

Rationale for Revisions of AR 4110: Residency Regulations: This administrative regulation is being revised to conform to changes in residence classification standards enacted through legislation in the past few years. The update also reorganizes the AR for ease of use. Please note that the original AR has been completely struck (beginning at the bottom of page 8) and rewritten.

AR 4110 Residency Regulations Determination

1. Overview of Conditions to Determine Residency Status

- a. 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 (Education Code, §§68017, 68062; Title 5, §54020). California residence for tuition/fee purposes will be dictated by the following factors:
 - i. **Physical Presence:**
A person capable of establishing residence in California must be physically present in California for one year prior to the residence determination date to be classified as a resident student. 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. Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of length of that presence (Education Code §§68017, 68070; Title 5 §54022).
 - ii. **Evidence of Intent:**
Intent to make California the home, for other than a temporary purpose, may be manifested in a number of ways, a listing of which is available from Admissions & Records. A student who is 19 years of age or older and who has maintained a home in California continuously for the last two years, shall be presumed to have the intent to make California the home for other than a temporary purpose, unless the student has evidenced a contrary intent by having engaged in any of the activities listed in Section 1(a)(ii)(1) of this Regulation. A student who is under 19 years of age, shall be presumed to have the intent to make California the home for other than a temporary purpose if both the student and his/her parent have maintained a home in California continuously for the last two years, unless the student has evidenced a contrary intent by having engaged in any of the activities listed in Section 1(a)(ii)(1) of this Regulation (Education Code §68041; Title 5 §54024).
 1. Conduct inconsistent with claim of residency include, but are not limited to: (1) maintaining voter registration and voting in another state; (2) petitioning for divorce in another state; (3) attending an out-of-state educational institution as a resident of that other state; (4) declare nonresidence for state income tax purposes; or (5) pay taxes in another state or country as a resident.
 - iii. **Legal Presence in the United States**
Non-U.S. Citizens, including unmarried minors, may establish residence unless

precluded by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) from establishing domicile in the United States, provided the student has had residence in California for more than one year prior to the residence determination date for the term for which attendance at the College is proposed. In general, non-U.S. Citizens are precluded from establishing domicile in the United States if their status in the country is undocumented, or is under a visa which requires residence outside the United States, or entered the United States solely for a temporary purpose (Education Code §68062(h); Title 5, §54045).

iv. **Financial Independence for Reclassification**

A student seeking reclassification from nonresident to resident shall be determined financially independent or dependent. Financial independence shall be among the factors to be considered for reclassification. Students claimed by parents/legal guardians on their income taxes in another state will be precluded from establishing California residency for tuition purposes (Education Code §68044; Title 5 §54032).

- b. Residency classifications shall be determined for each student at the time of each enrollment term and whenever a student has not been in attendance for more than one semester. Summer and winter intersessions are not included in this consideration.
- c. Residency classification is derived from a residence determination date, which corresponds to the day immediately preceding the opening day of instruction for any term during which the student proposes to attend the College.
- d. Residence classification is the responsibility of the Admissions and Records Office, under the supervision of the Dean of Enrollment Services. Students must be notified of residence determination within 14 calendar days of submission of the admission application.
- e. The College shall publish the residence determination date and a summary of the regulations governing residency determination and classification.
- f. The burden is on the student to demonstrate clearly both physical presence in California and intent to establish California residence Education Code §§66700, 68044, and 70901).

2. Criteria for Residency

To determine a person's place of residence, reference is made to the following statutory rules:

- a. A student who has resided in the State of California for more than one year immediately preceding the residence determination date is a resident.
- b. A student who has not resided in the State for more than one year immediately preceding the residence determination date is a nonresident. Except as otherwise provided in statute, as noted in Section 3 of this Administrative Regulation, a student classified as a nonresident shall be required to pay in addition to other fees required, a nonresident fee (Education Code §76140).
- c. 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 (Education Code §68060).

