in the classification of similarly situated students within the State of Texas. One way in which the residency officers were found to respond to that concern was by taking a generally conservative approach to making residency classifications. In the classifications they made during the study and from the statements they made during the interviews, it appeared as though they were reluctant to confer resident status. The degree of conservatism voiced by the 9 residency officers varied from one officer to another but was evident in six of them. The felt need for being conservative in making classifications seemed to flow from the structure of the residency rules themselves and from the institutional setting in which the residency classifications were made. One residency officer stated strongly that his institution was very conservative and that he himself was a conservative individual:
I try to look at things as black or white. I try not to let emotions play a part. You can't be fair if you let emotions come in....I don't bend much because of my training and my personality. I am as fair as I can be....My responsibility is to make correct residency determinations and be fair in each case, and determine what is legally right or wrong.

Another residency officer described his basic responsibility as keeping "the state from being cheated out of the tuition difference." In another part of the interview, the same residency officer said that he "takes the hard line." He also described having been told by students that he is too "hard nosed." Six of the residency officers referred to themselves as conservative and generally believed that they were stricter than many of their colleagues at other institutions. Their belief was based on their experience of denying residency to students that had been classified as residents at other institutions. One residency officer expressed his feeling about having to counter the residency decisions of one of his counterparts from another institution:

It is most troublesome when we have students that we have denied residency bring us a letter of admission from another Texas school that has classified [them] as residents. In particular, as [I] mentioned earlier, when they are classifying people with green cards for one year as residents. We say that is wrong, they say it is right. We are right and they are wrong...no criteria exists for reclassification until they have held the green card for one year and meet the requirements.

Even when a more liberal point of view was reflected by a residency officer, a conservative element was still apparent:

Well, my responsibility is to apply the statutes fairly, responsibly, and look at the documentation and if not fulfilling the letter of the law then to see if it fulfills the spirit of the law. If trying to establish the spirit of the law, someone else must be able to see it and agree to approve [the classification].
The quotation reflects a more liberal approach to making residency classifications than that expressed by the other two residency officers. This more liberal approach, however, is tempered by the residency rules. The officer felt compelled to have someone else verify that there was room for a "spirit of the law" approach.

Along with describing themselves as "conservative" in applying the residency rules, some of the residency officers expressed the opinion that the statutes themselves were "conservative." The tendency towards conservatism in making residency classifications was an unanticipated factor identified during the study. Based upon the literature review, it was anticipated that residency officers would express a full range of biases towards making residency classifications, that is, some would tend to be more liberal, others more conservative, and the rest show a preference for a middle-of-the-road approach. The finding suggests as an hypothesis that the broader bureaucratic structure of the state's residency process exerts an influence on the individual residency officer that limits variability by encouraging a conservative approach to residency determination.
RECOMMENDATIONS

While it is certain that total uniformity in the residency classifications of similarly situated students is an unrealistic and possibly undesirable goal, the findings of this study suggest several changes that may serve to limit the variability that does occur. One of those changes is much needed—a formal, centralized training program for residency officers.

Given the complexity of the statutes, rules, and regulations, the complexity of the student circumstances, and the unique settings in which unique human beings must function as residency determination officers, it would seem obvious that regular centralized training is essential to counteract the many factors that contribute to variable classifications of similarly situated students. But current practice belies the reality. Currently, residency officers are given an early indoctrination through an internship-type learning experience and then are left almost totally on their own to continue implementing the residency rules. They receive little to no additional informal training and little to no formal training. They are generally not supervised, and consult their colleagues and the Coordinating Board only infrequently. Consequently, it is not surprising that this study confirmed that variability occurs not only in the classifications of similarly situated students, but even in the classification of identical hypothetical students.

Another problem exists with the current emphasis on informal training. While it is generally an effective strategy for passing on the bulk of the residency rules, it is also equally effective in perpetuating coded, biased, or simply incorrect information about residency determination. That is because of the lack of a centralized standard.

It is further recommended that the training employ the use of hypothetical student profiles. The serviceability of hypothetical student profiles as training tools was suggested
by several of the residency officers who participated in this study. During the interviews, they reported having used the hypothetical student profiles as training tools for their residency classification coworkers.

