Residence Determination

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References: Education Code Sections 68000 et seq., 68130.5; Title 5 Section 54000 et seq., 55023, 55024, 54041, 54042, 54050 and 58620; Military and Veterans Code Section 824

Residency classifications shall be determined for each student at the time of each application 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 term during which the student proposes to attend.
- Residence classification is the responsibility of the Admissions Office.
- Students must be notified of residence determination within 14 calendar days of submission of application.

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 which 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 man or a woman may establish his or her residence. An individual’s residency cannot be derivative from their spouse.
• The residence of the parent with whom an unmarried minor child maintains his/her 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.
• The minor may establish his/her 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.

Exceptions
In some instances a student may obtain a waiver of non-resident tuition for a prescribed period of time. 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 a waiver of non-resident tuition 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 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 to a waiver of non-resident tuition until he or she has 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 premajority-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 the 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 a waiver of non-resident tuition if each student meets any of the following requirements:
  o He or she holds a provisional credential and is enrolled in courses necessary to obtain another type of credential authorizing service in the public schools.
o If he or she holds a credential issued pursuant to Education Code 44250 and is enrolled on courses necessary to fulfill credential requirements.

o He or she is enrolled in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Education Code Section 44259.

o 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 a waiver of non-resident tuition only for the purpose of determining the amount of tuition and fees for not 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 or University of California or a community college, or of any state agency may be entitled to a waiver of non-resident tuition, until the student has resided in the state the minimum time necessary to become a resident.

- A student who is a member of the armed forces of the United States stationed in California on active duty, except a member of the armed forces assigned for educational purposes to a state-supported institution of higher education is entitled to a waiver of non-resident tuition. Such student shall retain a waiver of non-resident tuition in the event that the member of the armed forces is thereafter transferred on military orders to a place outside of California or thereafter retires from active duty, so along as the student remains continually enrolled in the District.

- 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 shall be entitled to a waiver of non-resident tuition. If a member of the armed forces of the United States later transferred 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 his or her waiver of non-resident tuition until he or she has resided in the state the minimum time necessary to become a resident. Such student shall retain a waiver of non-resident tuition if he or she is thereafter transferred on military orders to a place outside of California, so long as the student remains continuously enrolled in the District.

- A student claiming a military waiver of non-residency tuition must provide a statement from the student’s commanding officer or personnel officer providing evidence of the date of the assignment to California, and that the assignment to active duty in California is not for educational purposes. A student claiming a waiver of non-resident tuition for a dependent of military personnel shall provide a statement from the military person’s commanding officer or personnel officer that the military person’s duty station is in California on active duty as of the
A student who is a member of the armed forces of the United States stationed in this state on active duty for more than one year immediately prior to being discharged from the armed forces is entitled to a waiver of non-resident tuition for the length of time he or she lives in this state after being discharged up to the minimum time necessary to become a resident.

A student who is a minor and resides with his or her parent in a district or territory not in a district shall be entitled to a waiver of non-resident tuition, 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 a waiver of non-resident tuition 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 his or her natural or adopted dependent children are entitled to a waiver of non-resident tuition 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 waiver 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 a waiver of non-resident tuition until he or she has 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 his state or federal personal income tax return if he or she has sufficient income to have personal income tax liability shall be entitled to a waiver of non-resident tuition.

Any amateur student athlete in training at the United States Olympic training center in Chula Vista is entitled to a waiver of non-resident tuition until he or she has resided in the state the minimum time necessary to become a resident.

Rules in determining residency are provided in Education Code, Title 5 and the California Community Colleges Chancellor’s Office legal advisories and are subject to change.

**Right To Appeal.** Students who have been classified as non-residents have the right to a review of their classification. Any student, following a final decision of residence
classification by the Admissions Office, may make written appeal to the Admissions Officer for any term during which he or she proposes to attend.

**Appeal Procedure.** The appeal is to be submitted to the Admissions Office, which must forward it to the Admissions Officer within five (5) business days of receipt. The residency questionnaire, and evidence or documentation provided by the student, must be submitted for review of the student’s residence classification.

The Admissions Officer shall review all the records and have the right to request additional information from the student.

Within 10 business days of receipt, the Admissions Officer shall notify the student and the notification shall state specific facts on which the appeal decision was made.

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

Appeals for residence reclassification are to be submitted to the Admissions Office and will only be accepted for terms during which a student proposes to attend.

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

**Financial Independence** A student seeking reclassification as a resident, who was classified as a non-resident in the preceding term, shall be determined to be financially independent or dependent in accordance with 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 his or her parent in the calendar year prior to the year the reclassification application is made;
- Has not lived and will not live for more than six weeks in the home of his or her parent during the calendar year the reclassification application is made.
- Has not and will not receive more than $750 per year in financial assistance from his/her parents in current or preceding calendar year the reclassification application is made.

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 years. 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 intent to establish residence in another state; however, since financial status is only one factor to be considered, the college may still wish to require some affirmative showing of intent to become a California resident.

The Admissions Office will make a determination, based on the evidence and notify the student not later than ten (10) business days of receipt of the appeal for reclassification.

Non-Citizens. The District will admit non-citizens (except students with B visas issued after April 11, 2002 until further notice from the Bureau of Citizenship and Immigration Services) who are eighteen (18) years of age or high school graduates.

If non-citizens are present in the United States without lawful immigration status 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 him or her to live permanently in the United States and she or he meets the California residency requirements, the student can be classified as a resident.

A student who is a U.S. Citizen, permanent resident of the U.S., and aliens who are not non-immigrant (including those who are undocumented), who meet the following will be eligible for the California Non-Resident Tuition Exemption:

- High school attendance in California for three or more years;
- Graduation from a California high school or attainment of the equivalent thereof; such as a High School Equivalency Certificate issued by the California State GED office or a Certificate of Proficiency resulting from the California High School Proficiency Exam;
- Registration for classes not earlier than the fall semester or quarter of 2001-2002;
- The filing of an affidavit that the student has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.
- If the District is in possession of conflicting information regarding any aspect of student eligibility, the District shall pursue additional verification to resolve discrepancies prior to granting this exemption.
Initial residency classification will be made at the time the student applies for admission. Students may submit a California Non-Resident Tuition Exemption Request form for any term during which he or she proposes to attend. Final residency determination is made by the Admissions Officer.

See Board Policy 5015.