

Residency Determination

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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 Director of Admissions and Records.

Establishing residence in California requires a “union of act and intent.” This requires (1) the act of physical presence in California for one year prior to the residence determination date and (2) objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose. The one-year residence period which a student must meet to be classified as a resident does not begin to run until the student both is present in California and has manifested clear intent to become a California resident. If a student or the parents of a minor student relinquish California residence after moving from the state, California residence must be reestablished. The district shall weigh the information provided by the student and determine whether the student has clearly established they have been a **resident of California for one (1) year prior to the residence determination date**. The burden is on the student to demonstrate clearly both physical presence in California and intent to establish California residence.

- **Physical presence.** Presence in California solely for educational purposes does not constitute residence regardless of the length of that presence. Also, a temporary absence for business, education or pleasure will not result in loss of California residence if, during the absence, the person always intended to return to California and did nothing inconsistent with that intent.
- **Intent.** Intent to make California the home for other than a temporary purpose may be manifested in many ways. No one factor is controlling.

Presumption of California residence with 2 continuous years in California. A student who has maintained a home in California continuously for the last two years shall be presumed to have the intent to make California their residence. For minor students under 19 years of age, the presumption applies if both the student and their parent maintain a home in California continuously for the last two years.

This presumption can be overcome by a contrary intent inconsistent with a claim of California residence. Such evidence of a contrary intent includes but is not limited to any of these activities:

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- 1) Maintaining voter registration and voting in another state.
- 2) Being the petitioner for a divorce in another state.
- 3) Attending an out-of-state institution as a resident of that other state.
- 4) Declaring non-residence for state income tax purposes.

Objective evidence of California residence. Students not meeting requirements of presumption must provide objective evidence of intent to make California their home for other than a temporary purpose. Such evidence includes but is not limited to:

- 1) Ownership of residential property or continuous occupancy of rented or leased property in California.
- 2) Registering to vote and voting in California.
- 3) Licensing from California for professional practice.
- 4) Active membership in service or social clubs.
- 5) Presence of spouse, children or other close relatives in the state.
- 6) Showing California as home address on federal income tax form.
- 7) Payment of California state income tax as a resident.
- 8) Possessing California motor vehicle license plates.
- 9) Possessing a California driver's license.
- 10) Maintaining permanent military address or home of record in California while in armed forces.
- 11) Establishing and maintaining active California bank accounts.
- 12) Being the petitioner for a divorce in California.

CALIFORNIA RESIDENCY & NONRESIDENT TUITION

Nonresident Tuition

A student classified as a **nonresident** shall be required, subject to exceptions described below, to pay, in addition to other fees required by the institution, nonresident tuition.

A nonresident is a student who does not have residence in California for more than one year immediately preceding the residence determination date. A resident is a student who has established residence in California for more than one year immediately preceding the residence determination date.

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The “residence determination date” is that day immediately preceding the opening day of instruction of the quarter, semester, or other session as set by the district governing board, during which the student proposes to attend a college and established to determine a student’s residence.

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 or quarter. 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 student shall further be required to present evidence supporting any exemption from the nonresident tuition fee. Student applicants shall certify their answers on the **residence questionnaire** under oath or penalty of perjury.

Determinations for purposes of residency and nonresident tuition shall be made consistent with the rules and standards set forth in the California Education Code (Educ. Code Sections 6800-68134, 76140-76143) and the California Code of Regulations, Title 5, Education (5 CCR 54000-54072), as well as the rules, if any, adopted by the District’s governing board. These rules and standards are available in full upon request and are summarized below.

The burden rests with the student to provide any necessary documentation to determine residency status. Failure to provide any required documentation will result in a status of non-resident and the student will be liable for all applicable fees. The student applicant will be notified of the student’s residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student’s application for admission, whichever is earlier. Any student may make written **appeal** to the Director of Admissions and Records of that decision pursuant to the District’s established procedures for appeals of residence classifications (page 6).