In determining the place of residence, the following rules are to be observed:

- i. Every person who is married or eighteen years of age, or older, and under no legal disability to do so, may establish residence (Education Code §68061);
- ii. A person may have only one residence (Education Code §68062);
- iii. 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 (Education Code §68062);
- iv. A residence cannot be lost until another is gained (Education Code §68062);
- v. The residence can be changed only by the union of act and intent (Education Code §68062);
- vi. 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 (Education Code §68062);
- vii. 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, unless the student qualifies under the Self-Support (Education Code §68071) or the Two-Year Care and Control exceptions (Education Code §68073; Title 5 §54047).
- viii. The one-year residence period necessary to be classified as a resident does not begin until the student both is present and has manifested clear intent to become a California resident (Education Code, §68062(d); Title 5, §54020).

3. Statutory Exceptions from Nonresidency Status

The following individuals are exempted from nonresidency status for tuition/fees purposes only:

- a. **Minor with Continuous Attendance:**
A student who is a minor and remains in California 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 the College.
- b. **Self-Supporting Minor:** 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 (Education Code, §§68044, 68071; Title 5 §54040).

- c. **Public School Full-time Credentialed Employee:** A student holding a valid credential authorizing service in California public schools, who is employed by a school district in a full-time position requiring certification qualifications for the college year in which the student enrolls at the College, shall be entitled to resident classification for no more than one year, if the student meets any of the requirements below; thereafter, the student's residency status will be determined under the other provisions of this Administrative Regulation (Education Code, §§68044, 68078; Title 5 §54046).
- i. Holds a provisional credential and is enrolled in courses necessary to obtain another type of credential authorizing service in the public schools;
 - ii. Holds a credential issued pursuant to Education Code Section 44250 and is enrolled in courses necessary to fulfill credential requirements;
 - iii. Is enrolled in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Education Code Section 44259.
- d. **State Agency Full-Time Employee:** A student who is a full-time employee of a California Community College, the California State University, the University of California, or of any state agency or a student who is a child or spouse such employee, may be entitled to resident classification, until the student has resided in the State the minimum time necessary to become a resident. Employee of any state agency means a person employed by the state, who is assigned to work outside the state (Education Code §68079).
- e. **Armed Services Member Stationed in California:** 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 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 (Education Code, §§68044, 68075; Title 5 §54042).
- f. **Dependent of an Armed Services Member Stationed in California:** 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 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 at the College resident (Education Code, §§68044, 68074; Title 5 §54041).
- g. **Nonresident Veteran, Spouse, or Dependent:** Students verified to be covered individuals that qualify to use Montgomery GI Bill-Active Duty or Post-9/11 GI Bill education benefits (Chapters 30 and 33, respectively, of Title 38, U.S. Code) while living in California, and their covered spouse or dependent children may be waived from nonresident tuition and the capital outlay fee while living in California, provided the eligible veteran 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, regardless of the veteran's state of residence (Education Code, §68075.7).

- h. **Child or Spouse of Individual Killed in the September 11, 2001 Terrorist Attacks:** An individual who is the child or spouse of a person who died, on or after September 11, 2001, as a result of the terrorist attacks, who resided in California at the time of the incident may be granted residency (Education Code, §§68121, 76300).
- i. **Relocated Federal Service Employee and Dependent Children:** 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 California 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.
- j. **Dependent or Ward of the State of California:** 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 (Education Code, §68085).
- k. **Agricultural Workers and Children of Agricultural Workers:** A student who lives with a parent, or is him/herself an agricultural laborer in California and other states, may be granted California residency if the student/parent has performed such labor in California for at least two months per year in each of the two preceding years, and the student/parent resides in the District. The parent must have claimed the student as a dependent on state or federal personal income tax returns if sufficient personal income was earned to incur tax liability (Education Code, §68044, 68074, 68075; Title 5 §54050).
- l. **U.S. Citizen Children of Deported Parent:** 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 (Education Code, §76140).
- m. **Non-Citizens (“AB 540 Students”):** The District will admit any non-citizen who is 18 years of age or a high school graduate for regular attendance. If non-citizens are present in the United States with undocumented 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 below:

 - i. If, for at least one year and one day prior to the start of the term 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 (Education Code,

§68062(h); Title 5, §54045).

