

## AR 4110 Residency Determination (old AR#, New AR# 5015 Residence Determination)

**NOTE:** *This procedure is **legally required**. Districts may insert their local practice below. The following language is provided as an illustrative example.*

### California Residency Determination for Tuition Purposes

The residency status of each student applying to or enrolling in credit courses at Santa Monica College is determined according to California Education Codes.

The initial residency classification will be made at the time the student applies for admission. Students may submit residency questionnaire forms through the first week of the semester to request a review of their residency status. Students have the right to appeal the decision by following the procedure listed in this regulation: Right to Appeal Residency Determination

Residence: person remains

Residency:

### Residency Classification

- Residency classification is determined for each student at the beginning of each? their enrollment term and whenever a student has not attended for more than one semester (Title 5 §54010).
- Residency classification is derived from the residence determination date, which is the day before the first day of instruction for the term the student plans to attend (Title 5 §54002).
- Students must be notified of residence determination within 14 calendar days of submission of the admission application (Title 5 §54060).
- The burden is on the student to demonstrate both physical presence in California and intent to establish California residency (Title 5 §54010, Education Code §66700, §68041, §68044, and §70901). The student shall provide to Admissions and Records the information and evidence requested on the Residency Questionnaire to determine their residency classification.
- A student seeking to enroll exclusively in noncredit career development and college preparation courses, and other courses for which no credit is given, shall not be subject to this residency classification requirement.
- Residency classification is the responsibility of the Admissions and Records Office, under the supervision of the Dean of Enrollment Services.

- The College shall publish the residence determination date and a summary of the regulations governing residency determination and classification in the College catalog, class schedule and Admissions and Records webpage.

### Residency Determination Criteria

- A student who has resided in California for at least one year and one day immediately preceding the residence determination date is a resident (Education Code §68017). The required residency period starts only when a student is physically present in California and has shown clear intent to make California their state of residency (Education Code §68062(d); Title 5 §54020).
- A student who has resided in California for less than one year and one day immediately preceding the residence determination date is a nonresident, subject to paying nonresident tuition and fees (*Education Code §76140*), *except as otherwise provided in this regulation.*
- A student who is married or 18 years of age, or older, and under no legal disability to do so, may establish residence (Education Code §68061).
- A student can have only one residence at a time (Education Code §68062).
- A residence is the place where a person remains when not called elsewhere for labor or other special or temporary purpose and to which the person returns in seasons of repose (Education Code §68062).
- A residence cannot be lost until another is gained (Education Code §68062).
- The residency status can be changed only by the *union of act* (physical presence) and intent (Education Code §68062, Title 5 §54020).
- Any person may establish their own residence. A person's residence is not determined by their spouse (Education Code §68062).
- The residence of an unmarried minor is considered to be the same as the parent/legal guardian with whom they live. If the minor does not live with either parent/legal guardian, their residence is based on the parent/legal guardian with whom they last lived. If both parents are deceased and no legal guardian has been appointed, the minor may establish their own residence (Education Code §68062).
- The residence of an unmarried minor with a living parent/legal guardian cannot be changed by the minor's own actions, by appointing a legal guardian, or by a parent giving up their right of control, unless the student qualifies under the Self-Support or the Two-Year Care and Control exceptions (*Education Code §68062, §68071, §68073; Title 5 §54047*).
- A student who is not a U.S. citizen or national, including an unmarried minor, may establish residency unless the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) prevents them from doing so. The residence of an unmarried minor who is not a U.S.

citizen or national is determined by their parents' residence, as outlined in this regulation (Education Code §68062).

### Statutory Exceptions from Nonresidency Status for Purposes of Tuition/Fees

**Minor with Continuous Attendance (Enrollment):** A minor student who stays in California after their parent/legal guardian establishes their residence away from California may keep residency status as long as they continue attending the college without interruption (**remain continuously enrolled in the District**) until they reach the age of 18 and meet the minimum residency requirement. (Education Code §68070).

A minor student living with a parent/legal guardian qualifies for residency classification if the parent has resided in California for more than one year and one day before the residence determination date for the term the student plans to attend (Education Code §68080).

**Self-Supporting Minor:** A minor student who is entirely self-supporting, has been physically present in California for more than one year and one day before the residence determination date, and intends to establish residency, is entitled to residency classification (Education Code, §68044, §68071; Title 5 §54040).

If a student was not 18 years of age for a full year before the residency determination date for the term they want to attend, any time they lived in California as a minor (before turning 18) can be combined with their time as an adult to meet the one-year residency requirement (Education Code §68072).

**Two-Year Care and Control:** A student is entitled to residency classification if, immediately before enrolling, they have lived with and been under the continuous direct care of an adult (other than a parent/legal guardian) for at least two years, and that adult has lived in California for one year before the residency determination date. This exception continues until the student turns 18 and has lived in the state long enough to meet the residency requirement, as long as they (**remain continuously enrolled in the District AR 5013**) **maintain continuous** attendance at the College (Education Code §68073, Title 5 §54047).

**Dependent Under 19:** A student who has not been an adult California resident for at least one year and one day prior to residency determination date may still qualify for resident classification if they are a dependent of a California resident who has lived in California for more than one year and one day before the residency determination date, or if their parent/legal guardian has both provided continuous court-ordered support and been a California resident for at least one year. This exception lasts until the student has lived in California long enough to meet the residency requirement, as long as they (**are continuously enrolled**) maintain continuous attendance at the College. (Education Code §68076)

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### **Public School Full-time Credentialed Employee:**

A student with a valid teaching credential who works full-time in a California public school qualifies for residence classification if they:

- Hold a provisional credential and are taking courses needed for another credential;
- Hold a credential under Education Code §44250 and are taking courses to meet credential requirements; or
- Are taking courses required for a fifth year of education under Education Code Section §44259(b).

A student with a valid emergency teaching permit who works full-time is also eligible for resident classification for tuition and fee purposes, but only for one year. Thereafter, residency status will be determined under the provisions of this regulation.

**State Agency Full-Time Employee:** A full-time employee of a California Community College, the California State University, the University of California, or any state agency, or their child or spouse, may qualify for resident classification, until they have lived in California the minimum time necessary to become a resident. *Employee of “any state agency” means a person employed by California, who is assigned to work outside the state (Education Code §68079).*

~~Relocated Federal Service Employee and Dependent Children: A student who is a federal civil service employee and his or her 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 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. Education Code §68084~~ Here or in AR 5013 Military

**Dependent or Ward of the State of California:** A student who lives in California and is 19 or younger at the time of enrollment and who is, or was, a dependent or ward of the State through California’s child welfare system may qualify for residency classification until they have lived in California long enough to meet residency requirements (Education Code §68085).

