



# RESIDENCY FOR TUITION PURPOSES

PRESENTED BY

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New Director's Training  
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# AGENDA

- ❑ Basic Residency Definitions
- ❑ Origins and Primary Purposes for Residence Classification
- ❑ General Rules and Guidelines
- ❑ Updates and Reminders
- ❑ Information Resources
- ❑ Questions/Comments

## LEARNING OUTCOMES

- Participants will understand the basics of making residency determinations for tuition purposes.
- Participants will know where to get the information required to make residency determinations for tuition purposes.

## BASIC RESIDENCY DEFINITIONS

- **Resident (for tuition purposes):**

Unless precluded, a “resident” is a student who has been physically present in the state for more than one year immediately preceding the residence determination date (one year and one day), and has demonstrated an intent to make California a permanent home. EC § 68017

- **Nonresident**

A “nonresident” is a student who does not have residence in the state for more than one year immediately preceding the residence determination date. EC § 68018

## BASIC RESIDENCY DEFINITIONS

### ■ **Residence:**

- To establish or change a residence, a person capable of establishing residence must couple his or her physical presence with objective evidence that the physical presence is with intent to make California the home for other than a temporary purpose. EC §68062(d);
  - Physical presence alone is insufficient; intent alone is insufficient

### ■ **Residence Determination Date:**

- Residence determination date is the 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. Enrollments in late starting classes within a term are subject to this uniform residency determination date.

# EXCEPTIONS

## ■ Exceptions to Residence Determination:

- Education Code prescribes several exceptions to residence determination—some are required and some are permitted
- These apply where an individual that is NOT otherwise eligible to be classified as a Resident for tuition purposes, can nonetheless be classified as a Resident and claimed for apportionment purposes if applicable requirements are met

## ■ Exceptions to Payment of Nonresident Tuition:

- Education Code also prescribes situations where the nonresident tuition is either required to be exempted (e.g., AB 540) or a district is given permission to exempt specified students (e.g., SB 150)
- In some cases apportionment can be claimed for exempted student (e.g., AB 540) and in others apportionment is NOT claimable (e.g., SB 150)

## PURPOSE FOR RESIDENCE CLASSIFICATION

- **State taxpayer subsidy for public higher education is reserved for resident students**
  - Residents have paid taxes that have, collectively, supported the state colleges and universities
  - Low fees for state residents promote educational opportunity and reflect a long-standing commitment to an educated citizenry
  - Promotes state's economic growth on the idea that students are likely to stay in the state where they attend school and graduate, then after obtaining jobs that meet the need of society for trained personnel

## PURPOSE

- **Therefore, residence classification is necessary for**
  - Proper charging of Nonresident Tuition  
(Note: Nonresident students must also be charged the basic enrollment fee)
  - Proper claiming of State general apportionment
    - nonresident FTES is not included in state apportionment calculations (Note: certain nonresident students qualify to be reported as residents for apportionment purposes, such as AB 540 students or active military members stationed or domiciled in California)



# GENERAL RULES AND GUIDELINES

## ■ Residence Classification:

- Residency classification shall be made for each student, including noncredit-only or contract education enrollees, at the time applications for admission are accepted and whenever a student has not been in attendance for more than one semester or quarter (two, not one, semester or quarter of non-attendance). T5 § 54010(a)
- Timely student notification of the classification T5 § 54060(a)
- District must establish procedures for appeals of residency classification and refunds of nonresident tuition fees. T5 § 54060(b); 540070

# GENERAL RULES AND GUIDELINES

## ■ Rules For Determining Residence

- The burden is on the student to demonstrate clearly both physical presence in California AND intent to establish residence. T5 § 54026
- Where required, evidence to prove resident/exemption status must be requested of student. EC § 68041/44; T5 § 54010(b)/24(d)
  - A student/parent (as applicable) has been in Calif. less than 2 years or where conduct inconsistent w/claim of residency exist
  - Eligibility verification for residency exceptions and NR tuition fee exemptions
- Residence classifications for Credit courses is included in the Annual Contracted Audit