- ii. Any student who is not a nonimmigrant alien, other than those holding a T or U visa are exempt from paying nonresident tuition (Education Code, §§68062(h), 68130.5; Title 5, §54045) if the following provisions are met:
 - 1. Attended a high school in California for three (3) or more years or effective January 1, 2015 pursuant to AB 2000, attained credits earned in California from a California high school equivalent to three or more years of full-time high school coursework and attended a total of three or more years in California elementary schools, California secondary schools, or a combination of those schools
 - 2. Graduated with a high school diploma from a California high school or attained the equivalent thereof.
 - 3. Complete a questionnaire form prescribed by the California Community Colleges Chancellor's Office and furnished by the College, verifying eligibility for this nonresident tuition exemption.
- iii. Benefits associated with AB540 do not extend to persons who are absent from California, but are taking distance education courses from California Community Colleges.
- n. **Other Waivers:** The district may authorize an exemption from nonresident tuition, in whole or in part, for (1) foreign students (citizens and residents of foreign countries) attending a California Community College, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10% of the nonresident foreign students are so exempted. Exemptions may be made on an individual basis; (2) all students taking six or fewer units. Apportionment may not be claimed for these waivers (Education Code, §76140).

4. **Reclassification to California Resident Status**

Reclassification requests will be considered upon review of a petition for reclassification and documentation demonstrating financial independence.

a. **Petition for Reclassification:**

A student previously classified as a non-resident may be reclassified as of any residence determination date. Petitions must be submitted to the Admissions and Records 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. Written documentation may be required of the student in support of the reclassification request.

b. **Financial Independence:**

A questionnaire to determine financial independence must be submitted with the petition for reclassification. A student shall be considered financially independent for purposes of residence reclassification if the applicant meets all of the following requirements:

- i. 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 the reclassification application is made and in any of the three calendar years prior to the reclassification

application (Education Code Section 68044);

- ii. Has not and will not receive more than seven hundred fifty dollars (\$750) per year in financial assistance from his or her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application; and
- iii. 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 and in any of the three calendar years prior to the reclassification application.
- iv. 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.

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.

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 the procedures above.

5. **Right to Appeal Residency Determination**

Students who have been classified as non-residents have the right to a review of their classification (Title 5 §54010 (a)). Any student, following a final decision of residency classification by the Admission and Records Office, may make a written appeal to the Dean of Enrollment Services within 30 calendar days of notification of final decision by the College regarding classification (Title 5, §54060).

The appeal must be submitted to the Admissions and Records Office Supervisor, who shall forward it to the Dean of Enrollment Services within five working days of receipt. The Admissions and Records Supervisor shall compile all documentation and evidence provided by the student, with a cover statement indicating the basis on which the residence classification decision was made.

The Dean of Enrollment Services shall review all the records and have the right to request additional information from either the student or the Admissions and Records Office.

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

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AR 4110 Residence Regulations

The following summarizes the California Residency requirements. Great care should be used in advising students about their residence classification.