Residence

A residence is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which they return in seasons of repose. Every person who is married or 18 years of age, or older, and under no legal disability to do so, may establish residence in California.

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Minors. The residence of an unmarried minor child is that of the parent with whom such child maintains their place of abode. When the minor lives with neither parent, their residence is that of the parent with whom the minor maintained their last place of abode, 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 his or her own act, by the appointment of a legal guardian, or by relinquishment of a parent's right of control.

Non-Citizen students. A non-citizen not precluded from establishing domicile in the United States by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) shall be eligible to establish residency in California. A non-citizen is precluded from establishing domicile in the United States if the non-citizen: (1) entered the United States illegally (undocumented non-citizens); (2) entered the United States under a visa which requires that the non-citizen have a residence outside of the United States; or (3) entered the United States under a visa which permits entry solely for some temporary purpose. A non-citizen precluded from establishing domicile in the United States shall not be classified as a resident unless and until they have taken appropriate steps to obtain a change of status from the Immigration and Naturalization Service to a classification which does not preclude establishing domicile, and have met the requirements of physical presence and the intent to make California home for other than a temporary purpose. The residence of an unmarried minor non-citizen shall be derived from their parents pursuant to the provision applicable to all minors discussed above.

Reclassification

A student previously classified as a nonresident may be reclassified as of any residence determination date. A student seeking reclassification must satisfy the residency requirements (physical presence and intent) for one year prior to the residence determination date. **Financial independence** is a factor that must be considered as part of the residency determination for a student seeking reclassification. Financial independence shall weigh in favor of finding California residence, and financial dependence shall weigh against finding California residence. Financial dependence in the current or preceding calendar year shall weigh more heavily than in earlier 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 the student's continuing residence in another state.

Financial independence. A student shall be considered financially independent if they meet all of the following requirements:

- A. Student has not and will not be claimed as an exemption for state and federal tax purposes by their parent in the calendar year prior to the year the reclassification application is made;
- B. Student has not lived and will not live for more than 6 weeks in their parent's home during the 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 section 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.

The Admissions and Records Office 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 this procedure.

Right to Appeal. To appeal a residency determination decision, a student may file a Residency Determination Appeal Form with the Admission & Records Office prior to the residency determination date. The Residency Appeal Form 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 nonresident tuition refund after the date of the first census. Supporting documentation will be required of the student in support of the reclassification request and must be turned in prior to the end of the current semester. 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 nonresidents by the University of California, the California State University, or another community college district (Education Code Section 68044).

Appeal Procedure. The appeal is to be submitted to the Admissions and Records Office and reviewed by the Director of Admissions and Records 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 Director of Admissions and Records shall review all the records and have the right to request additional information from the student.

Within 10 calendar days of receipt, the Director of Admissions and Records shall send a written determination to the student. The determination shall state specific facts on which appeal decision was made.

If the decision of the Director of Admissions and Records is to uphold the denial of residency or reclassification, the student can appeal further to an Ad Hoc residency committee within 5 business days of receipt of the denial. The Ad Hoc committee is to be appointed by the Superintendent/President and will be made up of a college administrator, a faculty member and one other college employee. The Ad Hoc committee will have 5 business days to consider the appeal and make a recommendation to the Superintendent/President. The Superintendent/President shall have 5 days to accept or deny the recommendation. The decision of the Superintendent/President shall be final.

Students Exempted from Nonresident Tuition Fee. Certain students are entitled to resident classification for purposes of nonresident tuition fee, or are otherwise exempted from the nonresident tuition fee, as follows:

- **High school students.** High school students attending on part time basis through special programs (academic/technical)
- **US citizen with financial need residing abroad.** Student who is a US citizen residing in a foreign country if resided in California immediately before moving abroad as a result of parent's deportation or voluntary departure, demonstrates financial need, attended secondary school in California for 3 or more years, will be 1st academic year, and files an affidavit stating their intent to establish residency in California as soon as possible.

