

AR 5015 Residence Determination

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1. Overview of Residency Classification for Tuition Purposes

The residency status for tuition purposes of students applying to or enrolling in credit courses at Santa Monica College is determined in accordance with the California Education Code (including §§68040, 68044, 68060, 68062, 68075.65, 68130.5, and 76140).

Students enrolling exclusively in noncredit courses, including Career Development and College Preparation courses, are not subject to residency classification requirements (Ed. Code §68086).

An initial residency classification is made at the time of admission and may be determined again after an absence of more than one semester (Ed. Code §68044).

Students who wish to change from nonresident to resident status must submit a Residency Questionnaire no later than the first day of the term in which they are seeking reclassification, in accordance with Santa Monica College policy. Students have the right to appeal residency decisions as provided in Section 6.3 below.

Complete information regarding residency requirements, acceptable proof of documentation, and residency exceptions/exemptions are available on the Admissions and Records Residency webpage at www.smc.edu/residency (Ed. Code §68075.65).

2. Residency Requirements

To be classified as a California resident for tuition purposes, a student must satisfy core requirements: (1) physical presence in the state for at least one year prior to the residency determination date, (2) intent to make California a permanent home rather than a temporary residence, (3) U.S. Citizenship or a qualifying lawful status under the federal Immigration and Nationality Act (8 U.S.C. § 1101 et seq.), and, (4) when seeking reclassification, evidence of financial independence (Cal. Ed. Code §§ 68017, 68023, 68040, 68041, 68043, 68044, 68062, 68070, 68086, 68101; Cal. Code Regs., tit. 5, §§ 54002, 54010, 54020, 54022, 54024, 54026, 54028, 54032, 54045).

Certain students who are not otherwise eligible based on immigration status may nonetheless qualify for a nonresident tuition exemption under AB 540 (Cal. Ed. Code § 68130.5). Other students may qualify under one of the exceptions or exemptions outlined in section 4.11 below.

For purposes of this regulation, the one year residence period, which a student must meet to be classified as a resident, does not begin until the student has demonstrated a lawful presence to establish residency and is both present in California and has manifested clear intent to become a California resident.

2.1. Evidence of Physical Presence

A student who is capable of establishing residency must *demonstrate continuous* physical presence in California for one year immediately preceding the residence determination date to be classified as a resident (Ed. Code § 68041; Title 5 §54024).

- 2.1.1. The residency determination date (RDD) is defined as the day immediately preceding the first day of instruction of the term for which the student seeks to enroll. All classes within that term, including late-start classes, are subject to the same uniform residency determination date (**each term has only one residency determination date**).
- 2.1.2. A temporary absence from California for business, education, or pleasure does not result in the loss of residency if the individual maintained the intent to return and did not take actions inconsistent with that intent, such as those noted in Section 2.2.6.2.
- 2.1.3. Presence in California solely for educational purposes does not establish residency, regardless of the length of stay (Cal. Ed. Code §§ 68017, 68070; Cal. Code Regs., tit. 5, § 54022).

2.2. Evidence of Intent

To establish California residency for tuition purposes, a student must demonstrate intent to make California their permanent home rather than a temporary place of residence. Intent may be shown in a variety of ways; no single factor is determining (Cal. Ed. Code § 68041; Cal. Code Regs., title 5, § 54024).

2.2.1. Students 19 years of age or older

A student who is 19 years of age or older and who has maintained a home in California continuously for the past two years is presumed to have the intent to make California a permanent home, unless contrary intent is shown through actions inconsistent with residency (Section 2.2.6.2; Cal. Ed. Code

§ 68041; Cal. Code Regs., tit. 5, § 54024).

2.2.2. Students under 19 years of age

A student who is under 19 years of age is presumed to have the intent to make California a permanent home if both the student and their parent or legal guardian have maintained a home in California continuously for the past two years, unless contrary intent is shown through actions inconsistent with residency (Section 2.2.6.2; Cal. Ed. Code § 68041; Cal. Code Regs., tit. 5, § 54024).

2.2.3. Other Nonqualifying Students

Students who do not qualify under 2.2.1 or 2.2.2 (2.2.1. or 2.2.2.) above must provide *independent* evidence of intent to establish California residency for other than a temporary purpose.

2.2.4. Minor with Continuous Enrollment After Parent Leaves California

If a student, or the parent or legal guardian of a minor student, has given up California residency by moving out of the state, the student must live in California for one full year from RDD and demonstrate intent for that same period to reestablish residency for tuition purposes, except as provided under Cal. Ed. Code § 68070 (students who remain in the State after parent moves elsewhere). (Cal. Code Regs., tit. 5, § 54024).

2.2.5. Moving to California to Live with a Different Parent Who is Resident

If a student lives with one parent/legal guardian out of state and graduates high school in that State and then moves to California to live with the other parent/legal guardian in California who has residency per Education Code §68076 the student shall be granted a temporary one-year residency exemption. This exemption shall continue until the student has resided in California the minimum time necessary to document physical presence and intent (not to exceed one-year), so long as continuously enrolled.

2.2.6. Evidence of Intent

2.2.6.1. Conduct consistent with a claim of California residency includes, but is not limited to:

2.2.6.1.1. Ownership of residential property or continuous occupancy of rented or leased property in California.

2.2.6.1.2. Registering to vote and voting in California.

- 2.2.6.1.3. Licensing from California for professional practice.
- 2.2.6.1.4. Active membership in California professional, religious, merchant, service organizations or social clubs.
- 2.2.6.1.5. Presence of spouse, children, or other close relatives in the state.
- 2.2.6.1.6. Showing California as home address on federal income tax forms.
- 2.2.6.1.7. **Payment** Filing of California state income tax as a resident.
- 2.2.6.1.8. Possessing California motor vehicle license plates/registration.
- 2.2.6.1.9. Possessing a California driver's license or California ID.
- 2.2.6.1.10. Maintaining permanent military address, or home of record in California while in armed forces.
- 2.2.6.1.11. Establishing and maintaining active California bank accounts.
- 2.2.6.1.12. Petitioning for divorce in California.
- 2.2.6.1.13. Remaining in California during academic breaks.
- 2.2.6.1.14. Registering for the Selective Service in California (indicating California address).
- 2.2.6.1.15. **Payroll stubs, W-2 or 1099 Forms**
- 2.2.6.1.16. **Lease Agreements**
- 2.2.6.1.17. **Other acceptable documentation**

2.2.6.2. Conduct inconsistent with a claim of California residence includes but is not limited to:

- 2.2.6.2.1. Maintaining voter registration and voting in another state.
- 2.2.6.2.2. Being the petitioner for a divorce in another state.
- 2.2.6.2.3. Attending an out-of-state educational institution as a resident of that other state.
- 2.2.6.2.4. Declaring non-residence for state income tax purposes or paying taxes in another state or country as a resident of that state or country.

