BP 5015  RESIDENCE DETERMINATION

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

The Superintendent/President shall enact procedures to assure that residence determinations are made in accordance with Education Code and Title 5 regulations. Residence classification shall be made for each individual 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 nonresident may be reclassified as of any residence determination date.

A resident is any person who has established both physical presence and intent to make California his/her permanent home for more than one year pursuant to Education Code regulations, as of the residence determination date. The residence determination date shall be the day immediately preceding the opening day of instruction for the semester or intersession as set by the Board of Trustees, during which the individual proposes to attend.

Students who are classified as nonresidents shall be assessed a nonresident per unit tuition fee which is established annually by the Board of Trustees.

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

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(Replaces Board Policy 6400)
AP 5015 RESIDENCE DETERMINATION

Residence Classification
Residency classifications shall be determined for each student at the time of each registration 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 session during which the student proposes to attend.
- Residence classification is the responsibility of the Admissions and Records Office.

Students must be notified of residence determination within 14 calendar days of submission of application.

Rules Determining Residence
- A student who has resided in the state for more than one year immediately preceding the residence determination date 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, a 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 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/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.

**Determination of Resident Status**

A resident is a student who has been a bona fide resident of the state for one year prior to the residence determination date. A bona fide 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 resident classification until he/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 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.

- 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/she holds a provisional credential and is enrolled in courses necessary to obtain another type of credential authorizing service in the public schools.
  - He/she holds a credential issued pursuant to Education Code Section 44250 and is enrolled in courses necessary to fulfill credential requirements.
  - 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.
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.

• 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 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.

• 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.

• 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/she lives in this state after being discharged up to the minimum time necessary to become a resident.

• A student who is an enrolled minor and resides 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.

• 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/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.

- 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.

- 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.

**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 Admissions and Records Office, may make written appeal to the director, admissions and records, within 30 calendar days of notification of final decision by the college regarding classification.

**Appeal Procedure**

The appeal is to be submitted to the Admissions and Records Office which must forward it to the Dean, 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 Dean, 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, the dean, student services shall send a written determination to the student. The determination shall state specific facts on which the appeal decision was made.

**Reclassification**

A student previously classified as a non-resident may be reclassified as of any residence determination date. A residence determination date is that day immediately preceding the opening day of instruction for any session during which the student proposes to attend.

Petitions are to be submitted to the Admissions Office.
Petitions must be submitted prior to the semester for which reclassification is to be effective. Extenuating circumstances may be considered in cases where a student failed to petition for reclassification prior to the residency determination date. 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 petition for reclassification. Determination of financial independence is not required for students who were classified as non-residents by the University of California, the California State University, or another community college district (Education Code 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/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/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 Admissions and Records Office will make a determination, based on the evidence and notify the student not later than 14 days of receipt of the petition for reclassification.

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

**Non-Citizens**
The District will admit any non-citizen who is 18 years of age or a high school graduate.
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 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.

Any students who are U.S. citizens, permanent residents of the U.S., and aliens who are not nonimmigrants (including those who are undocumented), may be exempt from paying nonresident tuition if they meet the following requirements:

- high school attendance in California for three or more years;
- graduation from a California high school or attainment of the equivalent thereof;
- registration or enrollment in a course offered by any college in the district for any term commencing on or after January 1, 2002;
- completion of a questionnaire form prescribed by the State Chancellor’s Office and furnished by the district of enrollment, verifying eligibility for this nonresident tuition exemption; and
- 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.

The initial residency classification will be made at the time the student applies for admission. Students may file residency questionnaire forms through the last working day before the start of the semester to request a review of their residency status. Final residency determination is made by the admissions and records office. Students may appeal the decision.

The Director, Admissions and Records, is responsible for and shall enact procedures to assure that residence determinations are made in accordance with Education Code, Title 5 regulations, and Board Policy. California state law requires that each student enrolled in or applying for admission to a California community college provide information and evidence as deemed necessary by the Board of Trustees to determine his/her residence classification.