**Agricultural Workers and Children of Agricultural Workers:** A student who lives with a parent, or is an agricultural laborer themselves, may be granted California residency if they or their parent have worked as agricultural laborers in California for at least two months per year in each of the past two years, and currently lives in the *Santa Monica College District*. If the parent earned enough income, they must have claimed the student as a dependent on their state or federal tax returns (Education Code §68044, §68074, §68075; Title 5 §54050).

**U.S. Citizen Children of Deported Parent:** A student whose parent has been deported or was permitted to deport voluntarily, and who moved abroad as a result, may qualify for

residency if they: (1) demonstrate financial need; (2) lived in California immediately before parents moved abroad; (3) attended a California public or private secondary school for at least three years; (4) will be starting their first academic year as a matriculated student; (5) will be living in California upon enrollment; and file an affidavit with the College stating they intend to establish residency in California as soon as possible (Education Code §76140).

**Special Immigrant Visa or Refugee:** A student who has a special immigrant visa (under Section 1244 of Public Law 110-181 or Public Law 109-163), or is a refugee admitted under Section 1157 of Title 8 of the U.S. Code, and who settled in California upon entering the U.S., is exempt from paying nonresident tuition while living in California, up to the minimum time required to establish residency (Education Code §76140).

**USA Team Athlete:** Any Team USA student athlete who trains in California in an elite level program approved by the United States Olympic and Paralympic Committee is entitled to resident classification for tuition and fee purposes until the athlete has resided in California for the minimum time necessary to become a resident (Education Code §68083; operative until July 1, 2032).

**Native American:** A Native American student is entitled to resident classification if they are attending a school operated by the Bureau of Indian Affairs within the boundaries of the Santa Monica College District. Any student who graduates from a California school operated by the Bureau of Indian Affairs also qualifies for resident classification. This exception remains in effect as long as they maintain continuous attendance (Education Code §68077 and §68082).

**Noncitizens With Immigrant Status:** Noncitizens who are undocumented, have a temporary visa, or have a visa requiring them to keep a residence outside the U.S. will be classified as non-residents and charged non-resident tuition (Education Code §68130.5), unless they qualify for an exception listed below:

A noncitizen student with an immigration status allowing permanent residence in the U.S. for at least one year and one day before the start of the term, and who meets California residency requirements, can be classified as a resident (Education Code §68062(h); Title 5 §54045).

**Noncitizens With Nonimmigrant Status:** Any student who is *not* a nonimmigrant, except those holding a T or U visa [under 8 U.S. Code §1101](#), are exempt from paying nonresident tuition (Education Code, §68062(h), §68130.5; Title 5 §54045) if the following provisions are met:

**AB 540 Eligible Students:** U.S. citizens, permanent residents, and foreign nationals who are not nonimmigrants (including undocumented students) may be exempt from paying nonresident tuition if *they meet any of the* following requirements:

### **Requirement 1: Attendance at California Schools**

This requirement may be met in either of the following two ways:

- a. Total attendance (or attainment of credits earned) in California equivalent to three or more years of full-time attendance at California high schools, California adult schools, *The Department of Corrections and Rehabilitation*, campuses of the California Community Colleges, or a combination of these; or
- b. Three or more years of full-time California high school coursework, and a total of three or more years of attendance in California elementary schools and/or California secondary schools.

## **Requirement 2: Completion of a Course of Study**

This requirement can be met in any of the following ways:

- a. Graduation from a California high school or equivalent; or
- b. Attainment of an associate degree from a California community; or
- c. Fulfillment of the minimum transfer requirements established for the University of California or the California State University for students transferring from a California community college. *or*
- d. Completed the minimum requirements at a California Community College.

## **Requirement 3: Registration**

*Requires registration as an entering student at, or current enrollment at, an accredited institution of higher education in California. **NIL***

## **Requirement 4: Affidavit of Student without Lawful Immigration Status**

Must file a California Nonresident Tuition Exemption (AB 540 Affidavit) stating that the student either has filed an application to legalize their immigration status or will file an application as soon as they are eligible to do so *or*

If the student applied for State based financial aid by filing the California Dream Act Application with the California Student Aid Commission (CSAC), *the College* will verify eligibility for this nonresident tuition exemption (Education Code §68130.5, Title 5 §54045.5).

The initial residency classification will be made at the time the student applies for admission. Students may file AB 540 Affidavit forms or *(what about verification of Dream Act/CSAC? Or shall this entire paragraph be added to first section)* through the first week of the semester to request a review of their residency status. *(what about verification of Dream App?)*. Students have the right to appeal the decision by following the procedure listed in this regulation: Right to Appeal Residency Determination.



This exemption is not available for students who are absent (not physically present in) from California and are taking distance education classes from California community colleges. NIL

## ESAU HAS NOT REVIEWED FROM HERE (start Requirement #2 above, do we need #3?)

**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, §68130 and §76140. §76141).

[Documents and information obtained in implementing this exemption are strictly confidential.](#)

### Overview of Conditions (provisions/criteria) to Determine Residency Status

a. In order to establish a residence, it is necessary that there be a union of act (physical presence) and intent. To establish residence, a person capable of establishing residence in California must couple his/her their 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 (many) ways, no one factor is controlling, 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~~ **their** 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 includes, but is 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. **NIL**
2. **Conduct consistent with claim of residency 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 **or California Identification**, (10) Maintaining permanent military address or home of record in California while in armed forces, (11) Establishing and maintaining active California bank accounts, or (12) Petitioning for divorce in California.

iii. *Legal Presence in the U.S.:*

*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 U.S., 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 U.S. if their status in the country is undocumented, or is under a visa which requires residence outside the U.S., or entered the U.S. solely for a temporary purpose (Education Code §68062(h); Title 5, §54045). **NIL See §54045 Undocumented Students, diff than this***

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. A student who has established financial independence may be reclassified as a resident if the student has met the requirements of Title 5 §54020 for one year prior to the residence determination*



date. In determining whether the student has conduct consistent with intent to establish California residency, 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 against finding California residence than shall financial dependence in earlier calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if the parent on whom the student is dependent is a California resident, or there is no evidence of the student's continuing residence in another state.