2.3. **Lawful Presence in the United States**

Non-U.S. citizens, including unmarried minors, may establish California residency for tuition purposes if they are not restricted under the federal Immigration and Nationality Act (8 U.S.C. § 1101 et seq.) from establishing domicile in the United States. To qualify, the student must also have lived in California for more than one year immediately preceding the residency determination date for the term of intended enrollment.

In general, non-U.S. citizens cannot establish domicile if their immigration status is undocumented, if they hold a visa that requires maintenance of a residence outside the United States, or if they entered the country solely for a temporary purpose (Cal. Ed. Code §§ 68017, 68043, 68062(h), 68070; Cal. Code Regs., tit. 5, §§ 54022, 54045).

See Exemptions and Exceptions in section 5.

2.4. Financial Independence for Reclassification

A student seeking reclassification from nonresident to resident status must be evaluated for financial independence (Cal. Ed. Code § 68044, 68071; Cal. Code Regs., tit. 5, § 54032, 54020, 54022, 54024). A student who demonstrates financial independence may be reclassified as a California resident if physical presence and intent requirements are met.

In addition to submitting the residency questionnaire, the student must submit documentation to determine financial independence for reclassification.

- 2.4.1. Financial independence weighs in favor of finding California residency, while financial dependence weighs against it. Financial dependence in the current or preceding calendar year carries more weight against a residency finding than dependence in earlier years. **Financial dependence in the current or preceding calendar year shall be overcome only if (1) the parent/legal guardian 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.**

Students claimed as dependents by parents or legal guardians on income taxes filed in another state are precluded from establishing California residency for tuition purposes.

- 2.4.2. A student is considered financially independent if, for the calendar year of the reclassification request and the three preceding years, they (1) have not been claimed as a tax dependent by a parent or legal guardian, (2) have not received more than \$750 per year in financial assistance from a parent or legal guardian, and (3) have not lived in a parent's or legal guardian's home for more than six weeks per year.

2.4.3. Failure to satisfy all of the financial independence criteria listed above does not necessarily result in denial of residency status of the one year residency requirement is met and demonstration of intent is sufficiently strong.

2.4.4. Acceptable documentation includes recent state and federal tax returns (from both the student and parents), W-2 forms, rental or lease agreements, and financial records (e.g., bank statements, loan or trust information verifying income and self-support per section 2.2.1 or 2.2.2).

3. Residency Determination and Classification Process

3.1. Residency classification is determined for each student at the time of admission to a given enrollment term, and again if the student has not attended for more than one semester. *Summer and winter intersessions are not included in this consideration?* (Cal. Code Regs., tit. 5, § 54010).

3.2. Residency classification is based on the residency determination date, defined as the day immediately preceding the first day of instruction for the term in which the student plans to enroll (Cal. Code Regs., tit. 5, § 54002).

3.3. Students must be notified of their residency classification within 14 calendar days of submitting the admission application (Cal. Code Regs., tit. 5, § 54060).

3.4. The burden of proof rests with the student to demonstrate both physical presence in California and intent to establish residency. Students must provide all information and supporting documentation requested on the Residency Questionnaire to enable Admissions and Records to determine their residency classification (Education Code §66700, §68041, §68044, and §70901, Cal. Code Regs., tit. 5, § 54010, 54026). Determination will be made within 21 days if all pertinent documents are received. (3.3 says 14 but it means w/out doc's)

3.5. Residency classification is the responsibility of the Admissions and Records Office, under the supervision of the Dean of Enrollment Services or designee.

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

- 3.7. All documents and information obtained for residency determination are strictly confidential and protected under the Family Educational Rights and Privacy Act (FERPA).

4. Statutory Rules for Determining Residence

Residency determinations are guided by statutory rules established in the California Education Code and Title 5 regulations. These rules provide the legal framework for identifying a student's place of residence.

- 4.1. A student who has resided in California for at least one year prior to the residency determination date is considered a resident (Cal. Ed. Code § 68017). The one-year period begins only when the student is both physically present in California and has manifested (shown clear) intent to make California their state of residency (Cal. Ed. Code § 68062(d); Cal. Code Regs., tit. 5, § 54020).
- 4.2. A student who has resided in California for less than one year immediately preceding the residency determination date is considered a nonresident and must pay nonresident tuition and fees, unless otherwise provided by statute or college policy (Cal. Ed. Code § 76140).
- 4.3. A student who is married, or 18 years of age or older and not under legal disability (a status that prevents a person from acting with full legal capacity), may establish residency (Cal. Ed. Code § 68061).
- 4.4. A student can have only one residence at a time (Cal. Ed. Code §§ 68060, 68062).
- 4.5. By law, every person has a residence. Residence is defined as the place where a person remains when not called elsewhere for labor or other temporary purposes, and to which they return during periods of repose (Cal. Ed. Code §§ 68060, 68062).
- 4.6. A residence is not lost until another is gained (Cal. Ed. Code § 68062).
- 4.7. Residency can change only through the union of act (physical presence) and intent (Cal. Ed. Code § 68062; Cal. Code Regs., tit. 5, § 54020).
- 4.8. A student may establish their own residence. A student's residence is independent of their spouse; (Cal. Ed. Code § 68062).

- 4.9. The residence of an unmarried minor is the same as that of the parent or legal guardian with whom the minor lives. If the minor does not live with either parent or legal guardian, residence is determined by the parent/legal guardian with whom they last lived. If both parents are deceased and no guardian has been appointed, the minor may establish their own residence (Cal. Ed. Code § 68062).
- 4.10. The residence of an unmarried minor with a living parent cannot be changed by the minor's own actions, by the appointment of a legal guardian, or by a parent relinquishing control, unless the student qualifies under the Self-Support or Two-Year Care and Control exceptions (Cal. Ed. Code §§ 68071, 68073; Cal. Code Regs., tit. 5, § 54047).
- 4.11. A non-U.S. citizen student, including an unmarried minor, may establish residency unless the Immigration and Nationality Act (8 U.S.C. § 1101 et seq.) prohibits them from doing so. For unmarried minors who are noncitizens, residence is determined according to the rules governing their parents' or legal guardians' residence (Cal. Ed. Code § 68062).

5. Residency Exceptions and Tuition Exemptions

The following statutory exceptions and exemptions allow certain nonresident students to qualify for resident classification or exemption from nonresident tuition and fees, even if they do not otherwise meet the standard residency requirements.

5.1. Minors Living with a Resident Parent

A minor student living with a parent or legal guardian qualifies for residency classification if that parent/guardian has resided in California for one year immediately preceding the residence determination date for the term the student plans to attend (Ed. Code §68080).