The second change suggested by this study is the issuance of periodic updates in the form of companion documents to the manual, Rules and Regulations: Residence Status (Spring 1986, Coordinating Board Texas College & University System). As was demonstrated in the study, "how to" manuals are poor in effectively communicating information. The effectiveness is further limited if there are problems in disseminating the written directives. One of the findings of the study was that there appears to be inconsistency in residency classifications because residency officers sometimes use different criteria. The use of different criteria, in some cases, appears to be related to the inconsistent transmittal of the updates on applying or interpreting the residency rules. To minimize the problem, the practice of distributing letters and memos should be continued, but in addition, the updates should periodically be published in a companion manual, perhaps employing a rule/comment/example format. When residency officers are confronted with a complex student circumstance, they would be able to look at both the manual and its companion instead of relying upon the accuracy of their having filed assorted memos and letters. Without a companion manual, it is possible that some residency officers fail to find letters or memos listing the updates and must therefore rely solely upon their memories. The advantages of a companion manual are clear.

Two more recommendations suggested by the study concern the lack of clarity and the structural presentation of the residency rules. Throughout the responses given to questions from the interview schedule, the residency officers alluded both to the lack of clarity and the ambiguity of the residency terminology employed in the manual and also to
problems in understanding how to apply some of the statutes because they or the accompanying rules and regulations were segmented and awkward. When reading the manual that guides residency classification, the reader is referred from one section to another. While such a structure saves duplication of information and limits the size of the manual, it also increases the likelihood of errors and makes reading and interpretation more difficult than necessary. The referral from one section to another is further complicated by the fact that some of the rules and regulations are not mere interpretations of the statutes, but extensions of the statutes. It is recommended that to limit the ambiguity of the terminology employed in the statutes, rules, and regulations, a more inclusive glossary section be created and that the terms included be carefully defined. The residency manual should also be changed so as not to refer the reader from section to section. Each section should be as self contained and clearly explained as possible. As described earlier, a rule, comment, example format might prove to be very helpful in adding clarity to the residency process.

Another very important change needed in the practice of residency determination is the creation by the Coordinating Board of a standard residency questionnaire to be used at all public colleges and universities in the state. During this study, seven residency questionnaires from participating institutions were examined. While the questionnaires requested similar information, the formats of the questionnaires varied dramatically. One residency questionnaire consisted of only one side of one page and asked only 13 questions, of which only nine or fewer would need to be answered by any one person. By contrast, the longest questionnaire was comprised of 3 double sided pages. Although only two double sided pages in length, another questionnaire asked 39 questions, most of which contained several parts. The extent of the information requested also varied markedly. While one questionnaire asked for a
student's residences for the past two years, another required residences for the past six years; both exceed the 12 months required by the law. Some of the residency questionnaires did not ask for banking information while others asked for banking information about accounts held in the state and outside the state, including whether they maintained checking, savings, and safety deposit box accounts. One residency questionnaire even asked students to list the month, year, and IRS center used for filing federal income tax returns for the last six years.

Some of the differences in information required by some universities can be explained because of the way in which the residency questionnaires are used. In some cases they are meant only to augment the information from a student's application for admission. In other cases they are designed to stand alone. But even when the differences in structure are accounted for, there remain large differences in types of information requested and formats for the information to be presented. In addition to differences in the questions asked of students, the types of supporting documents required to be submitted along with the questionnaires also varied greatly. Given the differences found among the questionnaires of the participating institutions, it is possible that the hypothetical student profiles might have appeared quite differently to the residency officers on the forms they normally use.

To improve consistency, a standardized residency questionnaire for all institutions should be designed, requiring only the most important and agreed upon data. The questionnaire should form one piece of a two piece information packet on residency. The second piece should be the expanded manual described in the previous recommendation. It would list the residency rules and contain guidelines for their application. The questionnaire should be designed to refer to the residency manual and reflect the manual's design. Standardizing the format would assist students in
understanding the meaning of the questions they are asked and help them to better understand what is required of them in order to qualify as residents. The standardized approach would also prove serviceable for use in the training sessions conducted by the Coordinating Board, and they would be of obvious use in training new residency officers within individual institutions.

In conclusion, the process of residency determination, which from its inception has been considered to be problematic by those responsible for its implementation, continues today to be a process that raises many legal, procedural, and even ethical questions. In its current state, the practice of residency determination is of questionable benefit. Designed to favor state residents by assessing them a lower tuition rate, it may in fact, serve to deprive state residents of the benefits due to them and accord those benefits in error to students who are nonresidents. The variability that occurs opens the state to the charge that its residency practices are arbitrary.

Short of a major restructuring of the residency process to make the current system serviceable, greater emphasis must be placed upon centralized coordination, preferably through the use of periodic, state-wide training sessions. Only by the creation and promulgation of a clear standard in residency determination can the variability be effectively limited. A mechanism should also be put into place to increase consultation among the residency officers.

