

AP 5015 Residence Determination

Reference:

**Education Code Sections 68000 et seq. 68130.5 68074.7-68075.7 and 68086;
Title 5 Sections 54000 et seq.; 38 U.S. Code Section 3679**

Residence Classification – Residency classifications shall be determined for each student at the time of each registration and whenever a student has not been in attendance for more than one semester. Residence classifications are to be made in accordance with the following provisions:

- A residence determination date is that day immediately preceding the opening day of instruction for any session during which the student proposes to attend.
- Residence classification is the responsibility of the Admissions Office.

Students will be notified of residence determination within 14 calendar days of submission of application.

A student seeking to enroll exclusively in career development and college preparation courses, and other courses for which no credit is given, shall not be subject to this residency classification requirement.

The District shall publish the residence determination date and summary of the rules and regulations governing residence determination and classification in the District catalog or addenda thereto.

Rules Determining Residence

- A student who has resided in the state for more than one year immediately preceding the residence determination date is a resident.
- A student who has not resided in the state for more than one year immediately preceding the residence determination date is a nonresident.

The residence of each student enrolled in or applying for enrollment in any class or classes maintained by this District shall be determined in accordance with the Education Code that, states that every person has, in law, a residence. In determining the place of residence, the following rules are to be observed:

- Every person who is married or eighteen years of age, or older, and under no legal disability to do so, may establish residence.
- A person may have only one residence.

- A residence is the place where one remains when not called elsewhere for labor or other special or temporary purpose and to which one returns in seasons of repose.
- A residence cannot be lost until another is gained.
- The residence can be changed only by the union of act and intent.
- A student may establish their residence. A student's residence shall not be derivative from that of their spouse or domestic partner.
- The residence of the parent with whom an unmarried minor child maintains their place of abode is the residence of the unmarried minor child. When the minor lives with neither parent, the minor's residence is that of the parent with whom the last place of abode was maintained, provided the minor may establish their residence when both parents are deceased and a legal guardian has not been appointed.
- The residence of an unmarried minor who has a parent living cannot be changed by the minor's own act, by the appointment of a legal guardian, or by relinquishment of a parent's right of control.

Determination of Resident Status

A resident is a student who has been a bona fide resident of the state for one year prior to the residence determination date. A bona fide resident is a person whose residence is in California as determined above except:

- A student who is a minor and remains in this state after the parent, who was previously domiciled in California and has established residence elsewhere, shall be entitled to retain resident classification until attaining the age of majority and has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.
- A student who is a minor and who provides evidence of being entirely self-supporting and actually present in California for more than one year immediately preceding the residence determination date with the intention of acquiring a residence therein, shall be entitled resident classification until they have resided in the state the minimum time necessary to become a resident.
- A student who has not been an adult for one year immediately preceding the residence determination date for the semester for which the student proposes to attend an institution shall have the immediate pre-majority-derived California residence, if any, added to the post-majority residence to obtain the one year of California residence.

- A student holding a valid credential authorizing service in the public schools of this state, who is employed by a school district in a full-time position requiring certification qualifications for the college year in which the student enrolls in an institution, shall be entitled to resident classification if each student meets any of the following requirements:
 - They hold a provisional credential and are enrolled in courses necessary to obtain another type of credential authorizing service in the public schools.
 - They hold a credential issued pursuant to Education Code Section 44250 and are enrolled in courses necessary to fulfill credential requirements.
 - They are enrolled in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Education Code Section 44259.
 - A student holding a valid emergency permit authorizing service in the public schools of this state, who is employed by a school district in a full-time position requiring certification qualifications for the academic year in which the student enrolls at an institution in courses necessary to fulfill teacher credential requirements, is entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one year. Thereafter, the student's residency status will be determined under the other provisions of this procedure.
- A student who is a full-time employee of the California State University, the University of California or a community college, or of any state agency or a student who is a child or spouse of a full-time employee of the California State University, the University of California or a community college, or of any state agency may be entitled to resident classification, until the student has resided in the state the minimum time necessary to become a resident.
- A student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty and is in attendance at, or has been admitted to, the District shall be entitled to resident classification. If the member of the armed forces of the United States later transfers on military orders to a place outside this state, or retires as an active member of the armed forces of the United States, the student dependent shall not lose their resident classification, so long as they remain continuously enrolled in the District.