5.2. Dependent Under Age 19

A student under age 19 who has not been an adult (18 years of age) California resident for one year prior to the residence determination date may still qualify if: (1) they are a dependent of a California resident who has lived in the state for at least one year, or (2) their parent/guardian has provided continuous court-ordered support and has resided in California for at least one year. This exception applies until the student satisfies the minimum residency requirement, provided continuous enrollment is maintained (Ed. Code §68076).

5.3. **Minor with Continuous Enrollment**

A minor student who remains in California after their parent/guardian establishes residence elsewhere may retain California residency classification as long as they remain continuously enrolled until reaching age 18 and meeting the minimum residency requirement (*Ed. Code §68070*).

5.4. **Self-Supporting Minor**

A minor who is entirely self-supporting, has been physically present in California for more than one year prior to the residence determination date, and demonstrates intent to establish residency, is entitled to residency classification (*Ed. Code §68071*).

5.5 **Residency Credit for Time as a Minor**

A student who has been an adult for less than one year before the residency determination date may count their time living in California as a minor (under 18 yrs of age) together with their time as an adult (over 18 yrs of age). This combined period may be applied to meet the one-year California residency requirement (*Ed. Code §68072*).

5.6 **Self-Supporting Student**

Students claiming this exception must provide documentation such as: earnings statements (e.g., W-2 forms, or a letter from the employer, earnings of the year immediately preceding the residence determination date, tax return even if zero income from the year immediately preceding the residence determination date; a statement confirming continuous physical presence in California (short absences for business or pleasure are allowed); and a statement of all expenses for the year (**how covering expenses**) (*Ed. Code §§68044, 68071; Title 5 §§54020, 54024, 54032, 54040*).

5.7. **Two-Year Care and Control**

A student qualifies for resident classification if 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 immediately before enrollment, and that adult has lived in California for at least one year prior to the residence determination date. This exception continues until the student turns 18 and meets the residency requirement, as long as continuous enrollment is maintained (*Ed. Code §68073; Title 5 §54047*).

5.8. Special Immigrant Visa (SIV) or Refugee

A student who holds a special immigrant visa under Section 1244 of Public Law 110-181, Public Law 109-163, or Section 602(b) of Title VI of Division F of Public Law 111-8, or who has been admitted to the United States as a refugee under 8 U.S.C. §1157, is exempt from paying nonresident tuition.

This exemption applies if the student settled in California upon entering the United States and continues for as long as the student lives in California until they meet the minimum time required to establish residency (Ed. Code §68017, 68075.6 and 76140).

SIV Visa holders include Iraqi and Afghan citizens or nationals (and their spouses and children) who were employed by or on behalf of the United States Government in Iraq (Public Law 110-181, § 1244), and who meet certain criteria, and translators (and their spouses and children) who worked directly with the United States Armed Forces (Public Law 109-163, § 1059), and who meet certain criteria. SIV Visa holders also include Afghanistan nationals who were employed by or on behalf of the U.S. government or in the International Security Assistance Force (ISAF) in Afghanistan.

The one-year nonresident tuition exemption in Education Code section 68075.6 also applies to Afghan and Ukrainian Humanitarian Parolees. Under federal law, Afghan and Ukrainian humanitarian parolees are entitled to benefits available to refugees. Ukrainian parolees are eligible for the nonresident tuition fee exemption in 68075.6(b)(1), and should be granted it if they have resided in California for less than one year. Afghan parolees are eligible for the non-resident tuition fee exemption in 68075.6(b)(1) until the date on their parole term.

5.9. Students from Bureau of Indian Affairs Schools

Students who graduate from a Bureau of Indian Affairs (BIA) high school in California, are entitled to California resident classification for tuition purposes, if they maintain continuous enrollment (Ed. Code §§68077). In addition, Native American (American Indian) students who are attending a BIA school located within the SMCCCD boundaries are entitled to resident classification (Ed. Code §§68082).

5.10. Public School Full-Time Credentialed Employee

A student with a valid California teaching credential who works full-time in a

California public school qualifies for residency classification if they are: (1) holding a provisional credential and taking courses needed for another credential; or (2) taking courses required to meet credential requirements under Ed. Code §44250; or (3) taking courses required for a fifth year of education under Ed. Code §44259(b).

A student employed full-time with an emergency teaching permit also qualifies for one year exception. After that period, residency is determined under the standard provisions (Ed. Code §68078; Title 5 §54046).

5.11. State Agency Employee, Spouse, or Dependent

A student who is a full-time employee of a California public institution or state agency—or the spouse or child of such an employee—may be granted resident classification, even if they have not yet satisfied the one-year California residency requirement. For the purposes of this section, an employee of any “state agency” means an individual employed by the State of California who is assigned to work outside of California. This provisional classification remains in effect until the student has lived in California long enough to meet the standard residency requirement under state law (Ed. Code §68079).

5.12. USA Team Athlete

A Team USA student athlete training in California in an elite-level program approved by the U.S. Olympic and Paralympic Committee qualifies for resident classification until they have resided in California for the minimum time required to become a resident (Ed. Code §68083; operative until July 1, 2032).

5.13. Dependent or Ward of the State of California

A student who lives in California, is 19 years of age or younger at the time of enrollment, and who is or was a dependent or ward of the State of California, or who was served by California’s child welfare system, may qualify for resident classification until they meet the minimum residency requirement (Ed. Code §68085).

5.14. Agricultural Workers and Children of Agricultural Workers

A student who is an agricultural laborer in California, or who resides with a parent/guardian who has worked as an agricultural laborer in California for at least two months each year for the past two years, and currently lives in the Santa Monica Community College District may be classified as a California resident. If

the parent/guardian earns sufficient income, the student must have been claimed as a dependent for state or federal tax purposes (Ed. Code §68100, 68044, 68074-75; Title 5 §§54048, 54050).

5.15. U.S. Citizen Whose Parent Was Deported

A student whose parent/guardian has been deported, or granted permission to leave the U.S., or voluntarily deported, in lieu of deportation and moved abroad as a result, may qualify for residency if they: (1) demonstrate financial need; (2) lived in California immediately before the parent/guardian's deportation; (3) attended a California public or private secondary school for at least three years; (4) begin their first academic year as a matriculated student in California; (5) will reside in California upon enrollment; and (6) will file a U.S. Citizen Whose Parent was Deported Affidavit of intent to establish residency in California (Ed. Code §76140; SB 141). Students exempted under this provision do not receive resident status for the purpose of financial aid until they establish California residency (SB 141).

