



SAN DIEGO COMMUNITY COLLEGE DISTRICT

Administrative Procedure

Chapter 5 – Student Services

AP 5015 – RESIDENCE DETERMINATION

1. RESIDENCE CLASSIFICATION

Residency classification shall be determined for each student at the time the application for admission is accepted and whenever a student has not been in attendance for more than one semester. A student's residency is a union of act and intent. Residence classifications are to be made in accordance with the following provisions:

- a. The residence determination date is that day immediately preceding the opening day of instruction for any term during which the student proposes to attend. Enrollments in late starting classes within a term are subject to this uniform residence determination date.
- b. Residence classification is the responsibility of the Admissions Office.
- c. Students shall be notified of residence determination within 14 calendar days of submission of their application for admission and all required documents. 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 semester to request a review of their residency status. Final residency determination is made by the Admissions Office. Students may appeal the decision.

The District shall publish the residence determination date and summary of the rules and regulations governing residence determination and classification in the District catalog or addenda thereto.

2. RULES DETERMINING RESIDENCE

The residence of each student enrolled in or applying for enrollment in any class or classes maintained by the District shall be determined in accordance with Education Code and Title 5 which states that every person has, in law, a residence. In determining the place of residence, the following rules are to be observed:

- a. A student who has resided in the state for more than one year immediately preceding the residence determination date is a resident.
- b. A student who has not resided in the state for more than one year immediately preceding the residence determination date is a nonresident.
- c. Intent to make California the home, for other than a temporary purpose, may be manifest in many ways. No one factor is controlling.
- d. Every person who is married or 18 years of age, or older, and under no legal disability to do so, may establish residence.

- e. A person may have only one residence.
- f. 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.
- g. A residence cannot be lost until another is gained.
- h. The residence can be changed only by the union of act and intent.
- i. A person's residence shall not be derivative from that of his/her spouse.
- j. The residence of the parent with whom an unmarried minor child maintains his/her domicile 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 domicile was maintained, provided the minor may establish his/her residence when both parents are deceased and a legal guardian has not been appointed.
- k. The residence of an unmarried minor who has a parent living cannot be changed by the minor's own act, by the appointment of a legal guardian, or by relinquishment of a parent's right of control, unless the student qualifies under the Self-Support or the Two-Year Care and Control exceptions.
- l. An alien, including an unmarried minor alien, may establish his/her residence unless precluded by the Immigration and Nationality Act from establishing residence in the United States.
- m. Physical presence within California solely for educational purposes does not allow a student to establish residence, regardless of the length of time present in the state.

3. NON-CITIZENS

- a. A non-citizen may establish residence unless their immigration or visa status precludes them from establishing domicile. A non-citizen is precluded from domicile in the United States if that person entered the U.S. permitting legal entry for a temporary purpose. Non-citizens who may establish residence must meet the same requirements as U.S. Citizens or Permanent Residents.
- b. An undocumented non-citizen who entered the United States illegally or who has not applied for legalized status cannot become a California resident. However, certain students may qualify for nonresident tuition exemption under AB 540 (see item 4.q.). Noncitizens who violate the terms of the visa or stay in the United States beyond the time permitted by law will not be permitted to establish residence.
- c. The District will admit any non-citizen who is 18 years of age or a high school graduate.
- d. If, for at least one year and one day prior to the start of the semester in question, a non-citizen has possessed any immigration status that allows him/her to live permanently in the United States and he/she meets the California residency requirements, the student can be classified as a resident.

4. NONRESIDENT EXEMPTIONS

- a. 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.
- b. A student who is a minor and who provides evidence of being entirely self-supporting and actually present in California for more than one year immediately preceding the residence determination date with the intention of acquiring a residence therein, shall be entitled resident classification until he/she has resided in the state the minimum time necessary to become a resident.
- c. A student who has not been an adult (19 years of age) for one year immediately preceding the residence determination date for the semester for which the student proposes to attend an institution, shall have the immediate pre-majority-derived California residence, if any, added to the post-majority residence to obtain the one year of California residence.
- d. 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 the student meets any of the following requirements:
 - 1) He/she holds a provisional credential and is enrolled in courses necessary to obtain another type of credential authorizing service in the public schools.
 - 2) He/she holds a credential issued pursuant to Education Code Section 44250 and is enrolled in courses necessary to fulfill credential requirements.
 - 3) He/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.
- e. 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 residency status will be determined under the other provisions of this procedure.
- f. 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.