- A student who is a member of the armed forces of the United States stationed in this state, except a member of the Armed Forces assigned for educational purposes to a state-supported institution of higher education, is entitled to resident classification only for the purpose of determining the amount of tuition and fees. If the student later transfers on military orders to a place outside this state, the student shall not lose their resident classification, so long as they remain continuously enrolled in the District.
- A veteran who was discharged or released from at least 90 days of active service less than three years before the date of enrollment in a course commencing on or after July 1, 2015, and their dependents, regardless of the veteran's state of residence is entitled to resident classification.
- An individual who is the child or spouse of a person who, on or after September 11, 2001, died in the line of duty while serving on active duty as a member of the Armed Forces who resides in California.
- An individual who is entitled to transferred Post-9/11 GI Bill program benefits by virtue of their relationship to a member of the uniformed services who is serving on active duty.
- A student who is a minor and resides with their parent in a district or territory not in a district shall be entitled to resident classification, provided that the parent has been domiciled in California for more than one year prior to the residence determination date for the semester, quarter, or term for which the student proposes to attend.
- A student who is a Native American is entitled to resident classification for attendance at a community college if the student is also attending a school administered by the Bureau of Indian Affairs located within the community college district.
- A student who is a federal civil service employee and their natural or adopted dependent children are entitled to resident classification if the parent has moved to this state as a result of a military mission realignment action that involves the relocation of at least 100 employees. This classification shall continue until the student is entitled to be classified as a resident, so long as the student continuously attends an institution of public higher education.
- A student who resides in California and is 19 years of age or under at the time of enrollment, who is currently a dependent or ward of the state through California's child welfare system, or was served by California's child welfare system and is no longer being served either due to emancipation or aging out of the system, may be entitled to resident classification until they have resided in the state the minimum time necessary to become a resident.

- A student who lives with a parent who earns a livelihood primarily by performing agricultural labor for hire in California and other states, and the parent has performed such labor in this state for at least two months per year in each of the two preceding years, and the parent resides in this District and the parent of the student has claimed the student as a dependent on their state or federal personal income tax return if they have sufficient income to have personal income tax liability shall be entitled to resident classification.
- A student who demonstrates financial need, has a parent who has been deported or was permitted to depart voluntarily, moved abroad as a result of that deportation or voluntary departure, lived in California immediately before moving abroad, attended a public or private secondary school in the state for three or more years, and upon enrollment, will be in their first academic year as a matriculated student in California public higher education, will be living in California, and will file an affidavit with the District stating that they intend to establish residency in California as soon as possible.
- A student who has a special immigrant visa that has been granted status under Section 1244 of Public Law 110-181 or under Public Law 109-163, or is a refugee admitted to the United States under Section 1157 of Title 8 of the United States Code, and who, upon entering the United States, settled in California, shall be exempt from paying the nonresident tuition fee required by Section 76140 for the length of time they live in this state up to the minimum time necessary to become a resident.

Granting California Residency

California residency will be granted if all of the following criteria are met:

1. Evidence of physical presence in California for one year and one day prior to the residence determination date by providing documentation of continuous occupancy of rented or leased property in California or utility bill with a California residence;
2. Evidence of financial independence by providing state and federal tax returns where the student has not and will not be claimed as an exemption by their parent(s) in the calendar year prior to the year the reclassification application is made;
3. Evidence of intent to make California the home for other than a temporary purpose by maintaining a California driver's license or California ID.

If all of the above criteria are not met, the student may provide additional evidence of intent to make California their home for other than temporary purposes. To do so the student must provide evidence for #1 above and four (4) additional items from the list below. Items must be obtained/dated by December 31st for residency classification the following fall semester and by

May 31st for residency classification the following spring semester. The Residency Questionnaire, evidence and a written narrative describing their intent must be submitted to the Admissions and Records Office prior to the start of the semester for which the student seeks reclassification. The Residency Committee, whose membership includes the Chief Student Services Officer, Dean of Instruction/CIO, and Registrar, will then determine if there is a sufficient union of act and intent by reviewing the coupling of the student's physical presence in California with objective evidence of intent, along with a personal explanation of how the student's evidence and intent fit together.

Objective manifestations of intent to establish California residence include, but are not limited to:

1. Evidence of financial independence by providing state and federal tax returns where the student has not and will not be claimed as an exemption by their parent(s) in the calendar year prior to the year the reclassification application is made;
2. Evidence of intent to make California the home for other than a temporary purpose by maintaining a California driver's license or California ID.
3. Ownership of residential property or continuous occupancy of rented or leased property in California.
4. Registering to vote and voting in California.
5. Licensing from California for professional practice.
6. Active membership in California professional, religious, merchant, or service organizations or social clubs.
7. Presence of spouse, children, or other close relatives in the state.
8. Showing California as home address on federal income tax forms.
9. Payment of California state income tax as a resident.
10. Maintaining California motor vehicle license plates/registration.
11. Maintaining permanent military address, or home of record in California while in armed forces.
12. Establishing and maintaining active California bank accounts.
13. Being a petitioner of divorce in California.
14. Remaining in California during academic breaks.
15. Registering for the Selective Service in California (indicating California address)
16. Other

Physical presence within California solely for educational purposes does not allow a student to establish residence, regardless of the length of time present in the state (EC 68043, T5 54022(c)).