5.16. Special Part-Time Student (CCAP)

A special part-time student participating in a College and Career Access Pathways (CCAP) program and enrolled in no more than 15 units per term, qualifies for nonresident tuition exemption. This does not apply to individuals excluded from the term "immigrant" under the INA (8 U.S. Code §1101(a)(15)(A). (Ed. Code §76004; Title 5 §54045.5).

5.17. Noncitizens With Nonimmigrant Status

Any student who is not a nonimmigrant, those granted a T (TPS) or U visa under 8 U.S. Code §1101 (a)(15), qualify for nonresident tuition exemption (Education Code, §68062(h), §68122, §68130.5; Title 5 §54045.5, §58003.6).

A noncitizen student with any immigration status allowing permanent residence in the U.S. for at least one year 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).

5.18. AB 540 Eligible Students

Students (U.S. citizens, permanent residents, or foreign nationals who are not nonimmigrants, including undocumented students) may be exempt from paying nonresident tuition (Ed. Code §68130.5; Title 5 §54045.5) if they:

- 5.18.1. Attend California schools for at least three years (or earn credits equivalent to three years of full-time attendance in California schools, adult schools, the Department of Corrections and Rehabilitation, California Community Colleges (credit or noncredit courses), or a combination thereof.
- 5.18.2. Graduate from a California high school (or equivalent), or earn an associate degree from a California community college, or meet UC/CSU minimum transfer requirements from a CCC.
- 5.18.3. File a California Nonresident Tuition Exemption Affidavit (AB 540 Affidavit), affirming they have applied or will apply for legal status when eligible. **A student may file an AB 540 Affidavit at any time and residency will be retroactive if eligible.**
- 5.18.4. Students applying for state aid via the California Dream Act Application will have eligibility verified by the College (Education Code §68130.5, Title 5 §54045.5).

Exemption is not available for students living outside California who are taking distance education classes from California Community Colleges.

5.19. Nonresident Low-Unit Enrollees:

The College may at its discretion exempt from all or part of the nonresident fees for students enrolled in six or fewer units. However, this is a blanket exemption and may not be granted on a case-by-case basis. Apportionment may not be claimed for these students (Ed. Code §§68130, 76140, 76141).

5.20. Foreign Residents with Financial Need

The College may exempt from the nonresident tuition fee any student who is both a citizen and resident of a foreign country, provided that the student demonstrates financial need. This exemption is limited to no more than 10 percent of the nonresident foreign students attending the district in any academic year and may be granted on an individual basis. Apportionment may not be claimed for these students (Ed. Code §§68130, 76140, 76141).

5.21. Recent Immigrants, Refugees, or Asylees in ESL Courses

The district must exempt the nonresident tuition fee for any nonresident student

who enrolls in a credit English as a Second Language (ESL) course and who qualifies as one of the following: a recent immigrant under Section 1101(a)(15) of Title 8 of the United States Code, a recent refugee under Section 1101(a)(42) of Title 8, or a person granted asylum under Section 1158 of Title 8.

This exemption applies only to individuals who, upon entering the United States, settled in California and who have resided in the state for less than one year. The exemption is limited to the tuition fee for credit ESL courses. *Apportionment may not be claimed for these students (Ed. Code §, 76140).*

5.22. Survivors of COVID-19 First Responders and Healthcare Workers

The surviving spouse or child of a licensed physician, licensed nurse, or first responder who was a California resident and died from COVID-19 during the state of emergency in California is exempt from all mandatory systemwide tuition and fees, including nonresident tuition (Ed. Code §, 68120.3).

6. Reclassification to California Residency Status

A student who has been classified as a nonresident may request reclassification to resident status as of any residence determination date (for any term).

- A Residency Reclassification Questionnaire petition must be submitted electronically through the Admissions and Records Residency webpage.
- Supporting documentation demonstrating the conditions of physical presence, intent to establish residency in California and financial independence must be submitted with reclassification request.

6.1 Petition for Reclassification

6.1.1 Students seeking reclassification are strongly encouraged to submit a Residency Questionnaire electronically at least 30 days before the start of the term for which reclassification is requested. The questionnaire, along with a list of acceptable supporting documents (not an exhaustive list), is available through the Admissions and Records Residency webpage (smc.edu/residency).

6.1.2 [Extenuating circumstances may be considered in cases where a student failed to petition for reclassification prior to the residency determination date.](#)

- 6.1.3 In no case, however, may a student receive a nonresident tuition refund after the date of the first census (refund deadline posted on student portal).

6.2. Requirements

- 6.2.1. **Physical Presence** in California for at least one year immediately preceding the residency determination date for the term they seek reclassification.
- 6.2.2. **Intent** to make California a permanent home, rather than a temporary residence.
- 6.2.3. **Lawful Presence** in the United States that allows establishment of domicile (e.g., U.S. citizenship, lawful permanent residency, or an eligible nonimmigrant visa category). Students with “other” lawful status (e.g., copy of permanent resident card, asylee/refugee documentation, or an eligible visa under Ed. Code §68062(h) and Title 5 §54045) may also qualify.
- 6.2.4. **Financial Independence**, when applicable, as set forth in Education Code and Title 5 regulations (Education Code §68044, §68071; Cal. Code Regs., tit. 5, §§ 54020, 54022, 54024, 54032) see sections under 2.1, 2.2, 2.3 and 2.4.. To be considered financially independent for purposes of reclassification, a student must meet all of the following:
- 6.2.4.1. Has not and will not be claimed as an exemption for state or federal tax purposes by their parent/legal guardian in the calendar year of the petition and in any of the three preceding calendar years.
 - 6.2.4.2. Has not and will not receive more than \$750 in financial assistance from their parent/legal guardian during that same time period.
 - 6.2.4.3. Has not lived and will not live for more than six weeks in the home of their parent/legal guardian during that same time period.

6.2.5 Failure to satisfy every criterion does not automatically preclude reclassification if the student demonstrates one year of residence in California and clear intent. However, financial dependence in the current or preceding year weighs more heavily against residency in earlier years.

6.2.6 A student who has established financial independence and meets the other requirements may be reclassified as a resident.

6.3 Reclassification Determination

The Admissions and Records Office will evaluate petitions for reclassification and notify students of the decision (Title 5 §54060) within 21 days of receipt, provided the residency questionnaire has been completed in full and the required documentation was included. If denied reclassification, the reason(s) for denial will be disclosed at the time decision is emailed to student. Students may resubmit another petition for reclassification (another 21 days turnaround time) or may file an appeal.

6.4 Right to Appeal and Appeal Procedure

Students may file an appeal if their residency reclassification is denied. Students must submit an electronic "Special Consideration Petition" to the Admissions and Records Office website within 10 school days of notice of denial.