While implementing these suggestions for change may not solve the problems altogether, they will be a good first step in ensuring that students receive the kind of informed attention to which they are entitled. The impact of residency classifications on their lives is too great to allow the process to continue in its present form.
References


Bryan v. Regents of University of California, 188 Cal. 559, 205 Pac. 1071 (1922).


APPENDICES

APPENDIX 1

HYPOTHETICAL STUDENT PROFILE SUMMARIES

1a. Sandra H. Livingstone

Facts: The student is a 23 year old married female. She moved to Texas with husband and enrolled in classes within two months as a full-time student. After 12 months in Texas (as a student) she is applying for change of residency based on: 1) 12 months in the state, 2) marriage to a Texas resident (husband was employed full-time and not a student for 14 months after arriving in Texas, 3) claimed by husband as dependent for income tax purposes, 4) lease agreement, 5) voter registration, 6) car registration, and 7) valid Texas Driver's License.

Questions: Does marriage to a Texas resident plus having resided in the state for 12 months qualify her for reclassification despite not having been employed in the state, and having been a full-time student since two months after her arrival? Has she established residency on her own merits as required by the Coordinating Board rule that states, "A nonresident who marries a resident must establish his or her own residency by meeting the standard requirement. (See Individuals over 18)" (p. 8, Rules and Regulations: Residence Status)?

1b. Sandra H. Livingstone

This is the same profile (Sandra H. Livingstone 1a) with one difference. In addition to the facts presented in the first profile, the student and her husband have purchased a home in Texas. She offers documentation of that purchase as further evidence of having established domicile.

2. Gerard L. Brown

Facts: The student is a 22 year old male from Michigan. He has resided in the state for 15 months. He entered state to "look for work," but has been unemployed for 12 of the 15 months in the state. He has local bank account and can produce utility receipts documenting continuous presence in the state. His license plates and registration for his car were issued in Michigan and he is still using a Michigan driver's license.
Question: Does his presence in the state qualify him for residency or must he have worked for a longer period of time? Statute Section 54.052(e) states, "An individual who is 18 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."

3. Janie M. Schiller

Facts: The student is a 17 year old female who has lived her entire life in Texas. Her parents divorced and her mother was given custody and currently claims her as a dependent for tax purposes. She, however, does not reside with her mother who is now a Florida resident and has been so for almost 2 years. She has continued as a high school student in Texas while living with her grandmother. She has applied for college and is requesting residency for tuition purposes.

Question: Statute Section 54.052(c) states, "An individual who is under 18 years of age or is a dependent and 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." Statute Section 54.055 states, "An individual who is 18 years of age or under who is a dependent and 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." She is in transition from high school to college. Does the statute apply?

4. Frank J. Barton

Facts: The student is a 19 year old male. He moved to Texas and entered college two months after entering the state. He is employed full-time as a busboy at a local restaurant and is enrolled as a part-time student. He has resided in the state continuously for the past 14 months and is registered to vote, has his car registered in the state, has a valid Texas driver's license, and has supplied copies of his own income tax records. He is also involved in local civic and charitable organizations.

Questions: Does his employment in the state along with the other documentation he submitted establish his intent to reside in Texas for other than educational reasons? How heavily is full-time employment weighed and does the nature of the employment affect the outcome?
5. Jimmy R. Sanchez

Facts: The student is a 23 year old male. He is a naturalized citizen of the United States who entered the state from Arizona. Almost immediately after his arrival in Texas he secured full-time employment and work for approximately 10 months. After living in Texas for 10 months he enlisted in the military. Three months prior to enlisting he relocated his mother from Arizona to the apartment at which he was residing and paid rent and utilities throughout the period of his military service. While in the military he continued to use the address of the apartment as his permanent mailing address. Upon his discharge he returned to Texas and took up residence in the apartment with his mother. After 2 months back in the state he is registering for classes and is seeking to be classified as a Texas resident for tuition purposes.

Questions: Is the 12 month residency requirement met even though the student physically resided in the state for only 10 months prior to enlisting and 2 months after his discharge. Is the continued payment of rent and utilities sufficient evidence of an intent to be a true resident of the state?