*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). NIL not in Title 5 language*

### **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. *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 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. *In no case, however, may a student receive a non-resident tuition refund after the date of the first census.*
- b. **Financial Independence:** 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 non-residents by the University of California, the California State University, or another community college district (Education Code §68044).*

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~~ **their** 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 §68044); **§68071**
- ii. Has not and will not receive more than seven hundred fifty dollars (\$750) per year in financial assistance from ~~his or her~~ **their** 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~~ **their** 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 §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 and one day 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.

#### **Self-Supporting Exception.**

Any student claiming application of the self-supporting exception pursuant to Education Code §68071 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 (Title 5 §54040).

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 (Title 5 §54060).

### **Right to Appeal Residency Determination**

Students have the right to appeal according to the procedures below.

Students who have been classified as non-residents have the right to a review of their classification (Title 5 §54010(a) and Title 5 §54060). 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 Supervisor.

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. What about refund fee deadline?

For Residency Determinations for Military Personnel and Dependents see AR 5013.

Also see AR 5010 Admission Eligibility, AR 5011 Admission & Concurrent Enrollment of HS & Other Young Students, AR 5012 International Students, AR 5013 Residency Determinations for Military Personnel & Dependents, AR 5020 Nonresident Tuition and Exemptions and AR 5030 Fees

**References:**

Education Code Sections 66700, 68000, 68017, 68041, 68044, 68060-62, 68070-80, 68075.7, 68082-85, 68121, 68130-30.5, 76140, 76300  
Title 5 Sections 54000 et seq.; 54001-02, 54010, 54020, 54022, 54024, 54032, 54040-42, 54045-47, 54050, 54060  
38 U.S. Code §3679 and 8 U.S. Code §1101

Reviewed and/or Updated: 4/29/03, 5/15/12, 3/26/13, 5/14/13, 3/2/16, 4/23/25

§ 54000. Uniform Residency Requirements.

§ 54001. Adoption of Rules and Regulations; Publication; Uniformity.

§ 54002. Residence Determination Date.

“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.

§ 54010. Residence Classification Procedures.

(a) 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.

(b) 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.

(c) Community college districts shall require applicants to supply information as specified in this subchapter and may require additional information as deemed necessary.

(d) The district shall weigh the information provided by the student and determine whether the student has clearly established that he or she has been a resident of California for one year prior to the residence determination date.

(e) Applicants shall certify their answers on residence questionnaires under oath or penalty of perjury.

(f) Pursuant to section 54300, the district may authorize any information required by this section to be submitted electronically using electronic signatures in lieu of manual signatures as specified in section 54300.

#### § 54020. **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 or 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

#### § 54022. **Physical Presence.**

(a) 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.

(b) 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.

(c) Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of the length of that presence.

#### § 54024. **Intent.**

(a) Intent to make California the home for other than a temporary purpose may be manifested in many ways. No one factor is controlling.

(b) A student who is 19 years of age or over, 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 subdivision (f).

(c) 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 or 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 subdivision (f).

(d) A student who does not meet the requirements of subdivision (b) or subdivision (c) shall be required to provide evidence of intent to make California the home for other than a temporary purpose as specified in subdivision (e).

(e) Objective manifestations of intent to establish California residence include but are 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.
- (f) Conduct inconsistent with a claim of California residence includes but is not limited to:
- (1) Maintaining voter registration and voting in another state. (pg. 8)
  - (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 nonresidence for state income tax purposes.

§ 54032. **Financial Independence.**

(a) A student seeking reclassification as a resident, who was classified as a nonresident in the preceding term, shall be determined financially independent or dependent in accordance with Education Code section 68044.

(b) A student who has established financial independence may be reclassified as a resident if the student has met the requirements of section 54020 for one year prior to the residence determination date.

(c) In determining whether the student has objectively manifested intent to establish California residence, financial independence shall weigh in favor of finding California residence, and financial dependence shall weigh against finding California residence.

(d) Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than shall financial dependence 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.

§ 54040. **Self-Supporting Exception.**

Any student claiming application of the self-supporting exception pursuant to Education Code section 68071 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.

§ 54041. **Military Dependent.** / not quite same language pg 4 but may be ed code

A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to section 68074 of the Education Code

shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date; or that the military person 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 person 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 person for an exemption on federal taxes shall also be provided.

§ 54042. Member of Military. **not quite same language pg 4 but may be ed code**

A student claiming application of section 68075 of the Education Code must provide a statement from 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.

§ 54045. **Undocumented Students.**

(a) A person who is not a citizen or national of the United States 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 pursuant to the provisions of this subchapter.

(b) A person who is not a citizen or national of the United States is precluded from establishing domicile in the United States if they:

(1) entered the United States without inspection at a designated port of entry and has not obtained a status under the immigration laws of the United States allowing them to establish domicile (undocumented persons);

(2) entered the United States under a visa which requires that they 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.

(c) A person who is not a citizen or national of the United States described in subsection (b) shall be known as an undocumented person and shall not be classified as a resident unless and until they have taken appropriate steps to obtain a change of immigration status from the United States Citizenship and Immigration Services agency (USCIS) to a classification which does not preclude establishing domicile, and has met the requirements of Sections 54020-54024 related to physical presence and the intent to make California home for other than a temporary purpose. The Chancellor shall, after consultation with the University of California and the California State University, issue guidelines for the implementation of this section.

(d) Notwithstanding any other provision of this subchapter, a person who is not a citizen or national of the United States who was classified as a California resident by any college in a district as of September 30, 1991, or during the Fall 1991 term, shall not be subject to reclassification unless the student has not been in attendance at any college in the district for more than one semester or quarter.

§ 54045.5. **Nonresident Tuition Exemption Implementation.**

(a) Students seeking an exemption from the obligation to nonresident tuition under the eligibility criteria expressed in Education Code section 68130.5, subdivision (a), shall verify their eligibility by filing a California Nonresident Tuition Exemption Request form with the district of enrollment, or in the case of students applying for state-based financial aid, by filing a California Dream Act Application (CADAA) with the California Student Aid Commission.



(b) The California Nonresident Tuition Exemption Request form shall be prescribed by the Chancellor and districts shall make the form available to students in a convenient manner, including, but not limited to, posting on district websites. The form shall request students to provide information demonstrating that they meet the eligibility criteria in Education Code section 68130.5, subdivision (a), including, in the case of undocumented persons, an affidavit affirming 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.