Students must specify the reasons they believe the Admissions and Records Office erred, and provide additional information not previously made available in support of their request. Petitions without this new information will be automatically denied. **Students will be provided a decision to their Residency Reclassification Appeal within 21 days of receipt.** The decision will be made by the Dean of Enrollment Services or designee and additional information may be requested. The determination shall state specific facts on which the appeal decision was made.

For residency determinations for military personnel and federal service employees and their dependents see AR 5013 Residency Determinations for Military Personnel & Dependents.

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 and Refunds

References:

Education Code Sections 68000, 68017-18, 68040-68044, 68060-62, 68070-80, 68075-75.7, 68080-68086, 68100-01, 68120-23, 68130-30.5, 76140-41, 76300

Title 5 Sections 54000 et seq.; 54001-02, 54010, 54020, 54022, 54024, 54026, 54028, 54030, 54032, 54040-42, 54045-48, 54050, 54060

38 U.S. Code §3679 and 8 U.S. Code §1101

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Title 5

§ 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.

(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.

§ 54026. Burden.

The burden is on the student to demonstrate clearly both physical presence in California and intent to establish California residence.

§ 54028. One-Year Waiting Period.

The one-year residence period which a student must meet to be classified as a resident does not begin to run until the student both is present in California and has manifested clear intent to become a California resident.

§ 54030. Reestablished Residence.

If a student or the parents of a minor student relinquish California residence after moving from the state, one full year of physical presence, coupled with one full year of demonstrated intent to be a California resident, is required to reestablish residence for tuition purposes, except as provided in Education Code section 68070.

§ 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.

§ 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.

§ 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.

§ 54048. Agricultural Employment.

A student claiming residence shall provide either (a) or (b):

(a) Evidence that the student's parent with whom the student is living earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed such labor in California for at least two months in each of the preceding two years, and that the parent lives within the district. If the parent of such student had sufficient income to incur personal income tax liability for federal and/or state purposes, proof that the student was claimed as a dependent on federal or state personal income tax returns shall also be required.

(b) Evidence showing the student himself or herself earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

As used in this section agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including seeding, thinning and harvesting.

§ 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.

EDUCATION CODE

68017. Student Residency Req'ments

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.

68018.

A "nonresident" is a student who does not have residence in the state for more than one year immediately preceding the residence determination date.

68041. Classification

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.

68043.

A student classified as a nonresident shall not obtain resident classification as a result of maintaining continuous attendance at an institution without meeting the other requirements of this part for obtaining such classification.

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.

68060.

Every person has, in law, a residence.

68061.

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

68062. Determination of Student Residence

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 one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she 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 his or her residence. A woman's residence shall not be derivative from that of her husband.
- (f) The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of the unmarried minor child. When the minor lives with neither parent his or her residence is that of the parent with whom he or she maintained his or her last place of abode, provided the minor may establish his or her 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 his or her own act, by the appointment of a legal guardian, or by relinquishment of a parent's right of control.
- (h) A foreign national, including an unmarried minor foreign national, may establish his or her residence, unless precluded by the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101 et seq.) from establishing domicile in the United States.

(i) The residence of an unmarried minor foreign national shall be derived from his or her parents pursuant to the provisions of subdivisions (f) and (g).

68070. **Exceptions** to Residence Determination

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.

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.

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.

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.

68075.6.

(a) The Legislature finds and declares all of the following:

(1) The wars in Afghanistan, Iraq, Syria, and other countries have displaced many families, causing many of them to flee their homes in search of a better life. Between 2011 and March 2017, more than 36,000 refugees entered California, with nearly 8,000 of them entering in 2016.

(2) Under the National Defense Authorization Act for Fiscal Year 2006, certain Afghan and Iraqi nationals were provided special immigrant status in the United States. Through the end of 2015, more than 37,000 individuals were granted special immigrant visa (SIV) status under this program. Between 2011 and March 2017, 9,200 SIV holders resettled in California.

(3) Under the federal Afghan Allies Protection Act of 2009, certain Afghan nationals were provided special immigrant status in the United States.

(4) Many of these families have escaped war and persecution in order to improve the lives of their families, but encounter numerous barriers, such as the cost of higher education, when assimilating into the United States. Access to institutions of higher education will ensure that students from these families are able to pursue their educational goals and rebuild and improve their lives and the lives of their families.

(b) Notwithstanding any other law:

(1) A student of the California Community Colleges who has a special immigrant visa that has been granted a status under Section 1244 of Public Law 110-181, under Public Law 109-163, or under Section 602(b) of Title VI of Division F of Public Law 111-8, or is a refugee admitted to the United States under Section 1157 of Title 8 of the United States Code, and who, upon entering the United States, settled in California, shall be exempt from paying the nonresident tuition fee required by Section 76140 for the length of time he or she lives in this state up to the minimum time necessary to become a resident.

(2) A community college district may report a student, who is exempt from nonresident tuition pursuant to this section and who is enrolled as a student in that district, as a full-time equivalent student for apportionment purposes.

68075.65.

Each community college shall post on its Internet Web site a notice that sets forth which persons are exempt from paying nonresident tuition pursuant to Section 68075.6.

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.

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.

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.

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.

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.

68081.

A student who is enrolled in a state government legislative, executive, or judicial fellowship program administered by the state or the California State University is entitled to resident classification at the California State University during the period of the fellowship.

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.

68083.

(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.

(d) This section shall become inoperative on July 1, 2032, and, as of January 1, 2033, is repealed.

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.

68086.

(a) A student seeking to enroll exclusively in career development and college preparation courses, and other courses for which no credit is given, at a community college shall not be subject to the residency classification requirements of Article 3 (commencing with Section 68040).

(b) Nothing in subdivision (a) shall prohibit the Chancellor of the California Community Colleges from collecting residency data, for a student described in subdivision (a), that is voluntarily submitted by the student after he or she enrolls at a community college.

68100. Community College District Residence

(a) A district may classify a student as a district resident if he or she lives with a parent who earns a livelihood primarily by performing agricultural labor for hire in California and other states and the parent has performed this labor in this state for at least two months per year in each of the two preceding years, the parent lives within the district which maintains the community college attended by the student, and the parent claims the student as a dependent on his or her state or federal personal income tax returns if he or she has sufficient income to have a personal income tax liability.

(b) A district may also classify a student as a district resident if he or she earns a livelihood primarily by performing agricultural labor for hire in California and other states and he or she has performed this labor in this state for at least two months per year in each of the two preceding years.

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

68101.

A community college district may accept the determination of another community college district as to a student's residency classification pursuant to a process established by the office of the Chancellor of the California Community Colleges, or if all of the following conditions are satisfied:

(a) The student is cross-enrolling pursuant to Chapter 9.7 (commencing with Section 66770) of Part 40.

(b) The student is cross-enrolling in a course available through the online course exchange of the California Virtual Campus, as defined in Section 66770.

