

AR 5020 Nonresident Tuition (and Exemptions) (NEW AR)

NOTE: This procedure is **legally required**. Local practice may be inserted below, which **must** include or address: *Red is from the League*

From AP 5020 SBCC

Nonresident Tuition for Out-of-State and International Students

Students who are not residents of California for one year and one day prior to the first day of the term are classified as nonresident or International Students and the District may admit and shall charge tuition to nonresident and international students and may apply exemptions in accordance with Education Code Sections 76140 and 76141.

Nonresident tuition fee to be set no later than March 1 of each year.

The fee shall be calculated pursuant to Education Code Section 76140 and provide for students enrolled in any credit units in all primary and inter-sessions.

The calculation of the non-resident tuition fee shall include:

- A requirement that the calculation reflect the current expense of education calculated according to the Budget and Accounting Manual.
- Exemptions, if any, due to reciprocity with bordering states.
- Processing fees, if any, for international students.
- A requirement that the calculation include (reflect) the expense of education in the preceding fiscal year.
- A requirement that the calculation provide for students enrolled in more or less than 15 units per term.
- A requirement that a notice listing persons exempt from paying nonresident tuition be posted on the College's website.

Tuition Fee Refunds

Refunds will be made in accordance with AP 5030 Fees.

Gathered from catalog:

For more information about fees for nonresident students, contact the Cashier's Office, Admissions Office, or International Education Center. To find current deadline dates for paying all fees or receiving refunds, students should check their class schedule at Corsair Connect (smc.edu/cc), consult the College Policies section of the Schedule of Classes, or see the Fees webpage (smc.edu/fees).

Upper-Division Coursework Fee

There is a mandatory upper-division nonresident fee in addition to the tuition enrollment unit fee *for students pursuing a Bachelor degree*. Students who qualify for an Assembly Bill 947 exemption pay a lower nonresident fee in addition to the upper-division unit fee and enrollment fee.

Reclassification of Non-Resident Status

Students who believe they should be reclassified as resident students have the responsibility to submit a residency reclassification packet with proper documentation to the Admissions and Records office for review and determination of residency status.

Exemptions:

Nonresident Tuition Exemption (AB540)

Any students, other than (non-immigrant aliens) under persons excluded from the term “immigrant” for purposes of the federal Immigration and Nationality Act (8 U.S. Code Section 1101(a)(15)), who meet the following requirements are exempt from nonresident tuition.:

- either high school, adult schools and/or community college attendance in California for three or more years OR attainment of credits earned in California from a California high school equivalent to three or more years of full-time high school coursework and a total of three or more years of attendance in California elementary schools, California secondary schools, or combination of those schools;
- graduation from a California high school or attainment of the equivalent thereof;
- registration or enrollment in a course offered for any term commencing on or after January 1, 2002;
- filing a California Nonresident Tuition Exemption Request form with the College 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 verifying eligibility for this nonresident tuition exemption; and
- in the case of undocumented persons, a student without lawful immigration status the filing of an affidavit that the student has filed an application to legalize their immigration status or will file an application as soon as they are eligible to do so.

Special Part-Time Student Exemptions (language diff but dated 2018) This section had no Title

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. Code Section 1101(15)(a)), participating in a College and Career Access Pathways (CCAP) partnership program and enrolled in no more than 15 units per term.

Special Immigrant Visa (SIV) & Refugee Exemptions

This section had no Title

A nonresident student who enrolls in a credit English as a Second Language course at the College and who is any of the following:

- A recent immigrant, as defined in 8 U.S. Code Section 1101(a)(15);
- A recent refugee, as defined in 8 U.S. Code Section 1101(a)(42); or
- A person who has been granted asylum by the United States, as defined in 8 U.S. Code Section 1158.

This exemption applies only to individuals who, upon entering the United States, settled in California and who have resided in California for less than one year. This exemption applies only to the tuition fee for credit ESL courses.

Additional Nonresident Student Exemptions

The College shall exempt from nonresident tuition a student who is a U.S. citizen and who resides in a foreign country if that

~~Any students who~~ meets the following requirements:

- demonstrates financial need for the exemption;
- has a parent or guardian who has been deported or was permitted to depart voluntarily;
- moved abroad as a result of that deportation or voluntary departure;
- lived in California immediately before moving abroad;
- attended a public or private secondary school in the California for three or more years; and
- upon enrollment, will be in their first academic year as a matriculated student in California public higher education, will be living in California, and will file an affidavit with the College stating that they intend to establish residency in California as soon as possible.