(c) Districts receiving notice from the California Student Aid Commission that a student successfully submitted the information required by Education Code section 68130.5, subdivision (a), shall accept the information provided by the California Student Aid Commission.

(d) Where districts have a reasonable basis to question a student's eligibility for the exemption, they may request supplemental information from the student that is directly relevant to their eligibility.

(e) Notwithstanding the general exclusion of undocumented persons from the exemption noted in Education Code section 68130.5, subdivision (a), persons granted "T" or "U" visa status under 8 U.S.C. 1101(a)(15)(T)(i) or (ii), or 1101(a)(15)(U)(i) or (ii), respectively, shall be exempt from paying nonresident tuition, provided all eligibility requirements in Education Code section 68130.5, subdivision (a), are met.

(f) Documents and information obtained in implementing the exemption provided by Education Code section 68130.5 are confidential.

(g) Nothing herein authorizes a refund of nonresident tuition that was paid for any term commencing prior to January 1, 2018.

#### § 54046. Public School Employee Holding Valid Credential.

A student claiming residence status pursuant to section 68078 of the Education Code 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 he or she holds 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.

#### § 54047. Student Under Custody of Resident Adult.

A student claiming residence under provisions of section 68073 of the Education Code shall provide evidence that the adult or adults 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 or adults for a period of not fewer than 2 years.

#### § 54050. Military Exceptions.

Those exceptions from payment of nonresident tuition provided by Education Code sections 68074 (military dependents) and 68075 (military members) apply for so long as the student qualifies under the terms of either section 68074 or section 68075. Resident classification for purposes of determining the amount of tuition and fees includes eligibility for Board of Governors fee waivers.

#### § 54060. Appeal Procedure.

(a) A community college district shall notify each student 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 later.

(b) Any student, following a decision on residence classification by the college, may make written appeal of that decision. Each community college district shall establish procedures for appeals of residence classifications.

(c) The Chancellor will advise community college districts on issues in residence classification. However, the student shall have no right of appeal to the Chancellor or Board of Governors.

#### EDC § 68017

A "resident" is a student who has residence, pursuant to Article 5 (commencing with [Section 68060](#)) of this chapter in the state for more than one year immediately preceding the residence determination date.

#### EDC § 68041

Each student enrolled or applying for admission to an institution shall provide the information and evidence of residence as deemed necessary by the governing board or district governing board, as appropriate, to determine his or her classification. An oath or affirmation may be required in connection with taking testimony necessary to ascertain a student's classification. The determination of a student's classification shall be made in accordance with this part and the residence determination date for the semester, quarter, or term for which the student proposes to attend an institution.

#### EDC § 68044

The governing boards shall adopt rules and regulations for determining a student's classification and for establishing procedures for review and appeal of that classification. The adopted rules and regulations shall include provisions requiring that the financial independence of a student classified as a nonresident seeking reclassification as a resident shall be included among the factors to be considered in the determination of residency.

The adopted rules and regulations shall, beginning the 1983-84 school year, exempt nonresident students who have been appointed to serve as graduate student teaching assistants, graduate student research assistants, or graduate student teaching associates on any campus of the University of California or the California State University, and who have been employed on a 0.49 or more time basis, from the requirement of demonstrating his or her financial independence under this section for purposes of reclassification as a resident.

A student shall be considered financially independent for purposes of this section if the applicant meets all of the following requirements: (a) 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, (b) 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 (c) 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.

Other factors which may be considered in determining California residency shall be defined by the governing boards. In addition, the adopted rules and regulations shall include, but are not

limited to, the evidence necessary to determine residence, procedures for obtaining residence information and procedures for administering oaths in connection with taking of testimony relative to residence. A district governing board may adopt rules and regulations which are not inconsistent with those adopted by the Board of Governors of the California Community Colleges.

#### EDC § 68060

Every person has, in law, a residence.

#### EDC § 68061

Every person who is married or 18 years of age, or older, and under no legal disability to do so, may establish residence.

#### EDC § 68062

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

- (a) There can only be one residence.
- (b) A residence is the place where a person remains when not called elsewhere for labor or other special or temporary purpose, and to which the person returns in seasons of repose.
- (c) A residence cannot be lost until another is gained.
- (d) The residence can be changed only by the union of act and intent.
- (e) A man or woman may establish a residence. A woman's residence shall not be derivative from that of the woman's husband.
- (f) The residence of the parent with whom an unmarried minor child maintains the child's 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 minor maintained the minor's last place of abode, provided the minor may establish a residence when both parents are deceased and a legal guardian has not been appointed.
- (g) 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.
- (h) A person who is not a citizen or national of the United States, including one who is an unmarried minor, may establish a residence, unless precluded by the Immigration and Nationality Act ([8 U.S.C. 1101, et seq.](#)) from establishing domicile in the United States.
- (i) The residence of an unmarried minor who is not a citizen or national of the United States shall be derived from the minor's parents pursuant to the provisions of subdivisions (f) and (g).

#### EDC § 68070

A student who remains in this state after his or her 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 he or she has attained the age of majority and has resided in the state the minimum time necessary to become a resident, so long as, once enrolled, he or she maintains continuous attendance at an institution.

#### EDC § 68071

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 he or she has resided in the state the minimum time necessary to become a resident.

#### EDC § 68072

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 he or she proposes to attend an institution shall have his or her immediate premajority derived California residence, if any, added to his or her postmajority residence to obtain the one year of California residence required by [Section 68017](#).

#### EDC § 68073

A student shall be entitled to resident classification if, immediately prior to enrolling at an institution, he or she has lived with and been under the continuous direct care and control of any adult or adults, other than a parent, for a period of not less than two years, provided that the adult or adults 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.

#### EDC § 68074

(a) 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 is entitled to resident classification only for the purpose of determining the amount of tuition and fees.  
(b) If that member of the Armed Forces of the United States, whose dependent natural or adopted child, stepchild, or spouse is in attendance at, or has been admitted to, a public postsecondary institution, (1) is thereafter transferred on military orders to a place outside this state where the member continues to serve in the Armed Forces of the United States, or (2) is thereafter retired as an active member of the Armed Forces of the United States, the student dependent shall not lose his or her resident classification so long as he or she remains continuously enrolled at that institution.