(c) The home college certifies the determination of the community college district as to the student's residency classification.

(d) The student is enrolling in a course available at the teaching college through the online course exchange of the California Virtual Campus.

(e) The home college and the teaching college have both signed on to participate in the online course exchange of the California Virtual Campus.

68120.

(a) Notwithstanding any other law, no mandatory systemwide fees or tuition or mandatory campus-based fees of any kind shall be required or collected by the Regents of the

University of California, the Board of Directors of the college named in Section 92200, the Trustees of the California State University, the Board of Governors of the California Community Colleges, or any campus of the University of California, the California State University, or the California Community Colleges from any surviving spouse or surviving child of a deceased person who met all of the following requirements:

(1) The deceased person was a resident of this state.

(2) The deceased person was employed by a public agency or was a contractor, or an employee of a contractor, performing services for a public agency, or was a firefighter employed by the federal government whose duty assignment involved the performance of firefighting services in this state.

(3) The deceased person's principal duties consisted of active law enforcement service or active fire suppression and prevention. This section does not apply to a person whose principal duties were clerical, even if the person was subject to occasional call or was occasionally called upon to perform duties within the scope of active law enforcement or active fire suppression and prevention.

(4) The deceased person was killed in the performance of active law enforcement or active fire suppression and prevention duties, died as a result of an accident or an injury caused by external violence or physical force incurred in the performance of the person's active law enforcement or active fire suppression and prevention duties, or died as a result of an industrial injury or illness arising out of and in the course of active law enforcement or fire suppression and prevention duties.

(b) Notwithstanding subdivision (a), a person who qualifies for the waiver of mandatory systemwide fees and tuition and mandatory campus-based fees under this section as a surviving child of a contractor, or of an employee of a contractor, who performed services for a public agency shall, in addition to the requirements set forth in subdivision (a), meet both of the following requirements:

(1) Enrollment as an undergraduate student at a campus of the University of California or the California State University or as a student at a community college campus.

(2) Documentation that the student's annual income, including the value of any support received from a parent, does not exceed the maximum household income and asset level for an applicant for a Cal Grant B award, as set forth in Section 69432.7.

(c) As used in this section:

(1) “Contractor” or “employee of a contractor” does not include a security guard or security officer, as defined in Section 7582.1 of the Business and Professions Code.

(2) “Public agency” means the state or any city, county, city and county, district, or other local authority or public body of or within the state.

(3) “Spouse” has the same meaning as defined in Section 22171.

(4) “Surviving child” means either of the following:

(A) A surviving natural or adopted child of the deceased person.

(B) A surviving stepchild who meets both of the following requirements:

(i) The stepchild was living or domiciled with the deceased person at the time of the deceased person’s death.

(ii) The stepchild was claimed on the tax form most recently filed by the deceased person before that person’s death, or the stepchild received 50 percent or more of the stepchild’s support from that deceased person in the tax year immediately preceding the death of the deceased person, or both.

68120.3.

(a) Notwithstanding any other law, no mandatory systemwide fees or tuition or mandatory campus-based fees of any kind shall be required or collected by the Regents of the University of California, the Board of Directors of the college named in Section 92200, the Trustees of the California State University, the Board of Governors of the California Community Colleges, or any campus of the University of California, the California State University, or the California Community Colleges, from any surviving spouse or surviving child of a deceased person who met all of the following requirements:

(1) The deceased person was a resident of this state.

(2) The deceased person was a licensed physician or a licensed nurse employed by or under contract with a health facility regulated and licensed by the State Department of Public Health to provide medical services or a first responder employed to provide emergency services as described in Section 8562 of the Government Code.

(3) The deceased person’s principal duties consisted of providing medical services or emergency services during the COVID-19 pandemic state of emergency.

(4) The deceased person died of COVID-19 during the COVID-19 pandemic state of emergency.

(b) Notwithstanding subdivision (a), a person who qualifies for the waiver of mandatory systemwide fees and tuition and mandatory campus-based fees under this section as a surviving child or spouse of a licensed physician, licensed nurse, or first responder, as defined in this section, in addition to the requirements set forth in subdivision (a), shall meet all of the following requirements:

(1) Enrollment as an undergraduate student at a campus of the University of California or the California State University or as a student at a campus of the California Community Colleges.

(2) Documentation that the student's annual income, including the value of any support received from a parent, does not exceed the maximum household income and asset level for an applicant for a Cal Grant A award, as set forth in Section 69432.7.

(3) The surviving child or spouse was a resident of California during the COVID-19 pandemic state of emergency.

(c) Any determination of eligibility shall be confirmed through documentation of a certified death certificate and documentation of the deceased's employment during the COVID-19 pandemic state of emergency provided by the surviving child or spouse.

(d) A determination of residency shall be based on the criteria set forth in this chapter for determining nonresident and resident tuition. Exemptions to residency determination shall apply to this section.

(e) As used in this section:

(1) "COVID-19 pandemic state of emergency" means the period of time from the first declaration of emergency on March 4, 2020, until the Governor lifts the state of emergency.

(2) "First responder" has the same definition as in Section 8562 of the Government Code.

(3) "Licensed nurse" means a holder of a nursing license for medical care authorized by the Board of Registered Nursing or by the Board of Vocational Nurses and Psychiatric Technicians of the State of California.

(4) “Licensed physician” means a holder of a physician’s and surgeon’s certificate who is engaged in the professional practice of providing medical care authorized by the Medical Board of California.

(5) “Surviving child” means either of the following:

(A) A surviving natural or adopted child of the deceased person.

(B) A surviving stepchild who meets both of the following requirements:

(i) The stepchild was living or domiciled with the deceased person at the time of the deceased person’s death.

(ii) The stepchild was claimed on the tax form most recently filed by the deceased person prior to that person’s death, or the stepchild received 50 percent or more of the stepchild’s support from that deceased person in the tax year immediately preceding the death of the deceased person, or both.

(6) “Surviving spouse” has the same meaning as “spouse” in Section 22171.

(f) (1) A surviving spouse is entitled to the fee waiver authorized by this section until January 1, 2033.

(2) A surviving child is entitled to the fee waiver authorized by this section until that person attains 30 years of age.

68123.

Notwithstanding any other provision of law, the Trustees of the California State University may enter into agreements with other universities or colleges located within the state whereby qualified students from campuses of the California State University may attend the other universities or colleges without payment of some or all fees or tuition, or both, charged by the other institutions, and students from the other institutions may attend campuses of the California State University without payment of some or all of the fees or tuition, or both, charged by the state university. During any year, however, the number of students attending campuses of the California State University from other universities or colleges, pursuant to the agreements entered in between the Trustees of the California State University and other universities and colleges, shall not exceed the number of students of the California State University attending the other institutions.