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- **Contract with Government.** Where paid for by a state, a county contiguous to California, the federal government, or a foreign country, or an agency thereof, pursuant to contract with the District.
- **Student relocated by employer.** Student absent from state for not more than 4 years where relocation due to job transfer per request of employer of student, parent (where student resided with and was a dependent of parents), or student's spouse, and student would qualify as a resident at time of application for admission if absence from state disregarded.
- **Spouse or child of certain individuals who died as result of performing law enforcement or fire suppression duties.** Student is surviving spouse or child of deceased person who resided in California and was employed or contracted by a public agency or was a firefighter employed by federal government assigned in this state whose principal duties consisted of active law enforcement service or active fire suppression and was killed, or died from an accident, injury, or illness, as a result of performing such duties. Student's annual income, including the value of any support received from a parent, cannot exceed maximum household income and asset level of an applicant for a Cal Grant B award as set forth in Educ. Code Section 69432.7.
- **Child of individual killed in September 11, 2001 terrorist attacks.** Student is surviving child of individual killed in September 11, 2001 terrorist attacks where student and individual killed in the attacks were residents of California on September 11, 2001. Exemption expires when student obtains the age of 30 years.
- **Nonimmigrant alien victim of serious crime.** Student is victim of trafficking, domestic violence, or other serious crime and granted status as nonimmigrant alien by Secretary of Homeland Security under Section 1101(a)(15)(T)(i) or (ii), or Section 1101(a)(15)(U)(i) or (ii), of Title 8 of the United States Code.
- **Student attaining certain California schooling requirements.** Student satisfies all of the following requirements: (1) One of either: (a) total of 3 or more years of full-time attendance at, or equivalent credits attained while in California, at California high schools, adult schools, or community colleges; or (b) 3 or more years of full-time high school coursework in California and total of 3 or more years of attendance in California

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elementary or secondary schools; (2) One of either (a) Graduation from a California high school or attainment of the equivalent; (b) attainment of associate degree from a campus of the California Community Colleges; or (c) fulfillment of minimum transfer requirements of UC or CSU for students transferring from a campus of the California Community College; (3) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year; and (4) In the case of a person without lawful immigration status, the filing of an affidavit stating 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. A student who is a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code shall not be entitled to this exemption, except that nonimmigrant aliens granted “T” or “U” visa status under title 8 United States Code section 1101(a)(15)(T)(i) or (ii), or section 1101(a)(15)(U)(i) or (ii), respectively, shall be entitled to the exemption. Any student seeking this exemption shall complete a questionnaire form prescribed by the Chancellor of the California Community Colleges and furnished by the district of enrollment, and may be required to provide documentation in addition to the information required by the questionnaire as necessary to verify eligibility. In such questionnaire form, any student without lawful immigration status seeking this exemption shall affirm that they have filed an application to legalize their immigration status, or will file such an application as soon as they are eligible to do so. Documents and information obtained in the implementation of this exemption are confidential.

- **Student remaining in California after parent moves elsewhere.** A student who remains in this state after their parent, who was theretofore domiciled in California for at least one year immediately prior to leaving and has, during the student’s minority and within one year immediately prior to the residency determination date, established residence elsewhere, shall be entitled to resident classification until they have attained the age of majority and resided in the state the minimum time necessary to become a resident, so long as, once enrolled, they maintain continuous attendance at an institution.
- **Self-Supporting Student.** A student who has been 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 resident classification until they have resided in the state the minimum time necessary

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to become a resident. A student claiming the self-supporting exception shall provide evidence, such as documentation including W-2 forms or a letter from the employer, showing earnings for the year immediately preceding the residence determination date of attendance, a statement that the student has actually been present in California for said year (short absences from the state for business or pleasure will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.