#### EDC § 68075

(a) For purposes of this section, "Armed Forces of the United States" means the Air Force, Army, Coast Guard, Marine Corps, Navy, Space Force, and the reserve components of each of those forces, the California National Guard, the California State Guard, and the California Naval Militia.  
(b) A student who is a member of the Armed Forces of the United States stationed in this state, 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.  
(c) If that member of the Armed Forces of the United States who is in attendance at an institution is thereafter transferred on military orders to a place outside this state where the member continues to serve in the Armed Forces of the United States, the member shall not lose the member's resident classification so long as the member remains continuously enrolled at that institution.

#### EDC § 68075.7

Notwithstanding any other law:

(a) Effective for academic terms beginning on or after August 1, 2021, a student enrolled at a campus of the California Community Colleges or the California State University who meets all of

the following requirements shall be exempt from paying nonresident tuition or any other fee that is 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 [Section 3679\(c\)\(2\) of Title 38 of the United States Code](#).

(3) The student is eligible for education benefits under the federal Montgomery GI Bill-Active Duty program (Chapter 30 (commencing with Section 3001) of Title 38 of the United States Code), the Veterans Readiness and Employment program (Chapter 31 (commencing with Section 3100) of Title 38 of the United States Code), the Post-9/11 GI Bill program (Chapter 33 (commencing with Section 3301) of Title 38 of the United States Code), or the Survivors' and Dependents' Educational Assistance program (Chapter 35 (commencing with Section 3500) of Title 38 of the United States Code), as each read on January 5, 2022.

(b) A student who qualifies for an exemption from paying nonresident tuition and other applicable fees under paragraph (2) of subdivision (a) shall be deemed to maintain “covered individual” status as long as the student remains continuously enrolled at a campus, even if the student enrolls in multiple programs, and the student shall continue to be exempt from paying nonresident tuition and other fees that exclusively apply to nonresident students. 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.

(c) The attendance of a community college student who is exempt from paying nonresident tuition and other fees pursuant to this section may be reported by the community college district of attendance for apportionment purposes.

#### **EDC § 68076**

Notwithstanding [Section 68062](#), a student who (a) has not been an adult resident of California for more than one year and (b) is either the dependent child of a California resident who has had residence in California for more than one year prior to the residence determination date, or 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.

#### **EDC § 68077**

Notwithstanding [Section 68062](#), 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.

#### **EDC § 68078**

(a) 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) He or she 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) He or she holds a credential issued pursuant to [Section 44250](#) and is enrolled at an institution in courses necessary to fulfill credential requirements.



(3) He or she is enrolled at an institution in courses necessary to fulfill the requirements for a fifth year of education prescribed by [subdivision \(b\) of Section 44259](#).

(b) Notwithstanding any other provision of law, 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 shall be subject to Article 5 (commencing with [Section 68060](#)).

(c) This section shall not be construed to affect the admissions policies of any teacher preparation program.

#### EDC § 68079

A student who is a full-time employee of an institution or of any state agency, or a student who is a child or spouse of a full-time employee of an institution or of any state agency, may be entitled to resident classification, as determined by the governing boards, until he or she has resided in the state the minimum time necessary to become a resident.

For purposes of this section, “employee of any state agency” means a person employed by the state on or after the effective date of this section, who is assigned to work outside of the state.

#### EDC § 68080

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 for the semester, quarter or term for which he proposes to attend a community college and provided that he meets the other requirements of this part.

#### EDC § 68082

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.

As used in this section, “native American” means an American Indian.

#### EDC § 68083

<Section operative until July 1, 2032. See, also, [§ 68083](#) operative July 1, 2032.>

(a) Any Team USA student athlete who trains in the state in an elite level program approved by the United States Olympic and Paralympic Committee is entitled to resident classification for tuition and fee purposes until the athlete has resided in the state the minimum time necessary to become a resident.

(b) The student athlete shall certify their participation in an Olympic or Paralympic elite level training program through supporting documentation from the United States Olympic and Paralympic Committee verifying eligibility, and shall submit the supporting documentation to the campus they are attending at the California State University, University of California, or California Community Colleges.

(c) For purposes of this section, “\* \* \* Team USA student athlete\* \* \*” means any student athlete who meets the eligibility standards defined and approved by the United States Olympic and Paralympic Committee and by the national governing body for the sport in which the athlete competes.



#### EDC § 68084

(a) A parent who is a federal civil service employee and his or her natural or adopted dependent children are entitled to resident classification at the California State University, the University of California, or a California community college 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 pursuant to [Section 68017](#), so long as the student continuously attends an institution of public higher education.

(b) It shall be the responsibility of the California Community Colleges, the California State University, and the University of California to certify qualifying military mission realignment actions under this section.

#### EDC § 68085

A student who currently 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 or she has resided in the state the minimum time necessary to become a resident.

#### EDC § 68121

(a) Notwithstanding any other law, no mandatory systemwide fees or tuition of any kind shall be required or collected by the Regents of the University of California or the Trustees of the California State University, from a student who is in an undergraduate program and who is the surviving dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center in New York City, the Pentagon building in Washington, DC, or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if the student meets the financial need requirements set forth in [Section 69432.7](#) for the Cal Grant A Program and either of the following apply:

(1) The surviving dependent was a resident of California on September 11, 2001.

(2) The individual killed in the attacks was a resident of California on September 11, 2001.

(b)(1) The California Victim Compensation Board shall identify all persons who are eligible for tuition and fee waivers pursuant to this section or [subdivision \(j\) of Section 76300](#). That board shall notify these persons or, in the case of minors, the parents or guardians of these persons, of their eligibility for tuition and fee waivers under these provisions. This notification shall be in writing, and shall be received by all of the appropriate persons no later than July 1, 2003.

(2) The Trustees of the California State University, the Regents of the University of California, and the governing board of each community college district in the state shall waive tuition and fees, as specified in this section and in [subdivision \(j\) of Section 76300](#), for any person who can demonstrate eligibility. If requested by the California State University, the University of California, the college named in [Section 92200](#), or a California Community College, the California Victim Compensation Board, on a case-by-case basis, shall confirm the eligibility of persons requesting the waiver of tuition and fees, as provided for in this section.

(c) A determination of whether a person is a resident of California on September 11, 2001, shall be based on the criteria set forth in this chapter for determining nonresident and resident tuition.