- g. An undergraduate 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 transfers on military orders to a place outside this state, or retires as an active member of the armed forces of the United States, the student dependent shall not lose his/her resident classification, so long as he/she remains continuously enrolled in the District.
- h. 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. If the student later transfers on military orders to a place outside this state, the student shall not lose his/her resident classification, so long as he/she remains continuously enrolled in the District.
- i. A student who was a member of the armed forces of the United States stationed in California on active duty for more than one year immediately prior to being discharged shall be exempt from paying nonresident tuition for up to one year if he/she files an affidavit stating that he/she intends to establish residency in California as soon as possible. This one year exemption shall be used while the student lives in the state and within two years of being discharged. A former member of the armed forces of the United States who received a dishonorable or bad conduct discharge shall not be eligible for this exemption.
- j. A student who was a member of the armed forces of the United States who was discharged or released from at least 90 days of active service less than three years before the date of enrollment in a term beginning on or after July 1, 2015, and his/her dependents, who are using, or intending to use their GI Bill education benefits are entitled to resident classification regardless of the student's state of residence.
- k. A student who is a minor and resides with his/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 semester, quarter or term for which the student proposes to attend.
- l. 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 in proximity to the district.
- m. A student who is a federal civil service employee and his/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 student continuously attends an institution of public higher education.
- n. A student who resides in California and is 19 years of age or under at the time of enrollment, who is currently a dependent or ward of the state through California's child welfare system, or was served by California's child welfare system and is no longer being served either due to emancipation or aging out of the system, may be entitled to

resident classification until he/she has resided in the state the minimum time necessary to become a resident.

- o. 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/she has sufficient income to have personal income tax liability shall be entitled to resident classification.
- p. A student who is a dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center in New York City, the Pentagon building in Washington, D.C., or the crash of United Airlines Flight 93 in southwestern Pennsylvania. The exemption applies if the dependent meets the financial need requirements for the Cal Grant A Program under Education Code section 69432.7 and either the dependent was a resident of California on September 11, 2001, or the individual killed in the attacks was a resident of California on September 11, 2001.
- q. Pursuant to AB 540, students, other than those precluded by law, may qualify for exemption from nonresident tuition either by:
 - 1) High school attendance in California for three (3) or more years, or;
 - 2) Elementary or secondary school attendance in California for a total of three (3) or more years and completion of three (3) or more years of California high school credits or equivalent, and;
 - 3) Graduation from a California high school or equivalent. In the case of a person without lawful immigration status, the student must file an affidavit with the college stating that he/she has filed an application to legalize their immigration status;
 - 4) Registration or enrollment in a course offered by any college in the District for any term commencing on or after January 1, 2002;
 - 5) Completion of a questionnaire form prescribed by the California Community Colleges Chancellor and furnished by the District of enrollment, verifying eligibility for this nonresident tuition exemption; and
 - 6) In the case of a student without lawful immigration status, the filing of an affidavit that the student has filed an application to legalize his/her immigration status, or will file an application as soon as he/she is eligible to do so.
- r. Pursuant to SB 141, students are exempted from nonresident tuition who are U.S. citizens and who reside in a foreign country if the student 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.

