

**BP 5015 RESIDENCE DETERMINATION**

**References:**

Education Code Sections 68040 and 76140;  
Title 5 Sections 54000 et seq.

Students shall be classified at the time of each application for admission or registration as a resident or non resident student.

A resident is any person who has been a bona fide resident of California for at least one year on the residence determination date. A student who is without lawful immigration status may be classified as a resident if he/she meets all requirements. The residence determination date shall be the day immediately preceding the first day of the term for which the student applies to attend.

Residence classification shall be made for each student at the time applications for admission are accepted or registration occurs and whenever a student has not been in attendance for more than one semester. A student previously classified as a non resident may be reclassified as of any residence determination date.

The Chancellor shall enact procedures to assure that residence determinations are made in accordance with Education Code and Title 5 regulations.

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Date Adopted: November 18, 2008

## **AP 5015 RESIDENCE DETERMINATION**

### **References:**

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

### **Residence Classification**

Residency classifications shall be determined 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. Residence classifications are to be made in accordance with the following provisions:

- A residence determination date is that day immediately preceding the opening day of instruction for any term for which the student proposes to attend.
- Residence classification is the responsibility of the Admissions Office.
- Students must be notified of residence determination within 14 calendar days of submission of application.

### **Rules Determining Residence**

- A student who is physically present in California and has resided in the state for more than one year immediately preceding the residence determination date, and demonstrates the intent to be, or remain, a California resident, is a resident.
- A student who has not resided in the state for more than one year immediately preceding the residence determination date is a nonresident

The residence of each student enrolled in or applying for enrollment in any class or classes maintained by this district shall be determined in accordance with the Education Code which states that every person has, in law, only one residence. In determining the place of residence, the following rules are to be observed:

- Every person who is married or eighteen years of age, or older, and under no legal disability to do so, may establish residence.
- A person may have only one state of residence.
- A residence is the place where one remains when not called elsewhere for labor or other special or temporary purpose and to which one returns in seasons of repose.
- A residence cannot be lost until another is gained.
- The residence can be changed only by the union of act and intent.

- A man or a woman may establish his or her residence. A woman's residence shall not be derivative from that of her husband.
- The residence of the parent with whom an unmarried minor child maintains his/her place of abode is the residence of the unmarried minor child. When the minor lives with neither parent, the minor's residence is that of the parent with whom the last place of abode was maintained, provided the minor may establish his/her residence when both parents are deceased and a legal guardian has not been appointed.
- The residence of an unmarried minor who has a parent living cannot be changed by the minor's own act, by the appointment of a legal guardian, or by relinquishment of a parent's right of control.

A legal resident of California must complete three requirements:

1. Verify physical presence in California one year and one day prior to the term of application. The one-year period begins when students are not only present in California, but also have demonstrated clear intent to become a permanent resident of California.
2. If initially classified as a non-resident, verify intent to make California the permanent place of residence by submitting three (3) of the following:
  - a. Living in California for two consecutive years;
  - b. Owning residential property or continuous occupancy of rented or leased property in California;
  - c. Obtaining a license from California for professional practice;
  - d. Holding active membership in service or social clubs;
  - e. Showing California as a home address on federal tax forms;
  - f. Having a spouse, children or other close relative reside in California;
  - g. Paying California State tax as a resident\*;
  - h. Possessing a California Driver's License\*;
  - i. Vehicle registered in the State of California\*;
  - j. Maintaining California as the legal state of residence on Leave and Earning Statement and W-2 Form while in armed forces\*
  - k. Establishing and maintaining active California bank accounts;
  - l. Registered to vote and voting in the State of California;
  - m. Being the Petitioner for a divorce in California.
3. Not be involved in conduct inconsistent with a claim of California residency. Some examples of inconsistent conduct are:
  - a. Maintaining voter registration in another state;
  - b. Being the Petitioner for divorce in another state;
  - c. Attending an out-of-state institution as a resident of that state\*;
  - d. Declaring non-residency for state income tax purposes\*;

\*Riverside Community College District considers these factors more important than others.