Persons who have been classified as nonresidents may present evidence of intent to make California their permanent home by providing copies of a valid California driver’s license or Identification Card, California voter registration card, payment of California personal income tax as a resident, or other documentation as listed in the Student Attendance Accounting Manual, college catalog, schedule of classes, and/or on the District’s website. Admissions Office personnel shall notify students of residence determination within 14 calendar days of submission of the application.
Right to Appeal
Individuals who have been classified as nonresidents have the right to a review of their classification. Any person, following a final decision of residence classification by the Director, Admissions and Records, may make written appeal to the Dean, Student Services.

Appeal Procedure
The Director, Admissions and Records, shall forward to the Dean, Student Services, copies of the original application for admission, the residency questionnaire, and other evidence or documentation provided by the student for the dean’s review. The Director, Admissions and Records, or designee shall include a statement documenting his/her reasons for the initial residence determination. The Dean, Student Services, shall review all the records and has the right to request additional information from either the student or the Admissions Office. Within 30 calendar days of receipt, the Dean, Student Services, shall send a written determination to the student. The determination shall state specific facts upon which the appeal decision was made. Any request for a refund of fees will be addressed in accordance with policies stipulated in the college catalog.

Reclassification
If a student was previously classified as a nonresident, he/she may be reclassified as of any residence determination date. Petitions for reclassification will be available in the Admissions and Records Office and must be submitted prior to the semester for which reclassification is to be effective. The Director, Admissions and Records, or designee shall make a determination based on the evidence, and notify the student no later than 14 days after receipt of the petition for reclassification. 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.

Incorrect Classification
A student incorrectly classified as a California resident is subject to reclassification as a nonresident and payment of nonresident tuition. If incorrect classification results from false or misleading statements, a student may be excluded from class or classes upon notification. In addition, the student may be charged with a violation of the Allan Hancock College Standards of Student Conduct.

Military Personnel and Dependents
A student who is a member of the armed forces of the United States stationed in California 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. 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. 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 is entitled to resident classification. This status will
continue for the length of time he/she lives in California after being discharged up to the minimum time necessary to become a resident.

A parent 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 involving the relocation of at least 100 employees. This classification will continue until the student is entitled to be classified as a resident, so long as the student continuously attends a public institution of higher education.

**Noncitizens**
The district shall admit any noncitizen possessing a high school diploma or equivalent, or any individual who is at least 18 years of age and capable of profiting from the instruction offered. If noncitizens are present in the United States illegally or with any type of temporary visa, they will be classified as nonresidents and charged nonresident tuition unless they meet the exceptions contained below.

A noncitizen may be classified as a resident if he/she possesses an immigration status that allows permanent residence in the United States and meets the California residency requirements as delineated in the Student Attendance Accounting Manual.

A noncitizen who possesses an immigration status permitting permanent residence may be classified as a resident, if he/she meets California residency requirements. A student who is without lawful immigration status may be classified as a resident for tuition purposes, if he/she meets all of the requirements as set forth in Assembly Bill 540 as follows:

1. Has attended high school in California for three or more years.
2. Has graduated from a California high school or attained the equivalent thereof.
3. Has filed an affidavit that he/she 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.

The initial residency classification will be made at the time the student applies for admission. Students must complete and submit a California Nonresident Tuition Exemption Request for Eligible California High School Graduates to the Admissions Office to request a review of their residency status. Petitions must be filed no later than the last working date before the start of the semester or intersession. The applicant must be physically present in the state of California at the time of filing the exemption request.

Per Title 5 section 54048 Agricultural Employment exception. 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. The student may present as evidence pay stubs showing two months of employment in an agricultural setting for the last two years or a copy of the Migrant Education Program certificate of eligibility or employer verification. 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. The student may present as evidence any of the following documents: pay stubs for the last two months in each of the preceding two years, federal or state income tax, employer verification or a copy of the Migrant Education Program certificate of eligibility.

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.

References: Education Code Sections 68000 et seq., and 68130.5; Title 5, Sections 54000 et seq. California Community Colleges Student Attendance Accounting Manual Assembly Bill 540

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(Replaces Administrative Procedure 6400.01)