- **Minor who has not been an adult more than 1 year preceding residence determination date.** A student who has not been an adult for more than one year immediately preceding the residence determination date for the semester, quarter, or term for which they propose to attend an institution shall have their immediate pre-majority derived California residence, if any, added to their post-majority residence for purposes of meeting the one year of California residence requirement.
- **Student under care of non-parent adult.** A student shall be entitled to resident classification if, immediately prior to enrolling at an institution, they lived with and have been under the continuous direct care and control of any adult(s), other than a parent, for a period of not less than two years, provided that the adult(s) having control have been domiciled in California during the year immediately prior to the residence determination date. This exception shall continue until the student has attained 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 claiming this exception shall provide evidence that the adult(s) with whom the student has resided has had California residence for 1 year immediately preceding the residence determination date, and further evidence that the student has resided with such adult(s) for a period of not fewer than 2 years.
- **Dependent of California resident of more than one year.** A student who has not been an adult resident of California for more than one year and is the dependent child of a California resident who has had residence in California for more than one year prior to the residence determination date shall be entitled to resident classification. This exception shall continue until the student has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.

- **Child of California resident of one year contributing court-ordered support.** A student who has not been an adult resident of California for more than one year and has a parent who has both contributed court-ordered support for the student on a continuous basis and has been a California resident for a minimum of one year shall be entitled to resident classification. This exception shall continue until the student has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.
- **Military Dependent.** 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 California on active duty is entitled to resident classification for the purpose of determining the amount of tuition and fees. Such a student shall not lose their resident classification if the member is transferred on military orders to active duty outside California or retires from the Armed Forces of the United States so long as the student remains continuously enrolled at the institution. A student claiming this exception shall provide a statement from the military member's commanding officer or personnel officer that the military member's duty station is in California on active duty as of the residence determination date; or that the military member is outside of California on active duty after having been transferred immediately and directly from a California duty station after the residence determination date; or that the military member has, after the residence determination date, retired as an active member of the armed forces of the United States. A statement that the student who qualifies for resident classification as a natural or adopted child or stepchild is a dependent of the military member for an exemption on federal taxes shall also be provided.
- **Military Member.** A student who is a member of the Armed Forces of the United States stationed in California is entitled to resident classification for the purpose of determining the amount of tuition and fees, unless they are a member assigned for educational purposes to a state-supported institution of higher education. Such a student shall not lose their resident classification if they are transferred on military orders to active duty outside California so long as the student remains continuously enrolled at the institution. For purposes of this section, "Armed Forces of the United States" means the Air Force, Army, Coast Guard, Marine Corps, Navy, and the reserve components of each of those forces, the California Army National Guard, the California State Military Reserve, and the California Naval Militia. A student claiming this exception shall provide a statement from

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the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California.

- **Members of the Armed Forces Remaining in California after Discharge.** A student who was a member of the Armed Forces of the United States stationed in California on active duty for more than one year immediately prior to being discharged shall be exempt from paying nonresident tuition for the length of time they live in California after being discharged up to the minimum time necessary to become a resident. Such exemption shall be for up to one year if the student files an affidavit with the institution stating that they intend to establish residency in California as soon as possible and shall be used by the student within two years of being discharged. A former member of the Armed Forces of the United States who received a dishonorable or bad conduct discharge shall not be eligible for the exemption provided herein.
- **Refugees and Special Immigrants settling in California.** A student who has a special immigrant visa that has been granted a status under Section 1244 of Public Law 110-181, under Public Law 109-163, or under Section 602(b) of Title VI of Division F of Public Law 111-8, 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 nonresident tuition for the length of time they live in this state up to the minimum time necessary to become a resident.
- **Agricultural laborer and dependents.** A community college district shall classify a student as a district resident if the student, or a parent with whom the student lives, earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed this labor in this state for at least two months per year in each of the two preceding years, and lives within the district which maintains the community college attended by the student. If the student is a dependent of an agricultural laborer, the parent must claim the student as a dependent on their state or federal personal income tax returns if they have sufficient income to have a personal income tax liability. As used in this section agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including seeding, thinning and harvesting.