68130. Miscellaneous Provisions (**Exemptions**)

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

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.

76004.

Notwithstanding Section 76001 or any other law:

(a) (1) The governing board of a community college district may enter into a College and Career Access Pathways (CCAP) partnership with the governing board of a school district or a county office of education for the purpose of offering or expanding dual enrollment opportunities for pupils who may not already be college bound or who are underrepresented in higher education, with the goal of developing seamless pathways from high school to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness.

(2) As used in this section, “high school” includes a community school, continuation high school, juvenile court school, or adult education program offering courses for high school diplomas or high school equivalency certificates.

(3) As used in this section, “underrepresented in higher education” may include first-time college students, low-income students, students who are current or former foster youth, homeless students, students with disabilities, and students with dependent children.

(b) A participating community college district may enter into a CCAP partnership with a school district or county office of education partner that is governed by a CCAP partnership agreement approved by the governing boards of both partners. As a condition

of adopting a CCAP partnership agreement, the governing board of each partner shall do both of the following:

(1) For career technical education pathways to be provided under the partnership, consult with, and consider the input of, the appropriate local workforce development board to determine the extent to which the pathways are aligned with regional and statewide employment needs. The governing board of each partner shall have final decisionmaking authority regarding the career technical education pathways to be provided under the partnership.

(2) Present, take comments from the public on, and approve or disapprove the dual enrollment partnership agreement at an open public meeting of the governing board of the partner.

(c) (1) The CCAP partnership agreement shall outline the terms of the CCAP partnership, and shall include, but not be limited to, the total number of high school pupils to be served and the total number of full-time equivalent students projected to be claimed by the community college district for those pupils; the scope, nature, time, location, and listing of community college courses to be offered; and criteria to assess the ability of pupils to benefit from those courses. The CCAP partnership agreement shall also establish protocols for information sharing, in compliance with all applicable state and federal privacy laws, joint facilities use, and parental consent for high school pupils to enroll in community college courses. The protocols shall only require a high school pupil participating in a CCAP partnership to submit one parental consent form and principal recommendation for the duration of the pupil's participation in the CCAP partnership.

(2) The CCAP partnership agreement shall identify a point of contact for the participating community college district and school district or county office of education partner.

(3) A copy of the CCAP partnership agreement shall be filed with the office of the Chancellor of the California Community Colleges and with the department before the start of the CCAP partnership. The chancellor may void any CCAP partnership agreement it determines has not complied with the intent of the requirements of this section.

(d) A community college district participating in a CCAP partnership shall not provide physical education course opportunities to high school pupils pursuant to this section, or any other course opportunities that do not assist in the attainment of at least one of the goals listed in subdivision (a).

(e) A community college district shall allow an existing CCAP partnership to be amended, or a new CCAP agreement to be established with a school district or county office of

education and a community college district outside of the primary community college district's service area, if the primary community college district has declined a request from the school district or county office of education, or has failed to take action within 60 calendar days of a request by the school district or county office of education, to either amend into the existing CCAP partnership the requested courses, or to approve another community college district to enter into a CCAP partnership to offer those courses.

(f) A high school pupil enrolled in a course offered through a CCAP partnership shall not be assessed any fee that is prohibited by Section 49011.

(g) (1) A community college district participating in a CCAP partnership shall assign priority for enrollment and course registration to a pupil seeking to enroll in a community college course that is required for the pupil's CCAP partnership program that is equivalent to the priority assigned to a pupil attending a middle college high school as described in Section 11300 and consistent with the middle college high school provisions in Section 76001.

(2) Units completed by a pupil pursuant to a CCAP partnership agreement may count towards determining a pupil's registration priority for enrollment and course registration at a community college.

(h) The CCAP partnership agreement shall certify that any community college instructor teaching a course on a high school campus has not been convicted of any sex offense as defined in Section 87010, or convicted of any controlled substance offense as defined in Section 87011.

(i) The CCAP partnership agreement shall certify that any community college instructor teaching a course at the partnering high school campus has not displaced or resulted in the termination of an existing high school teacher teaching the same course on that high school campus.

(j) The CCAP partnership agreement shall certify that a qualified high school teacher teaching a course offered for college credit at a high school campus has not displaced or resulted in the termination of an existing community college faculty member teaching the same course at the partnering community college campus.

(k) The CCAP partnership agreement shall include a plan by the participating community college district to ensure both of the following:

(1) A community college course offered for college credit at the partnering high school campus does not reduce access to the same course offered at the partnering community college campus.

(2) Participation in a CCAP partnership is consistent with the core mission of the community colleges as described in Section 66010.4, and that pupils participating in a CCAP partnership will not lead to enrollment displacement of otherwise eligible adults in the community college.

(l) The CCAP partnership agreement shall certify that both the school district or county office of education and community college district partners comply with local collective bargaining agreements and all state and federal reporting requirements regarding the qualifications of the teacher or faculty member teaching a CCAP partnership course offered for high school credit.

(m) The CCAP partnership agreement shall specify both of the following:

(1) Which partner will be the employer of record for purposes of assignment monitoring and reporting to the county office of education.

(2) Which partner will assume reporting responsibilities pursuant to applicable federal teacher quality mandates.

(n) The CCAP partnership agreement shall certify that any pretransfer-level course taught by community college faculty at a partnering high school campus shall be offered only to high school pupils who do not meet their grade level standard in mathematics, English, or both on an interim assessment in grade 10 or 11, as determined by the partnering school district or county office of education, and shall involve a collaborative effort between high school and community college faculty to deliver an innovative pretransfer course as an intervention in the pupil's junior or senior year to ensure that the pupil is prepared for college-level work upon graduation.

(o) (1) A community college district may limit enrollment in a community college course solely to eligible high school pupils if the course is offered at a high school campus, either in person or using an online platform, during the regular schoolday and the community college course is offered pursuant to a CCAP partnership agreement.

(2) For purposes of allowances and apportionments from Section B of the State School Fund, a community college district conducting a closed course on a high school campus pursuant to paragraph (1) shall be credited with those units of full-time equivalent students attributable to the attendance of eligible high school pupils.

(p) A community college district may allow a special part-time student participating in a CCAP partnership agreement established pursuant to this article to enroll in up to a maximum of 15 units per term in courses offered at the community college campus or the participating high school campus, if all of the following circumstances are satisfied:

(1) The units constitute no more than four community college courses per term.

(2) The units are part of an academic program that is part of a CCAP partnership agreement established pursuant to this article.

(3) The units are part of an academic program that is designed to award students both a high school diploma and an associate degree or a certificate or credential.