### Determination of Resident Status

A resident is a student who has been a bonafide resident of the state of one year prior to the residence determination date. A bonafide resident is a person whose residence is in California as determined above, except:

- A student who is a minor and remains in this state after the parent, who was previously domiciled in California and has established residence elsewhere, shall be entitled to retain resident classification until attaining the age of majority and has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.
- A student who is a minor and who provides evidence of being entirely self-supporting and actually present in California for more than one year immediately preceding the residence determination date with the intention of acquiring a residence therein, shall be entitled to resident classification until he or she has resided in the state the minimum time necessary to become a resident.
- A student who has not been an adult for one year immediately preceding the residence determination date for the term for which the student proposes to attend an institution shall have the immediate premajority-derived California residence, if any, added to the post-majority residence to obtain the one year of California residence.
- A student holding a valid credential authorizing service in the public schools of this state, who is employed by a school district in a full-time position requiring certification qualifications for the college year in which the student enrolls in an institution, shall be entitled to resident classification if each student meets any of the following requirements:
  - He or she holds a provisional credential and is enrolled in courses necessary to obtain another type of credential authorizing service in the public schools.
  - He or she holds a credential issued pursuant to Education Code Section 44250 and is enrolled in courses necessary to fulfill credential requirements.
  - He or she is enrolled in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Education Code Section 44259.
  - A student holding a valid emergency permit authorizing service in the public schools of this state, who is employed by a school district in a full-time position requiring certification qualifications for the academic year in which the student enrolls at an institution in courses necessary to fulfill teacher credential requirements, is entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more

than one year. Thereafter, the student's residence status will be determined under the other provisions of this procedure.

- A student who is a full-time employee of the California State University, the University of California or a community college, or of any state agency or a student who is a child or spouse of a full-time employee of the California State University, the University of California or a community college, or of any state agency may be entitled to resident classification, until the student has resided in the state the minimum time necessary to become a resident.
- A student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification. If the member of the armed forces of the United States later transferred on military orders to a place outside this state, or retires as an active member of the armed forces of the United States, the student dependent shall not lose his or her residence classification until he or she has resided in the state the minimum time necessary to become a resident. At that time, they must show intent to reside in California.
- A student who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the Armed Forces assigned for educational purposes to a state-supported institution of higher education, is entitled to resident classification only for the purpose of determining the amount of tuition and fees.
- A student who was a member of the armed forces of the United States stationed in this state on active duty for more than one year immediately prior to being discharged from the armed forces is entitled to resident classification for the length of time he or she lives in this state after being discharged up to the minimum time necessary to become a resident.
- A student who is a minor and resides with his or her parent in a district or territory not in a district shall be entitled to resident classification, provided that the parent has been domiciled in California for more than one year prior to the residence determination date for the term, for which the student proposes to attend.
- A student who is a native American is entitled to resident classification for attendance at a community college if the student is also attending a school administered by the Bureau of Indian Affairs located within the community college district.
- A student who is a federal civil service employee and his or her natural or adopted dependent children are entitled to resident classification if the parent has moved to this state as a result of a military mission realignment action that involves the relocation of at least 100 employees. This classification shall continue until the student is entitled to be classified as a resident, so long as the resident continuously intends an institution of public higher education.
- A student who resides in California and is 19 years of age or under at the time of enrollment who is currently a dependent or ward of the state through California's child welfare system, or was served by California's child welfare system and is no longer being served either due to emancipation or aging out of the system, may be entitled to resident classification until he or she has resided in the state the minimum time necessary to become a resident.

- A student who lives with a parent who earns a livelihood primarily by performing agricultural labor for hire in California and other states, and the parent has performed such labor in this state for at least two months per year in each of the two preceding years, and the parent resides in this District and the parent of the student has claimed the student as a dependent on his state or federal personal income tax return if he or she has sufficient income to have personal income tax liability shall be entitled to resident classification.

## FOREIGN STUDENTS

For individuals in the United States with a visa that allows establishment of residency, the one-year physical presence and intent applies. If a visa precludes establishing residency, students will be charged the enrollment fees plus nonresident, out-of-country fees. For information on which visas can establish residency, individuals should contact the Admissions and Records Department of the College they wish to attend.