- **Public School Employee Holding Credential.** 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 is entitled to resident classification if that student meets any of the following requirements: (1) holds a provisional credential and is enrolled at an institution in courses necessary to obtain another type of credential authorizing service in the public schools; (2) holds a credential issued pursuant to Educ. Code Section 44250 and is enrolled at an institution in courses necessary to fulfill credential requirements; or (3) enrolled at an institution in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Educ. 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. A student claiming this exception shall provide a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that they hold a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued by the Board of Governors and is enrolled in courses necessary to fulfill credential requirements.
- **Covered individual eligible for education benefits.** A student enrolled at a campus of the California Community Colleges who meets all of the following requirements shall be exempt from paying nonresident tuition (or any other fee exclusively applicable to nonresident students): (1) the student resides in California; (2) the student meets the definition of "covered individual," as that term is defined in either of the following provisions as they read on January 1, 2017: (a) Section 3679(c)(2)(A) [*a veteran who was discharged or released from a period of not fewer than 90 days of service in the active military, naval, or air service less than 3 years before the date of enrollment in the course concerned*] or Section 3679(c)(2)(B)(ii)(I) of Title 38 of the United States Code [*the child or spouse of a veteran who was discharged or released from a period of not fewer than 90 days of service in the active military, naval, or air service less than 3 years before the date of enrollment in the course concerned*] or (b) Section 3679(c)(2)(B)(i) [*an individual who is*

the child or spouse of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces] or Section 3679(c)(2)(B)(ii)(II) of Title 38 of the United States Code [a member of the uniformed services who has six years of service in the Armed Forces and enters into an agreement to serve at least four more years as a member of the uniformed services who is serving on active duty]; and (3) the student is eligible for education benefits under either the federal Montgomery GI Bill–Active Duty program (Chapter 30 (commencing with Section 3001) of Title 38 of the United States Code) or the Post-9/11 GI Bill program (Chapter 33 (commencing with Section 3301) of Title 38 of the United States Code), as each read on January 1, 2017. A student who qualifies for an exemption under subparagraph (2) (a) above shall, after the expiration of the 3 year period following discharge, be deemed to maintain “covered individual” status as long as the student remains continuously enrolled at a campus. As used in this section, “continuously enrolled” means enrolled for at least the fall and spring semesters of an academic year, or for at least three of the quarters in an academic year for an institution using the quarter system.

- **Minor residing with parent in non-district territory.** A student who is a minor and resides with either his father or mother in a district or territory not in a district shall be entitled to resident classification, provided that the father or mother has been domiciled in California for more than one year prior to the residence determination date and provided the student meets the other requirements of this part.
- **Native American.** A student who is a Native American is entitled to resident classification if the student is also attending a school administered by the United States Bureau of Indian Affairs located within the community college district. “Native American” means an American Indian. Further, a student who is a graduate of any school located in California that is operated by the United States Bureau of Indian Affairs, including, but not limited to, the Sherman Indian High School, shall be entitled to resident classification. This exception shall continue so long as continuous attendance is maintained by the student at an institution.
- **Athlete in training at U.S. Olympic Training Center.** Any amateur student athlete in training at the United States Olympic Training Center in Chula Vista is entitled to resident classification for tuition purposes until they have resided in the state the minimum time necessary to become a resident. “Amateur student athlete” means any student athlete

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who meets the eligibility standards established by the national governing body for the sport in which the athlete competes.

- **Federal civil service employees and dependents.** A parent 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 California as a result of a military mission realignment action involving the relocation of at least 100 employees. The student is entitled to resident status so long as the student continuously attends an institution of public higher education.
- **Career development and college preparation courses.** A student seeking to enroll exclusively in career development and college preparation courses, and other courses for which no credit is given, at a community college shall not be subject to the residency classification requirements.