- 3) Moved abroad as a result of the deportation or voluntary deportation.
 - 4) Lived in California immediately before moving abroad.
 - 5) Attended a public or private secondary school in California for three or more years.
 - 6) Upon enrollment, will be in his/her first academic year as a matriculated student in California public higher education.
 - 7) Will be living in California and will file an affidavit with the community college stating that he/she intends to establish residency in California as soon as possible.
 - 8) Documentation shall be provided by the student as required by statute as specific in Education Code Section 76140(a)(5).
- s. The San Diego Community College District will exempt nonresident special part-time students from paying nonresident tuition. Students who are exempted from nonresident tuition in this section shall not be counted towards FTES for apportionment purposes nor shall be eligible for state funded financial aid such as the Board of Governor's Fee Waiver or any other financial aid.
- t. The San Diego Community College District will exempt qualifying veterans and dependents ("covered individuals") from paying nonresident tuition. A "covered individual" is defined as:
- 1) A Veteran who lives in California and enrolls in the college within three years of discharge from a period of active duty service of 90 days or more.
 - 2) A spouse of child entitled to transferred education benefits who lives in California and enrolls in the college within three years of the transferor's discharge from a period of active duty service of 90 days or more.
 - 3) A spouse of child using benefits under the Marine Gunnery Sergeant John David Fry Scholarship who lives in California and enrolls in the college within three years of the transferor's discharge from a period of active duty service of 90 days or more. An individual who is the child or spouse of a person who, on or after September 11, 2001, died in the line of duty while serving on active duty as a member of the Armed Forces who resides in California and enrolls in the community college within three years of the Service Member's death in the line of duty following a period of active duty service of 90 days or more.

5. ERRONEOUS DETERMINATION OF NONRESIDENT STATUS

If a student is erroneously, through no fault of their own, determined to be a nonresident and consequently nonresident tuition is paid, such tuition is refundable in full by the Business Office of the College, provided acceptable proof of State residence is presented within the term for which the tuition was paid.

If incorrect classification results from false or misleading facts, a student may be excluded from classes or the college upon notification and required to pay the appropriate tuition and fees for the term attended.

6. RECLASSIFICATION

A student previously classified as a nonresident may be reclassified as of any residence determination date. A residence determination date is that day immediately preceding the opening day of instruction for any session during which the student proposes to attend. To appeal a residency determination decision, a student may file a Residency Determination Appeal Form with the College Admissions Office prior to the residency determination date. The Residency Appeal Form must be submitted prior to the semester for which reclassification is to be effective.

Extenuating circumstances may be considered in cases where a student failed to petition for reclassification prior to the residency determination date. In no case, however, may a student receive a nonresident tuition refund after the date of the first census. Supporting documentation will be required of the student in support of the reclassification request and must be turned in prior to the end of the current semester.

A questionnaire to determine financial independence must be submitted with the petition for reclassification. Determination of financial independence is not required for students who were classified as nonresidents by the University of California, the California State University, or another community college district (Education Code Section 68044).

- a. A student shall be considered financially independent for purposes of residence reclassification if the applicant meets all of the following requirements:
 - 1) Has not and will not be claimed as an exemption for state and federal tax purposes by the parent(s) in the calendar year prior to the year the reclassification application is made, and;
 - 2) Has not lived and will not live for more than six weeks in the home of the parent(s) during the calendar year the reclassification application is made.
- b. 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.
- c. 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.
- d. 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.
- e. The Admissions Office will make a determination, based on the evidence and notify the student not later than 14 days of receipt of the petition for reclassification.

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

7. RIGHT TO APPEAL

Students who have been classified as nonresidents 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 Admissions Office, may make a written appeal to the Vice President of Student Services within 30 calendar days of notification of final decision by the Admissions Office regarding classification.

8. APPEAL PROCEDURE

The appeal is to be submitted to Admissions Office which must forward it to the Vice President of Student Services within five 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 Vice President of Student Services 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 of the appeal, the Vice President shall send a written determination to the student. The determination shall state specific facts on which the appeal decision was made and shall be final.

References: Education Code Sections 68000 et seq., 68040, 68130.5, 68075.7, and 76140;
Title Section 54000 et seq. 38 U.S. Code Section 3679

Approved by
the Chancellor: November 9, 2016

Supersedes: 9/16/2015