6. Francis N. Ryan II

Facts: The student is a 22 year old male who moved to Texas and enrolled in classes at the university within two months of the move. He paid nonresident tuition for one year and is now seeking reclassification as a Texas resident. Submitted as evidence is a notarized affidavit from an elderly couple stating that they have employed Francis from the time he entered the state. His work responsibilities included care of their lawn and garden, maintenance of two automobiles, regular chauffeur responsibilities, and assisting them with their needs. At any time he was present in the home he was "on call" and responsible for other routine household chores. The affidavit further states that Francis answered an ad they placed in the newspaper and was one of many candidates they interviewed before making a final selection. They state that they chose to employ him on the strength of the letters of recommendation he presented and on the strength of a personal employment interview they conducted with him. After one year in the state he is seeking reclassification based upon 12 months in the state, being gainfully employed, having registered to vote, and possessing a valid Texas driver's license. Also furnished as evidence are documents showing that he maintains a checking and savings account at a neighboring bank. Because of the non monetary nature of his compensation, he has chosen not to file federal income tax statements.

Questions: Does the nature of his employment qualify as gainful employment? Does the fact of his having been a student while residing in the state for the 12 months combined with the
unique nature of his employment negate the possibility of being reclassified to resident status?

7. Natalie M. Pierson

Facts: The student is a 24 year old female. She has been attending college and paying resident tuition because of waivers due to her position as a teaching assistant. After two years on waivers, she has completed her masters and been hired as a member of the school's professional staff. Because she has been in the state for 24 months and now has a full-time professional appointment on the college's staff, she is asking to be classified as a resident while she pursues doctoral courses.

Questions: Is the time in the state while on tuition waivers considered in making a residency determination? Does the acceptance of a full-time professional position establish her intent to be a resident? Must she wait an additional 12 months before being reclassified?

8. Jason H. Bell

Facts: Student is a 19 year old male from outside the state. His father was a military pilot and was killed during an accident. His mother requested him to accompany her to Texas even though he had not been claimed as a dependent and had not been living with his parents for two years. Because of the need to help his mother, he will be living with her. Claiming exemption under Statute Section 54.058(f) which states, "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..." The Coordinating Board rules and regulations, however, state that "members of the immediate family (which includes spouse or dependent children) of members of the armed forces who dies..." (p. 11). Their classification remains as nonresident but they qualify for a waiver.

Question: Does the fact of the student not having been a dependent for tax purposes or not having lived with his parents disqualify him from obtaining the waiver?

9. Sandra Mitchelleti

Facts: Student is a 19 year old female. She has been living with her grandmother in the state on a year around basis for two and one-half years. While she has been a student for most of that time, she has resided in a home purchased by her mother who is intending to move to Texas. Because of the nature of her work, the mother has lived both in Texas and in New York and maintains homes in both places. She has resided in the
Texas residence for 8 months of the year each of the past two years. She has submitted as proof of her intent to reside in the state a letter of employment documenting her having been assigned to open a branch of the business in the state and manage it. While she maintains a Michigan driver's license, she owns a car that is registered in Texas and owns the home in which her mother and daughter (the student) reside.

Question: Do the unique circumstances provide sufficient proof of the intent of residency in the state by the mother? If so, is residency thereby conferred to the daughter who is a dependent and has been living in Texas, albeit as a student, for the past two years?

10. Lawrence Aronowski

Facts: The student is a 22 year old male who entered the United States as a political exile. He has been working full-time in the state as a construction worker since his arrival. He has resided in the state for 14 months. During the first 6 months in the state and the country, his status was as a pending asylee and for the following 8 months he had asylee status. He is now enrolling for classes as a part-time student and is requesting to pay resident tuition.

Question: Does the 12 month durational residency requirement "clock" begin from the time he entered the state or does it begin after he was officially granted status as a political asylee? Does the fact of full-time employment influence his qualification for residency?

11. Carlos Weisman

Facts: The student is an 18 year old male and an entering freshman. Born in Mexico, his parents brought him to the United States at the age of 8. His parents entered the country without documentation. He attended elementary, junior high, and high schools in the state. His presence in the state has been continuous. He has applied for and been accepted to college.

Question: While not in the United States as a legal resident, he has resided in the state for ten years with his parents. Is his domicile established in Texas? Does he qualify for residency for tuition purposes?

12. Kinto Mogabi

Facts: The student is a 25 year old male from Nigeria. He entered the United States on an F-1 visa which expired when he failed to maintain full-time enrollment. He has been residing in the state for the past 6 years while out of status with the Immigration and Naturalization Service. During that time he
has been employed full-time and has purchased a home. He is now returning to school as a part-time student.

Questions: While he has met the durational residency requirement of 12 months and has been gainfully employed, can he qualify for payment of the resident tuition rate despite not being in status for immigration purposes?