(q) The governing board of a community college district participating in a CCAP partnership agreement established pursuant to this article shall exempt pupils seeking to enroll in a community college course required for the pupil's CCAP partnership program from the fee requirements in Sections 76060.5, 76223, 76300, 76350, and 79121.

(r) The governing board of a community college district participating in a CCAP partnership agreement shall enroll high school pupils in any course that is part of a CCAP partnership agreement offered at a community college campus. Courses offered through the CCAP program may be offered at the community college campus or the participating high school campus.

(s) A district or county office of education shall not receive a state allowance or apportionment for an instructional activity for which the partner has been, or shall be, paid an allowance or apportionment.

(t) (1) The attendance of a high school pupil at a community college as a special part-time or full-time student pursuant to this section is authorized attendance for which the community college shall be credited or reimbursed pursuant to Section 48802 or 76002, provided that no school district or county office of education has received reimbursement for the same instructional activity.

(2) For purposes of calculating classroom-based average daily attendance for classroom-based instruction apportionments, at least 80 percent of the instructional time offered by a charter school pursuant to an authorized CCAP partnership agreement shall be at the schoolsite, and the charter school shall require the attendance of a pupil for a minimum of 50 percent of the minimum instructional time required to be offered pursuant to paragraph (1) of subdivision (a) of Section 47612.5, if the pupil is also a special part-time

student enrolled in a community college pursuant to this section and the pupil will receive academic credit upon satisfactory completion of enrolled courses.

(u) (1) For each CCAP partnership agreement entered into pursuant to this section, the affected community college district and school district or county office of education shall report annually to the office of the Chancellor of the California Community Colleges all of the following information:

(A) The total number of high school pupils by schoolsite enrolled in each CCAP partnership, aggregated by gender and ethnicity, and reported in compliance with all applicable state and federal privacy laws.

(B) The total number of community college courses, by course category and type and by schoolsite, enrolled in by CCAP partnership participants.

(C) The total number and percentage of successful course completions, by course category and type and by schoolsite, of CCAP partnership participants.

(D) The total number of full-time equivalent students generated by CCAP partnership community college district participants.

(E) The total number of full-time equivalent students served online generated by CCAP partnership community college district participants.

(2) On or before May 1 of each year, the chancellor shall aggregate the information annually reported pursuant to paragraph (1) and submit a report of that information to all of the following:

(A) The Legislature, in compliance with Section 9795 of the Government Code.

(B) The Director of Finance.

(C) The Superintendent.

(3) The chancellor shall ensure that the number of full-time equivalent students generated by CCAP partnerships is reported pursuant to the reporting requirements in Section 76002.

(4) On or before July 31, 2020, the chancellor shall revise the special part-time student application process to allow a pupil to complete one application for the duration of the pupil's attendance at a community college as a special part-time student participating in a CCAP partnership agreement.

(v) A community college district that violates this article, including, but not limited to, any restriction imposed by the board of governors pursuant to this article, shall be subject to the same penalty as may be imposed pursuant to subdivision (d) of Section 78032.

(w) This section does not affect a dual enrollment partnership agreement existing on January 1, 2016, under which an early college high school, a middle college high school, or a California Career Pathways Trust existing on January 1, 2016, is operated. An early college high school, middle college high school, or California Career Pathways Trust partnership agreement existing on January 1, 2016, shall not operate as a CCAP partnership unless it complies with this section.

(x) The governing body of a charter school may enter into a CCAP partnership agreement with the governing board of a community college district pursuant to this section. That CCAP partnership agreement shall comply with all applicable requirements of this section.

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. 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.

76141.

(a) In addition to the nonresident tuition fee established pursuant to Section 76140, a community college district may charge to nonresident students an amount not to exceed the amount that was expended by the district for capital outlay in the preceding fiscal year divided by the total full-time equivalent students of the district in the preceding fiscal year.

(b) Any fee charged pursuant to this section shall not exceed 50 percent of the nonresident tuition fee established pursuant to Section 76140.

(c) (1) Any student who can demonstrate economic hardship, or who is a victim of persecution or discrimination in the country in which the student is a citizen and resident, is exempt from this fee.

(2) For purposes of this section, the governing board of each community college district that chooses to impose the fee authorized by this section shall adopt a definition of economic hardship that encompasses the financial circumstances of a person who is a recipient of benefits under the Temporary Assistance for Needy Families program described in Part A of Title IV of the Social Security Act (42 U.S.C. Secs. 601 et seq.), the Supplemental Income/State Supplementary Program, or a general assistance program.

(d) Revenue from any fee charged pursuant to this section shall be expended only for purposes of capital outlay, maintenance, and equipment.

89705. Fees, Rents and Charges

(a) Except as provided in subdivision (c), and as otherwise specially provided, an admission fee and rate of tuition fixed by the trustees shall be required of each nonresident student. The rate of tuition to be paid by each nonresident student, as defined in Section 68018, shall not be less than three hundred sixty dollars (\$360) per year. The rate of tuition paid by each nonresident student who is a citizen and resident of a foreign

country and not a citizen of the United States, except as otherwise specifically provided, shall be fixed by the trustees and shall not be less than three hundred sixty dollars (\$360) per year.

(b) The trustees may waive entirely, or reduce below the rate, or the minimum rate, fixed by this section, the tuition fee of a nonresident student who is a citizen and resident of a foreign country and who attends a state university or college under an agreement entered into by a governmental agency or a nonprofit corporation or organization with a similar agency, or corporation or association, domiciled in and organized under laws of a foreign country, where a principal purpose of the agreement is to encourage the exchange of students with the view of enhancing international good will and understanding. The trustees shall, in each instance, determine whether the conditions for this exemption from fees exist and may prescribe appropriate procedures to be complied with in obtaining the exemption.

(c) The trustees shall waive entirely the admission fee and rate of tuition fixed under this section for a nonresident student who is a United States citizen who resides in a foreign country, if that nonresident meets all of the following requirements:

(1) Demonstrates a financial need for the exemption.

(2) 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.

(3) Moved abroad as a result of the deportation or voluntary departure specified in paragraph (2).

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

(5) 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.

(6) Upon enrollment, 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.

89707.

(a) The trustees may, on the basis of demonstrated financial need and scholastic achievement, waive entirely, or reduce below the rate, or the minimum rate, fixed by Section 89705, the tuition fee of a nonresident student or a nonresident student, as defined in Section 68018, who is a citizen and resident of a foreign country, who is a graduate student of exceptional scholastic ability and prior scholastic achievement, and who, while not employed full time by a state university, is employed 20 hours or more a week by a state university or is enrolled in a full-time course of study.

(b) The number of reductions and waivers granted by the trustees under this section shall at no time exceed 25 percent of the nonresident graduate students, including nonresident graduate students who are citizens and residents of a foreign country, then enrolled in the California State University.