# GENERAL RULES AND GUIDELINES

## ■ Rules For Determining Residence (cont.)

- There can only be one residence (an established primary and permanent home). EC § 68062(a)
- A residence is the place when 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. EC § 68062(b)
- A residence cannot be lost until another is gained. EC § 68062(c)
- The residence can be changed only by the union of act and intent. EC § 68062(d)

# GENERAL RULES AND GUIDELINES

- **Rules For Determining Residence (Cont.)**
  - A person's residence shall not be derived from that of his or her spouse. EC § 68062(e)
  - The residence of the parent with whom an unmarried minor child resides with 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 last resided. EC § 68062(f)
  - Each student must be classified as a resident or nonresident, even when enrolling only in Noncredit courses. EC § 68040

# GENERAL RULES AND GUIDELINES

- **Rules For Determining Residence (Cont.)**
  - The one-year residence period necessary to be classified as a resident does not begin until the student both is present and has manifested clear intent to become a California resident.  
EC § 68062(d); T5 § 54020
  - Moving to California primarily to attend school does not constitute establishing California residence, regardless of the length of that presence. T5 § 54022(c)

# GENERAL RULES AND GUIDELINES

- **Rules For Determining Residence (Cont.)**
  - If a student or the parents of a minor relinquish California residence after moving from the state, one full year of physical presence coupled with intent is required to reestablish residence.  
T5 § 54030
  - Temporary absences will not result in a loss of California residence if, during the absence, the person always intended to return and did nothing inconsistent with that intent. T5 § 54022(b)

## GENERAL RULES AND GUIDELINES

### ■ Residency Reclassification and Financial Independence:

- EC § 68044; T5 § 54032 requires that financial independence status be included as one of the factors in residency reclassifications
- EC § 68044 focuses on parental support aspects, but also permits district governing boards to define other factors which may be considered in making residency reclassifications, such as support from family members other than the parent(s)
- A student who has established financial independence may be reclassified as a resident, if the basic physical presence and intent requirements are also met
- In determining intent, financial independence weighs in favor of California residence and financial dependence shall weigh against finding California residence

## FINANCIAL INDEPENDENCE

- **Residency Reclassification and Financial Independence (cont.):**
  - Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence
  - 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
  - T5 § 54032(d) permits a district to disregard a finding of financial dependence where there is not intent to establish (or maintain) residence elsewhere.
  - The ultimate question is whether the student has demonstrated intent to become a California resident.
  - Since financial status is only one factor to be considered, districts may still wish to require some further affirmative showing of objective intent to become a California resident



# UPDATES, REMINDERS, AND NEW LEGISLATION

## Recent legislation: Nonresident Tuition Exemptions for Specified Populations

- SB 150 – Effective January 1, 2014, Nonresident Special Part-Time Admits may be exempted (see Q&A 24.1)
  - Cannot be claimed for apportionment
- SB 141 – Effective January 1, 2014, Eligible U.S. Citizen Children of Deported Parents must be exempted. (see Q&A 23.2)
  - Can be claimed for apportionment
- Memorandum sent to districts 2-12-14 providing implementation guidance

## UPDATES AND REMINDERS – AB 540

- **AB 540 Nonresident Tuition Exemption:**
  - Effective January 1, 2013, nonimmigrant alien students holding “T” or “U” Visas have been made eligible for AB 540 exemption (AB 1899, Chapter 509, Statutes of 2012, EC § 68122). (see Q&A 23.1)
  - Chancellor’s Office recently released an updated AB 540 application/affidavit form (July 2, 2014)
  - Approval for federal “Deferred Action for Childhood Arrivals” (DACA) does not preclude AB 540 eligibility. (see Q&A 15)