(d)(1) "Dependent," for purposes of this section, is a person who, because of their relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of [Public Law 107-42](#)). 1

- (2) A dependent who is the surviving spouse of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.
- (3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under this section until that person obtains the age of 30 years.
- (4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation Board, is also entitled to the waivers provided in this section until January 1, 2013.

#### EDC § 68130

The governing boards and district governing boards may waive nonresident tuition in whole or in part pursuant to [Sections 68123](#), [76140](#), [89705](#), and [89707](#).

#### EDC § 68130.5

Notwithstanding any other law:

- (a) A student, other than a person excluded from the term “immigrant,” for purposes of the federal Immigration and Nationality Act ([8 U.S.C. Sec. 1101](#)), pursuant to paragraph (15) of [subsection \(a\) of Section 1101 of Title 8 of the United States Code](#), shall be exempt from paying nonresident tuition at the California State University and the California Community Colleges if the student meets all of the following requirements:
- (1) Satisfaction of the requirements of either subparagraph (A) or subparagraph (B):
- (A) A total attendance of, or attainment of credits earned while in California equivalent to, three or more years of full-time attendance or attainment of credits at any of the following:
- (i) California high schools.
- (ii) California high schools established by the State Board of Education.
- (iii) California adult schools established by any of the following entities:
- (I) A county office of education.
- (II) A unified school district or high school district.
- (III) The Department of Corrections and Rehabilitation.
- (iv) Campuses of the California Community Colleges.
- (v) A combination of those schools set forth in clauses (i) to (iv), inclusive.
- (B) Three or more years of full-time high school coursework in California, and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of California elementary and secondary schools.
- (C)(i) Full-time attendance at a campus of the California Community Colleges counted towards the requirements of this paragraph shall comprise either a minimum of 12 units of credit per semester or quarter equivalent per year or a minimum of 420 class hours per year or semester or quarter equivalent per year in noncredit courses authorized pursuant to [Section 84757](#).
- (ii) Full-time attendance at a California adult school counted towards the requirements of this paragraph shall be a minimum of 420 class hours of attendance for each school year in classes or courses authorized pursuant to [Section 41976](#) or [Sections 2053 to 2054.2, inclusive, of the Penal Code](#).
- (2) Satisfaction of any of the following:
- (A) Graduation from a California high school or attainment of the equivalent thereof.
- (B) Attainment of an associate degree from a campus of the California Community Colleges.
- (C) Fulfillment of the minimum transfer requirements established for the University of California or the California State University for students transferring from a campus of the California Community Colleges.

(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. ?????

(4) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an application to legalize the student's immigration status, or will file an application as soon as the student is eligible to do so.

(b) A student who is exempt from nonresident tuition under this section may be reported by a community college district as a full-time equivalent student for apportionment purposes.

(c) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall prescribe rules and regulations for the implementation of this section.

(d) Student information obtained in the implementation of this section is confidential.

#### EDC § 76140

(a) A community college district may admit, and shall charge a tuition fee to, nonresident students, except that a community college district may exempt from all or parts of the fee any person described in paragraph (1), (2), (3), or (6), and shall exempt from all of the fee any person described in paragraph (4), (5), or (7):

(1) All nonresidents who enroll for **six or fewer units**. Exemptions made pursuant to this paragraph shall not be made on an individual basis.

(2) Any nonresident who is both a citizen and resident of a foreign country, if the nonresident has demonstrated a financial need for the exemption. Not more than **10 percent of the nonresident foreign students attending any community college district may be so exempted**. Exemptions made pursuant to this paragraph may be made on an individual basis.

(3)(A) A student who, as of August 29, 2005, was enrolled, or admitted with an intention to enroll, in the fall term of the 2005-06 academic year in a regionally accredited institution of higher education in Alabama, Louisiana, or Mississippi, and who could not continue the student's attendance at that institution as a direct consequence of damage sustained by that institution as a result of Hurricane Katrina.

(B) The chancellor shall develop guidelines for the implementation of this paragraph. These guidelines shall include standards for appropriate documentation of student eligibility to the extent feasible.

(C) This paragraph shall apply only to the 2005-06 academic year.

(4) **A special part-time student**, other than a person excluded from the term "immigrant," for purposes of the federal Immigration and Nationality Act ([8 U.S.C. Sec. 1101](#)), pursuant to paragraph (15) of [subsection \(a\) of Section 1101 of Title 8 of the United States Code](#), admitted pursuant to [Section 76001](#), [76003](#), or [76004](#).

(5) **A nonresident student who** is a United States citizen who resides in a foreign country, if that nonresident meets all of the following requirements:

(A) Demonstrates a financial need for the exemption.

(B) Has a parent or guardian who has been deported or was permitted to depart voluntarily under the federal Immigration and Nationality Act in accordance with [Section 1229c of Title 8 of the United States Code](#). The student shall provide documents from the United States Citizenship and Immigration Services evidencing the deportation or voluntary departure of the student's parent or guardian.

(C) Moved abroad as a result of the deportation or voluntary departure specified in subparagraph (B).

(D) Lived in California immediately before moving abroad. The student shall provide information and evidence that demonstrates the student previously lived in California.

(E) Attended a public or private secondary school, as described in Sections 52 and 53, in the state for three or more years. The student shall provide documents that demonstrate the student's secondary school attendance.

(F) Upon enrollment, the student will be in the student's first academic year as a matriculated student in California public higher education, as that term is defined in [subdivision \(a\) of Section 66010](#), will be living in California, and will file an affidavit with the institution stating that the student intends to establish residency in California as soon as possible.

(6)(A) A student who attends Lake Tahoe Community College and who has residence, pursuant to subparagraph (B), in one of the following communities in Nevada:

(i) Incline Village.

(ii) Kingsbury.

(iii) Round Hill.

(iv) Skyland.

(v) Stateline.

(vi) Zephyr Cove.

(B) Residence shall be determined pursuant to Article 5 (commencing with [Section 68060](#)) of Chapter 1 of Part 41 of Division 5. A person shall have residence in one of the communities listed in subparagraph (A) if the person has lived in the community for more than one year immediately before seeking the fee exemption pursuant to this paragraph.

(C) The governing board of the Lake Tahoe Community College District shall adopt rules and regulations for determining a student's residence classification and for establishing procedures for an appeal and review of the residence classification. No more than 200 students shall be exempted from payment of a nonresident tuition fee under this paragraph in any academic year.