Students that possess B1/B2 visas may not attend RCCD.

Students with F-1, F-2, J-1, J-2 visas must apply and enroll in the Center for International Students & Programs.

## NON-CITIZENS

The District will admit any non-citizen who is 18 years of age or a high school graduate, or the equivalent thereof.

If non-citizens are present in the United States illegally or with any type of temporary visa, they will be classified as non residents and charged non resident tuition unless they meet the exceptions contained below.

If, for at least one year and one day prior to the start of the *term* in question, a non-citizen has possessed any immigration status that allows him or her to live permanently in the United States and she or he meets the California residency requirements, the student can be classified as a resident.

## AB540 (Ed Code 68130.5) CALIFORNIA NON-RESIDENT TUITION EXEMPTION REQUEST

A student who is a non-resident alien may be classified as a resident if he or she meets all of the following requirements:

- High school attendance in California for three (3) or more years;
- Graduation from a California high school or attainment of the equivalent thereof;
- Registered at or has attended an accredited institution of higher education in CA after the fall of 2001-02; and
- Filing an affidavit (available in Admissions or online at the Colleges' website) if he or she is an alien without lawful immigration status, that the student has filed an

application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.

The initial residency classification will be made at the time the student applies for admission. Students may file residency questionnaire forms through the third week of the term to request a review of their residency status. Final residency determination is made by the College Chief Student Services Officer (CSSO), or designee,. Students may appeal the decision.

#### RECLASSIFICATION

A student previously classified as a non resident may be reclassified as of any residence determination date. A residence determination date is that day immediately preceding the opening day of instruction.

Requests for change in Residence Status are available from the Admissions Office and the colleges' websites. Requests are to be submitted to the Admissions Office.

Requests must be submitted prior to the term for which reclassification is to be effective. Extenuating circumstances may be considered in cases where a student failed to petition for reclassification prior to the residency determination date. In no case, however, may a student receive a non resident tuition refund after the date of the first census.

Written documentation may be required of the student in support of the reclassification request.

A questionnaire to determine financial independence must be submitted with the Request for Change in Residence Status. Determination of financial independence is not required for students who were classified as non residents by the University of California, the California State University, or another community college district (Education Code Section 68044).

A student shall be considered financially independent for purposes of residence reclassification if the applicant meets all of the following requirements:

- Has not and will not be claimed as an exemption for state and federal tax purposes by his or her parent in the calendar year prior to the year the reclassification application is made;
- Has not lived and will not live for more than six weeks in the home of his or her parent during the calendar year the reclassification application is made.

A student who has established financial independence may be reclassified as a resident if the student has met the requirements of Title 5 Sections 54020, 54022, and 54024.

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

Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than financial dependence in the preceding second and third calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if (1) the parent on whom the student is dependent is a California resident or (2) there is no evidence of the student's continuing residence in another state.

The College CSSO, or designee, will make a determination, based on the evidence and notify the student not later than 14 days of receipt of the petition for reclassification.

Students have the right to appeal according to these procedures.

#### RIGHT TO APPEAL

Students who have been classified as non residents have the right to a review of their classification (Title 5 Section 54010 (a)). Any student, following a final decision of residence classification by the Admission Office, may make written appeal to the College CSSO, or designee, within 30 calendar days of notification of final decision by the college regarding classification.

#### APPEAL PROCEDURE

An Extenuating Circumstance Petition is to be submitted to the Admissions Office which must forward it to the College CSSO, or designee, within five (5) working days of receipt. Copies of the original application for admission, the residency questionnaire, and evidence or documentation provided by the student, with a cover statement indicating upon what basis the residence classification decision was made, must be forwarded with the appeal.

The College CSSO, or designee, shall review all the records and have the right to request additional information from either the student or the Admissions Office.

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

Office of Primary Responsibility: College Admissions and Records

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Administrative Approval: December 8, 2008  
Revised: August 16, 2011