## UPDATES AND REMINDERS – AB 540

- **AB 540 Nonresident Tuition Exemption** (Cont):
  - Effective January 1, 2015, AB 2000 (EC § 68130.5) expands eligibility for AB 540 status to also include students who:
    - Demonstrate attainment of credits earned in California from a California HS equivalent to three or more years of full-time HS coursework AND a total of three or more years of attendance in California elementary/secondary schools or a combination of those schools AND graduated from a California HS (or attained the equivalent).
  - Eligibility under the original qualifying criteria still also in effect:
    - Attended a HS in California for three or more years AND graduated from a California HS (or attained the equivalent).
  - BOG approved changes to T5 § 54045.5 to conform to changes made AB 2000 (regulation changes became effective 5/21/15, but AB 2000 effective date of 1/1/15 takes precedence)

# DACA

- **DACA Status and Establishing residence for tuition purposes:**
  - For residency determinations made for terms starting on or after June 5, 2014, DACA approved students who meet the requirements of California law related to physical presence and the intent to make California home for other than a temporary purpose, can be classified as residents
  - Cannot be classified as a resident until DACA status granted, but once granted, the one-year durational requirement may be counted from the date of application for DACA status

# DACA

- **DACA Status and Establishing residence for tuition purposes (Cont.):**
  - While DACA status is conferred for only two years, subject to renewal, as a general rule residency classification will not be impacted by the renewal requirement.
  - Once a student has been classified as a resident, colleges are not required to determine the student's classification again unless the student has not been in attendance for more than one semester or quarter. (T5 § 54010(a).)
  - See Q&A 6 & 16; and VC Linda Michalowski email to districts on this topic dated 9/25/14

# VACA

- In August 2014, the Veterans Access, Choice, and Accountability Act of 2014 (VACA Act) signed into federal law See Q&A 18 (Nonresident Veterans section-TO BE UPDATED)
  - Effective for terms beginning after July 1, 2015, made eligibility for VA education benefits for “covered individuals” as defined by Sec. 702 of the VACA Act **CONDITIONAL** on being charged “in-state” rates for tuition and fees (VA extended to 12-31-15)
- In June 2015, AB 81 approved, among other things to prevent VA disapproval of benefits
  - Eff. July 1, 2015, EC § 68075.7 Requires CSU and CCC’s to exempt “covered individuals” from nonresident tuition or any other fee that is exclusively applicable to nonresident students
  - Allows CCC’s to report the FTES generated by these exempted students for purposes of state funding
  - Resolves implementation issues from last year’s AB 13
  - Review guidance in August 4, 2015 memo concerning who qualifies as a “covered individual” and other critical information

# CCCCO WEBSITE

Chancellor's Office Web Address:

**[www.cccco.edu](http://www.cccco.edu)**

- **Primary Source for:**
  - Board of Governors & Consultation Council Information
  - Notices of Recently Promulgated Title 5 Regulations and Implementation Guidelines
  - Legal Advisories/Opinions
  - Legal Resources (direct links to T5 and EC)
  - Handbooks and Manuals
  - Fiscal/FTES Data
  - Contact Information

# RESOURCES

- Student Attendance Accounting Manual - [http://extranet.cccco.edu/Divisions/FinanceFacilities/FiscalStandardsandAccountabilityUnit/AttendanceAccounting.aspx#Attendance\\_Accounting\\_/FTES](http://extranet.cccco.edu/Divisions/FinanceFacilities/FiscalStandardsandAccountabilityUnit/AttendanceAccounting.aspx#Attendance_Accounting_/FTES)
- AB540 - <http://extranet.cccco.edu/Portals/1/Legal/Advisories/A07-01%20AB540.pdf> and <http://extranet.cccco.edu/Portals/1/Legal/Advisories/A10-01.pdf>
- Elias' Residency for Tuition Purposes General Overview - [https://www.dropbox.com/sh/xrxmk023kxvpz62/AABpBQ6yvRqZNi7HzAzpWlpEa/Residency\\_Overview\\_Document\\_2015\\_4-20-15.pdf?dl=0](https://www.dropbox.com/sh/xrxmk023kxvpz62/AABpBQ6yvRqZNi7HzAzpWlpEa/Residency_Overview_Document_2015_4-20-15.pdf?dl=0)
- CACCRAO Board Members - <http://www.caccrao.org/page/executive-board>
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