(7)(A) A nonresident student who enrolls in a credit English as a second language (ESL) course at a California Community College and who is any of the following:

(i) A recent immigrant, as defined in [Section 1101\(a\)\(15\) of Title 8 of the United States Code](#).

(ii) A recent refugee, as defined in [Section 1101\(a\)\(42\) of Title 8 of the United States Code](#).

(iii) A person who has been granted asylum by the United States, as defined in [Section 1158 of Title 8 of the United States Code](#).

(B) This exemption shall apply only to individuals who, upon entering the United States, settled in California and who have resided in California for less than one year.

(C) This exemption shall apply only to the tuition fee for credit ESL courses.

(b) A community college district may contract with a state, a county contiguous to California, the federal government, or a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

(c) Nonresident students shall not be reported as full-time equivalent students (FTES) for state apportionment purposes, except as provided by subdivision (j) or another statute, in which case a nonresident tuition fee shall not be charged.

(d) The nonresident tuition fee shall be set by the governing board of each community college district not later than March 1 of each year for the succeeding fiscal year. The governing board of each community college district shall provide nonresident students with notice of nonresident tuition fee changes during the spring term before the fall term in which the change will take effect. Nonresident tuition fee increases shall be gradual, moderate, and predictable. The fee may be paid in installments, as determined by the governing board of the district.

(e)(1) The fee established by the governing board of a community college district pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year one or more of the following:

(A) The amount that was expended by the community college district for the expense of education as defined by the California Community Colleges Budget and Accounting Manual in

the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the community college district in the preceding fiscal year. However, if for the community college district's preceding fiscal year FTES of all students attending in the community college district in noncredit courses is equal to, or greater than, 10 percent of the community college district's total FTES attending in the community college district, the community college district may substitute the data for expense of education in grades 13 and 14 and FTES in grades 13 and 14 attending in the community college district.

(B) The expense of education in the preceding fiscal year of all community college districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all community college districts during the preceding fiscal year. However, if the amount calculated under this paragraph for the succeeding fiscal year is less than the amount established for the current fiscal year or for any of the past four fiscal years, the community college district may set the nonresident tuition fee at the greater of the current or any of the past four-year amounts.

(C) An amount not to exceed the fee established by the governing board of any contiguous community college district.

(D) An amount not to exceed the amount that was expended by the community college district for the expense of education, but in no case less than the statewide average as set forth in subparagraph (B).

(E) An amount no greater than the average of the nonresident tuition fees of public community colleges of no less than 12 states that are comparable to California in cost of living. The determination of comparable states shall be based on a composite cost-of-living index as determined by the United States Department of Labor or a cooperating government agency.

(2) The additional revenue generated by the increased nonresident tuition permitted under the amendments made to this subdivision during the 2009-10 Regular Session shall be used to expand and enhance services to resident students. The admission of nonresident students shall not come at the expense of resident enrollment.

(f) The governing board of each community college district also shall adopt a tuition fee per unit of credit for nonresident students enrolled in more or less than 15 units of credit per term by dividing the fee determined in subdivision (e) by 30 for colleges operating on the semester system and 45 for colleges operating on the quarter system and rounding to the nearest whole dollar. The same rate shall be uniformly charged to nonresident students attending any terms or sessions maintained by the community college. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

(g) Any loss in community college district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

(h) Any community college district that has fewer than 1,500 FTES and whose boundary is within 10 miles of another state that either (1) has a reciprocity agreement with California governing student attendance and fees, or (2) participates in the Western Undergraduate Exchange, may exempt students from that state, or may exempt students from those states that participate in the Western Undergraduate Exchange, from the mandatory fee requirement described in subdivision (a) for nonresident students.

(i) Any community college district that has more than 1,500, but fewer than 3,001, FTES and whose boundary is within 10 miles of another state that either (1) has a reciprocity agreement with California governing student attendance and fees, or (2) participates in the Western Undergraduate Exchange, may, in any one fiscal year, exempt up to 100 FTES from that state or



from states that participate in the Western Undergraduate Exchange from the mandatory fee requirement described in subdivision (a) for nonresident students.

(j) The attendance of nonresident students who are exempted pursuant to subdivision (h) or (i), or pursuant to paragraph (3), (4), (5), or (6) of subdivision (a), from the mandatory fee requirement described in subdivision (a) for nonresident students may be reported as resident FTES for state apportionment purposes. Any nonresident student reported as resident FTES for state apportionment purposes who is exempt pursuant to paragraph (6) of subdivision (a), or pursuant to subdivision (h) or (i), shall pay a per-unit fee that is one and one-half times the amount of the fee established for residents pursuant to [Section 76300](#). That fee shall be included in the FTES adjustments described in [Section 76300](#) for purposes of computing apportionments.

#### EDC § 76300

(a) The governing board of each community college district shall charge each student a fee pursuant to this section.

(b)(1) The fee prescribed by this section shall be forty-six dollars (\$46) per unit per semester, effective with the summer term of the 2012 calendar year.

(2) The board of governors shall proportionately adjust the amount of the fee for term lengths based upon a quarter system, and also shall proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the board of governors may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts pursuant to [Section 84750.4](#) or [84750.5](#), as applicable, the board of governors shall subtract, from the total revenue owed to each district, 98 percent of the revenues received by districts from charging a fee pursuant to this section.

(d) The board of governors shall reduce apportionments by up to 10 percent to any district that does not collect the fees prescribed by this section.

(e) The fee requirement does not apply to any of the following:

(1) Students enrolled in the noncredit courses designated by [Section 84757](#).

(2) California State University or University of California students enrolled in pretransfer classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(3) Students enrolled in credit contract education courses pursuant to [Section 78021](#), if the entire cost of the course, including administrative costs, is paid by the public or private agency, corporation, or association with which the district is contracting and if these students are not included in the calculation of the full-time equivalent students (FTES) of that district.

(f) The governing board of a community college district may exempt special part-time students admitted pursuant to [Section 76001](#) from the fee requirement.

(g)(1) The fee requirements of this section shall be waived for any student who meets all of the following requirements:

(A) Meets minimum academic and progress standards adopted by the board of governors that fulfill the requirements outlined in this paragraph and paragraphs (2) to (5), inclusive. Any minimum academic and progress standards adopted pursuant to this section shall be uniform across all community college districts and campuses. These standards shall not include a maximum unit cap, and community college districts and colleges shall not impose



requirements for fee waiver eligibility other than the minimum academic and progress standards adopted by the board of governors and the requirements of subparagraph (B).

