



AP 5015 RESIDENCE DETERMINATION

References:

Education Code Sections 68000 et seq., 68130.5, and 68075.7;
Title 5 Sections 54000 et seq.;;
38 U.S. Code Section 3679

Residence Classification

Residency classifications shall be determined for each student 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 Admissions & Records.

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

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

- In order to establish a residence, it is necessary that there be a union of act and intent. To establish residence, a person capable of establishing residence in California must couple his/her physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose. A student who has resided in the state for more than one year immediately preceding the residence determination date may be determined to be a resident for the purpose of tuition at a California community college.
- A student who has not resided in the state for more than one year immediately preceding the residence determination date is a nonresident.

Pursuant to Title 5 Section 54010, residence classification shall be made for each student at the time applications for admission are accepted and whenever a student has not been in attendance for more than one semester. A student previously classified as a nonresident may be reclassified as of any residence determination date.

The student shall be required to present evidence of physical presence in California, intent to make California the home for other than a temporary purpose and, if the student was classified as a nonresident in the preceding term, financial independence.



The District shall require applicants to supply information as specified in Title 5 Section 54010 and may require additional information as deemed necessary. The District shall weigh the information provided by the student and determine whether the student has clearly established that he/she has been a resident of California for one year prior to the residence determination date. Applicants shall certify their answers on residence questionnaires under oath or penalty of perjury.

The District may authorize any information required to determine residence classification be submitted electronically using encrypted digital signatures as specified in Title 5 Section 54300.

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/her residence. A person's residence shall not be derivative from that of 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, provided 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.

Determination of Resident Status

A 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 he/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 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:
 - He/she holds a provisional credential and is enrolled in courses necessary to obtain another type of credential authorizing service in the public schools.
 - He/she holds a credential issued pursuant to Education Code Section 44250 and is enrolled in courses necessary to fulfill credential requirements.
 - He/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.
 - 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 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 his/her resident classification, so long as he/she remains continuously enrolled in the District.
- A student who is a member of the armed forces of the United States stationed in this state 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 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 his/her resident classification, so long as he/she remains 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 his/her dependents, regardless of the veteran's state of residence is entitled to resident classification.
- A student who is a minor and resides with his/her 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. (Education Code Section 68082)
- A student who is a federal civil service employee and his/her 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 he/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/her state or federal personal income tax return if he/she has 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 his or her 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 he or she intends to establish residency in California as soon as possible.

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 Admissions & Records, may make written appeal to the Chief Student Services Officer or designee within 30 calendar days of notification of final decision by the college regarding classification.

Appeal Procedure – The appeal is to be submitted to Admissions & Records which must forward it to the Chief Student Services Officer or designee 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 Chief Student Services Officer or designee shall review all the records and have the right to request additional information from either the student or Admissions & Records.

Within 30 calendar days of receipt, the Chief Student Services Officer or designee shall send a written determination to the student. The determination shall state specific facts on which the appeal decision was made.

Reclassification – A student may request residency reclassification by completing the Petition for Residency Reclassification and submitting it to Admissions & Records.



Petitions must be submitted prior to the semester for which reclassification is to be effective. Extenuating circumstances (documented cases of medical and/or family emergency) 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.

Evidence (defined on the Petition for Residency Reclassification) that documents physical presence, intent, and financial independence will be required of the student in support of the reclassification request.

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/her non-resident 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/her non-resident 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 parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application. (See Education Code Section 68044)

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.

Admissions & Records will make a determination, based on the evidence and notify the student not later than 14 days of receipt of the petition for reclassification.

Students have the right to appeal according to the appeal 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 him/her to live permanently in



the United States and she/he meets the California residency requirements, the student may be classified as a resident.

Any students who are U.S. citizens, permanent residents of the U.S., and aliens who are not nonimmigrants (including those who are undocumented), may be exempt from paying nonresident tuition if they meet all of the following requirements:

- high school attendance in California for three or more years;
- graduation from a California high school or attainment of the equivalent thereof;
- registration or enrollment in a course offered by the District for any term commencing on or after January 1, 2002,
- completion of a questionnaire form prescribed by the State Chancellor's Office 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 his/her immigration status, or will file an application as soon as he/she is eligible to do so.
- Students who meet the non-resident tuition exemption (AB 540) requirements are not eligible for the exemption if they are intending to enroll in distance education courses without being physically present in California.

Date Approved: October 29, 2015

Legal Reference Update #25: November 2014

Legal Reference Update #26: April 2015

Legal Reference Update #27: October 2015