Right to Appeal – Students who have been classified as non-residents have the right to a review of their classification (Title 5 Section 54010 (a)). Any student, following a final decision of residence classification by the Admissions Office, may make written appeal to the Superintendent/President

within 30 calendar days of notification of final decision by the college regarding classification.

Appeal Procedure – The appeal is to be submitted to the Admissions Office, which must forward it to the Superintendent/President within five working days of receipt. Copies of the original application for admission, the residency questionnaire, and evidence or documentation provided by the student, with a cover statement indicating upon what basis the residence classification decision was made, must be forwarded with the appeal.

The Superintendent/President shall review all the records and have the right to request additional information from either the student or the Admissions Office.

Within 30 calendar days of receipt, the Superintendent/President shall send a written determination to the student. The determination shall state specific facts on which the appeal decision was made.

Reclassification – A student previously classified as a non-resident may be reclassified as of any residence determination date. A residence determination date is that day immediately preceding the opening day of instruction for any session during which the student proposes to attend.

Petitions are to be submitted to the Admissions Office.

Petitions must be submitted prior to the semester for which reclassification is to be effective. Extenuating circumstances may be considered in cases where a student failed to petition for reclassification prior to the residency determination date. In no case, however, may a student receive a non-resident tuition refund after the date of the first census.

Written documentation may be required of the student in support of the reclassification request.

A questionnaire to determine financial independence must be submitted with the petition for reclassification. Determination of financial independence is not required for students who were classified as non-residents by the University of California, the California State University, or another community college District (Education Code Section 68044).

A student shall be considered financially independent for purposes of residence reclassification if the applicant meets all of the following requirements:

- Has not and will not be claimed as an exemption for state and federal tax purposes by their parent(s) in the calendar year the reclassification application is made and any of the three calendar years prior years

- prior to the year the reclassification application is made;
- Has not and will not receive more than (\$750) per year in financial assistance from their parent(s) in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification; and
 - Has not lived and will not live for more than six weeks in the home of their parent(s) during the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application.

A student who has established financial independence may be reclassified as a resident if the student has met the requirements of Title 5 Sections 54020, 54022, and 54024.

Failure to satisfy all of the financial independence criteria listed above does not necessarily result in denial of residence status if the one-year requirement is met and demonstration of intent is sufficiently strong.

Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than financial dependence in the preceding second and third calendar year. Financial dependence in the current or preceding calendar year shall be overcome only if (1) the parent on whom the student is dependent is a California resident, or (2) there is no evidence of the student continuing residence in another state.

The Residency Committee will make a determination, based on the evidence and notify the student no later than 14 days of receipt of the petition for reclassification.

Students have the right to appeal according to the procedures above.

Non-Citizens – The District will admit any non-citizen who is 18 years of age or a high school graduate.

If non-citizens are present in the United States illegally or with any type of temporary visa, they will be classified as non-residents and charged non-resident tuition unless they meet the exceptions contained below.

If, for at least one year and one day prior to the start of the semester in question, a non-citizen has possessed any immigration status that allows them to live permanently in the United States and they meet the California residency requirements, the student can be classified as a resident.

Any students who are U.S. citizens, permanent residents of the U.S., and aliens who are not non-immigrants (including those who are undocumented), may be exempt from paying nonresident tuition if they meet one of the

following requirements:

- Total attendance of, or attainment of credits earned while in California equivalence to three or more years of full-time attendance or attainment of credits at any of the following: (a) California high schools; (b) California high schools established by the State Board of Education; (c) California adult schools established by either a county office of education, unified or high school district, or the Department of Corrections and Rehabilitation; (d) campuses of the California community colleges; or (e) a combination thereof; or
- Three or more years of full-time high school coursework in California, and a total of three or more years of attendance in California elementary schools, or a combination of California elementary and secondary schools.

Additionally, the following requirements must be met:

- Graduation from a California high school or attainment of the equivalent thereof; or completed an associate degree from a California Community College; or completed the minimum requirements at a California Community College, or fulfill the minimum transfer requirements established for the University of California or the California State University for students transferring from a campus of the California Community Colleges;
- Registration or enrollment in a course offered by any college in the District for any term commencing on or after January 1, 2002,
- Completion of a questionnaire form prescribed by the State Chancellor and furnished by the District of enrollment, verifying eligibility for this nonresident tuition exemption; and
- In the case of a student without lawful immigration status, the filing of an affidavit that the student has filed an application to legalize their immigration status, or will file an application as soon as they are eligible to do so.

Documents and information obtained in implementing this exemption are confidential.

The initial residency classification will be made at the time the student applies for admission. Students may file residency questionnaire forms through the third week of the semester to request a review of their residency status. Final residency determination is made by the Residency Committee. Students may appeal the decision.

Reference: BP

#5015 Approvals:

Academic Senate: April 8, 2020

Classified Senate: January 16, 2020

Cabinet: May 7, 2020