Documentation shall be provided by the student as required by statute as specified in Education Code Section 76140 (a)(5).

The College shall exempt from nonresident tuition a student who is a non-immigrant alien ~~Any persons~~ granted “T” or “U” visa status under 8 U.S. Code Section 1101(a)(15)(T)(i) or (ii), or section 1101(a)(15)U(i) or (ii), respectively, who meet the following requirements:

- high school attendance in California for three or more years;
- graduation from a California high school or attainment of the equivalent thereof;
- registration or enrollment in a course offered for any term or commencing on or after January 1, 2002; and
- filing a California Nonresident Tuition Exemption Request form with the College 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 verifying eligibility for this nonresident tuition exemption.

Military Personnel and Dependent Exemptions

Military Exemptions from nonresident tuition will be made in accordance with AR 5013.

Colleges are authorized to claim state apportionment for enrollment of students exempted under this provision. Students exempted under this provision do not receive resident status for the purpose of financial aid (SB 141).

Also see AR 5010 Admission Eligibility, AR 5015 Residency Determination, AR 5013 Residency Determinations for Military Personnel and Dependents and [AR 5030 Fees](#)

References:

Education Code Sections 68044, 68074, 68075, 68075.65, 68075.7, 68084, 68121, 68130.5 and 76140 et seq., and 76300 et seq.

Revised:

§ 54045.5. Nonresident Tuition Exemption Implementation.

Currentness

(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.

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) (A) 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) (i) The California State University and California Community Colleges shall, and the University of California and independent institutions of higher education are requested to, accept an affidavit provided to the Student Aid Commission as part of the student's financial aid application for purposes of meeting the requirement in subparagraph (A).

(ii) An institution that receives an affidavit from the Student Aid Commission pursuant to clause (i) shall share the affidavit with any departments within the institution that require such an affidavit to ensure that students are not required to submit multiple affidavits.

(iii) The institution of higher education shall not require a student to file a separate affidavit. This shall not preclude the institution of higher education from verifying the information provided on the affidavit, as the institution deems necessary.

(iv) Notwithstanding clause (i), the institution of higher education may provide an affidavit for students who do not apply for state financial aid to submit for the purposes of complying with subparagraph (A).

(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.

(e) For purposes of this section, "independent institutions of higher education" has the same meaning as in Section 66010.

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), (6), or (8) 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. See (5) Exemptions made pursuant to this paragraph may be made on an individual basis. A nonresident student exempted pursuant to paragraph (8) is not exempted pursuant to this paragraph.

(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.

(8) (A) A student who meets all of the following criteria:

(i) Is a nonresident, low-income student who is a resident of Mexico.

(ii) Registers for lower division courses at Cuyamaca College, Grossmont College, Imperial Valley College, MiraCosta College, Palomar College, San Diego City College, San Diego Mesa College, San Diego Miramar College, or Southwestern College.

(iii) Has residence within 45 miles of the California-Mexico border for at least one year immediately before seeking the fee exemption pursuant to this paragraph.

(B) (i) The governing boards of the community colleges described in clause (ii) of subparagraph (A) that choose to use the exemption pursuant to this paragraph shall adopt one uniform policy that accomplishes all of the following:

(I) Determines a student's residence classification.

(II) Establishes procedures for an appeal and review of the residence classification.

(III) Determines whether a student is low income.

(ii) As a condition of its students receiving an exemption pursuant to this paragraph, the governing boards of the community colleges described in clause (ii) of subparagraph (A) that choose to use the exemption pursuant to this paragraph shall collaborate with each other to ensure the adoption of the uniform policy pursuant to clause (i).

(C) No more than 150 full-time equivalent students (FTES) at each community college described in clause (ii) of subparagraph (A) shall be exempted from payment of a nonresident tuition fee under this paragraph in any academic year.

(D) On or before January 1, 2028, the governing boards of the community colleges described in clause (ii) of subparagraph (A) that choose to use the exemption pursuant to this paragraph shall jointly submit a report to the Legislature in compliance with Section 9795 of the Government Code that includes, but is not limited to, the demographics, attendance rate, and class completion rate of students receiving an exemption pursuant to this paragraph.

(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 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), (6), or (8) 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.

(k) This section shall become inoperative on July 1, 2028, and, as of January 1, 2029, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2029, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2023, Ch. 796, Sec. 3. (AB 91) Effective January 1, 2024.