1. ~~A student is an adult when he/she reaches his/her 18th birthday; and may establish residency independent of any other person. The student must demonstrate the intent and act of establishing a residence. Similarly, a married minor is considered to be an adult.~~
2. ~~A student is a "resident of California" when he/she has maintained physical presence and a legal residence in California for more than one year and a day prior to the beginning of the semester or term. A temporary absence for business, education or pleasure will not result in loss of resident status if, during the absence, the person always intended to return to California and did nothing inconsistent with that intent. Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of the length of that presence. Two California proofs of residency are required to prove intent. See Admissions and Records website (Residency) for a complete list of acceptable proof. The exception to this is when a member of the U.S. military is stationed outside of California but has maintained California as his/her home of record.~~
3. ~~A student who is under 18 years of age is a minor and derives his/her residence from someone else according to the following rules:~~
 - a. ~~The residence of a minor is the residence of a parent with whom the minor is living. If the minor is not living with either parent, then the residence of the parent with whom the minor last lived will be the residence of the minor.~~
 - b. ~~If both parents are deceased (proof in the form of a death certificate may be required) and there is no court appointed guardian, the minor may establish his/her own residency.~~
 - c. ~~If the parents are permanently separated, the residence of the minor is the residence of the parent with whom he/she lives.~~
 - d. ~~There are no provisions for changing the residence of a minor from that of his/her parent by relinquishment of a parent's right of control.~~
4. ~~A student who is under 19 years of age (and has not, therefore, been an adult for one year) may combine his/her time as a resident adult with his/her time as a resident minor (derived from parents) to establish the one year necessary for "California resident" classification.~~
5. ~~A minor student classified as a "California resident" (derived from parents) shall retain that classification even though his/her parents should move and claim residence in another state. He/she must, however, maintain continuous attendance until such time as he/she can qualify as an adult resident.~~
6. ~~A person classified as a "California resident" on the effective date of these regulations shall maintain this classification until the attainment of the degree for which he/she is enrolled. Continuous attendance is required.~~
7. ~~A member of the U.S. armed forces stationed in California is entitled to "California resident" status.~~
8. ~~A dependent of a member of the U.S. armed forces stationed in California is entitled to "California resident" status. If the member of the armed forces is thereafter transferred outside the continental~~

~~United States, the dependent student will not lose his/her resident classification. Continuous attendance is required.~~

- ~~9. An apprentice is entitled to "resident" classification, according to Labor Code 3077.~~
- ~~10. An alien (or minor child of an alien) is entitled to "resident" classification if he/she (or the parent) is not precluded by law to establish residence in the United States for permanent residence and has maintained that residence in California for more than one year.~~
- ~~11. A student who is a minor (under the age of 18) and who, immediately before enrolling at a California educational institution, has lived with and was under the continuous direct care and control for at least two years of any adult or adults (other than the parents) who had established residence in California at least one year and one day prior to the start of the semester/session (documentation is required). Students who are minors must complete a Care and Control Form available in the Admissions Office. Continuous attendance is required.~~
- ~~12. Other resident classification regulations and or exceptions may apply per Ed Codes listed below.~~

Residency Reclassification

- ~~1. The reclassification process only applies to continuing non-resident students (who are classified as an out of state student) between the ages of 19-23 whose parents reside in another state.~~
- ~~2. Students that are claimed by parents on their income taxes in another state will be automatically denied California residency for tuition purposes as per the California Education Code, Part 41, Chapter 1, Article 3, Section 68044,~~

Non-Resident Tuition Exemption for Eligible AB 540 Students

- ~~1. A student other than a non-immigrant, who meets all of the following requirements shall be exempt from paying non-resident tuition. Student information obtained in the implementation of this section is confidential.

 - ~~a. Attendance in a California high school for three or more full academic years.~~
 - ~~b. Graduation from a California high school or attainment of the equivalent thereof (e.g. passed the GED in California or the California High School Proficiency Exam).~~
 - ~~c. In the case of a person without lawful immigration status, the filing of an affidavit stating the student has filed an application to legalize her/his immigration status or will file an application as soon as he/she is eligible to do so.~~~~
- ~~2. This exemption is available to all U.S. citizens, permanent residents of the U.S., and aliens who are not non-immigrants (including those who are undocumented), who meet all other eligibility criteria.~~
- ~~3. Students who are non-immigrants (for example, those who hold a valid F (student) visa, B (visitor) visa, or J, H, L, A, E visas, etc) are not eligible for this exemption per paragraph 15, subsection (a), Section 1101 of Title 8 of the U.S. Code.~~

For the purposes of this Administrative Regulation the following definitions apply:

~~Immigrant: a person who has come into a foreign country to live permanently, not as a tourist or visitor.~~

~~Alien: as defined in U.S. law, is “any person not a citizen or national of the United States.~~

~~Non-immigrant: an alien, such as a tourist who enters a country on a temporary stay.~~

~~Education Code Part 41, commencing w/Section 68000, 68040, 68044, 68062, 68017, 68018, 68023, 68020, 68050, 68014, 68016, 76140~~

~~Title 5, Sections 54000, 54002, 54010, 54020, 54022, 54300~~

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