

AP 5015 Residence Determination

References:

Education Code Sections 68000 et seq. and 68130.5;
Title 5 Sections 54000 et seq.

Note: *This procedure is **legally required** except as noted. Districts may insert their local practices here. The following is provided as an illustrative example.*

Residence Classification – Residency classification is the responsibility of the Registrar's Office and shall be determined for each student at the time of each registration application for admission ~~and whenever a student has not been in attendance for more than one semester.~~ Residence classifications are to be made pursuant to California Education Code and Title 5 Administrative Code, ~~and 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 Registrar's Office.~~

Students ~~must~~ shall 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. A woman's residence shall not be derivative from that of her husband.~~
- ~~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 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 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 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 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 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 resident classification until he/she 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 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.~~

- ~~A student who was 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 resident classification for the length of time he/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 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 his or 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 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.~~

Residency Determination for Military Personnel and Dependents

Consult BP/AP 5013 "Students in the Military" for information regarding residency determination as applied to active-duty military personnel and their dependents.

Reclassification – A student previously classified as a non-resident may be reclassified as of any residence determination date upon submission of a Request for Residency

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DTRW-SS review 1.24.13

DCAA review 2.28.13 – sent for Academic Senate Review 3.06.13

~~Reclassification and adequate documentation to support that California residency has been established. 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~~ Requests for Residency Reclassification are to be submitted to the appropriate office as identified above. Written documentation ~~may~~ will be required of the student in support of the reclassification request.

~~Petitions~~ Reclassification requests 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.

Comment [j1]: During my training, Elias said that there is no deadline for a student to submit their documentation to clear their residency. As long they have resided long enough and provide the documentation, we could change their residency at any time in the term.

~~A questionnaire to determine financial independence must be submitted with the petition is included in the request 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). The determination that a student is not financially independent will weigh against a request for reclassification.~~

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 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 parent 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 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 the student's continuing residence in another state.

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~~The Registrar's 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 the procedures above below.~~

Non-Citizens – The District ~~will~~ may 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~~ 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.

Non-citizens who are undocumented or are present in the U.S. in an immigration status that does not allow them to establish residency here may become eligible for California residency once they take steps to change their immigration status to one that does allow the establishment of U.S. and California residency, and are able to meet all other requirements for California residency.

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 or he meets the California residency requirements, the student can be classified as a resident.

A student who is without lawful immigration status may be exempted from payment of non-resident tuition pursuant to AB540 provided they submit verifiable documentation to certify that classified as a resident if he or she meets 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 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/her immigration status, or will file an application as soon as he or she is eligible to do so.
- Verifiable documentation shall include the self-certifying affidavit required by the California Community Colleges' Chancellor's Office, and may include high school transcripts or other acceptable documents verifying attendance and graduation.

~~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 Registrar's Office. Students may appeal the decision.~~

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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 Registrar's Office may make written appeal to the Dean of Student Services 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 the appropriate dean, which must forward it to the ~~[designate, such as Chief Student Services Officer]~~ 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 appeal must include a cover letter indicating the student's rationale, and the documented, verifiable evidence as to why his or her residency classification is incorrect.

The appropriate dean shall review all ~~the~~ applicable records including the application for admission (may be a copy of the student's online admission application), the residency reclassification request form and supporting documentation, and ~~has the right to~~ may request additional information from either the student or the Admissions Registrar's Office.

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