(B) Meets one of the following criteria:

(i) At the time of enrollment, is a recipient of benefits under the Temporary Assistance for Needy Families program, the Supplemental Security Income/State Supplementary Payment Program, or a general assistance program.

(ii) Demonstrates eligibility according to income standards established by regulations of the board of governors.

(iii) Demonstrates financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid.

(iv) At the time of enrollment, is a homeless youth or a former homeless youth as defined in [subdivision \(b\) of Section 66025.9](#).

(2)(A) The board of governors, in consultation with students, faculty, and other key stakeholders, shall consider all of the following in the development and adoption of minimum academic and progress standards pursuant to subparagraph (A) of paragraph (1):

(i) Minimum uniform academic and progress standards that do not unfairly disadvantage financially needy students in pursuing their education.

(ii) Criteria for reviewing extenuating circumstances and granting appeals that, at a minimum, take into account and do not penalize a student for circumstances outside the student's control, such as reductions in student support services or changes to the economic situation of the student.

(iii) A process for reestablishing fee waiver eligibility that provides a student with a reasonable opportunity to continue or resume the student's enrollment at a community college.

(B) To ensure that students are not unfairly impacted by the requirements of subparagraph (A) of paragraph (1), the board of governors shall establish a reasonable implementation period that commences no sooner than one year from adoption of the minimum academic and progress standards, or any subsequent changes to these standards, pursuant to subparagraph (A) of paragraph (1) and that is phased in to provide students adequate notification of this requirement and information about available support resources.

(3) It is the intent of the Legislature that minimum academic and progress standards adopted pursuant to subparagraph (A) of paragraph (1) be implemented only as campuses develop and implement the student support services and interventions necessary to ensure no disproportionate impact to students based on ethnicity, gender, disability, or socioeconomic status. The board of governors shall consider the ability of community college districts to meet the requirements of this paragraph before adopting minimum academic and progress standards, or any subsequent changes to these standards, pursuant to subparagraph (A) of paragraph (1).

(4) It is the intent of the Legislature to ensure that a student shall not lose fee waiver eligibility without a community college campus first demonstrating a reasonable effort to provide a student with adequate notification and assistance in maintaining the student's fee waiver eligibility. The board of governors shall adopt regulations to implement this paragraph that ensure all of the following:

(A) Students are provided information about the available student support services to assist them in maintaining fee waiver eligibility.

(B) Community college district policies and course catalogs reflect the minimum academic and progress standards adopted pursuant to subparagraph (A) of paragraph (1) and that appropriate notice is provided to students before the policies are put into effect.

(C) A student does not lose fee waiver eligibility unless the student has not met minimum academic and progress standards adopted pursuant to subparagraph (A) of paragraph (1) for a period of no less than two consecutive academic terms.

- (5) The board of governors shall provide notification of a proposed action to adopt regulations pursuant to this subdivision to the appropriate policy and fiscal committees of the Legislature in accordance with the requirements of [paragraph \(1\) of subdivision \(a\) of Section 70901.5](#). This notification shall include, but not be limited to, all of the following:
- (A) The proposed minimum academic and progress standards and information detailing how the requirements of paragraphs (1) to (4), inclusive, have been or will be satisfied.
  - (B) How many students may lose fee waiver eligibility by ethnicity, gender, disability, and, to the extent relevant data is available, by socioeconomic status.
  - (C) The criteria for reviewing extenuating circumstances, granting appeals, and reestablishing fee waiver eligibility pursuant to paragraph (2).
  - (h) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a dependent or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. "Active service of the state," for the purposes of this subdivision, refers to a member of the California National Guard activated pursuant to [Section 146 of the Military and Veterans Code](#).
  - (i) The fee requirements of this section shall be waived for any student who is the surviving spouse or the child, natural or adopted, of a deceased person who met all of the requirements of [Section 68120](#) or [68120.3](#).
  - (j) The fee requirements of this section shall be waived for any student in an undergraduate program, including a student who has previously graduated from another undergraduate or graduate program, who is the dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center and the Pentagon or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if that dependent meets the financial need requirements set forth in [Section 69432.7](#) for the Cal Grant A Program and either of the following applies:
    - (1) The dependent was a resident of California on September 11, 2001.
    - (2) The individual killed in the attacks was a resident of California on September 11, 2001.
  - (k) A determination of whether a person is a resident of California on September 11, 2001, for purposes of subdivision (j) shall be based on the criteria set forth in Chapter 1 (commencing with [Section 68000](#)) of Part 41 of Division 5 for determining nonresident and resident tuition.
  - (l)(1) "Dependent," for purposes of subdivision (j), is a person who, because of the person's relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of [Public Law 107-42](#)). 1
  - (2) A dependent who is the surviving spouse of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.
  - (3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under subdivision (j) until that person attains 30 years of age.
  - (4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation Board, is also entitled to the waivers provided in this section until January 1, 2013.
  - (m)(1) It is the intent of the Legislature that sufficient funds be provided to support the provision of a fee waiver for every student who demonstrates eligibility pursuant to subdivisions (g) to (j), inclusive.
  - (2) From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, **an amount equal to 2 percent of the**

fees waived pursuant to subdivisions (g) to (j), inclusive. From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to ninety-one cents (\$0.91) per credit unit waived pursuant to subdivisions (g) to (j), inclusive. It is the intent of the Legislature that funds provided pursuant to this subdivision be used to support the determination of financial need and delivery of student financial aid services, on the basis of the number of students for whom fees are waived. It also is the intent of the Legislature that the funds provided pursuant to this subdivision directly offset mandated costs claimed by community college districts pursuant to [Commission on State Mandates consolidated Test Claims 99-TC-13 \(Enrollment Fee Collection\)](#) and 00-TC-15 (Enrollment Fee Waivers). Funds allocated to a community college district for determination of financial need and delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 1992-93 fiscal year.

(n)(1) A community college district may use available emergency relief funds provided by the federal government to waive the fee requirements established pursuant to this section for a student who has not paid the fee due to the impacts of the COVID-19 pandemic.

(2) A community college district may use the authorization established pursuant to this subdivision only to waive the fees of students that are unpaid due to the impacts of the COVID-19 pandemic. A participating community college district shall first waive the unpaid fees of low-income students and students from underrepresented communities.

(o) The board of governors shall adopt regulations implementing this section.