



Reference: *Education Code Sections 68000 et seq., 68074 - 68075.7; 68086; and 68130.5*  
*Title 5 Sections 54000 et seq., 54001, 54002, 54010, 54020, 54022, and 54024*  
*38 U.S. Code Section 3679*

Every person, by law, has a legal residence and that legal residence is not lost until another legal residence is established. In California, those persons who possess the legal ability to establish residence must be physically present (live in California) and demonstrate intent to remain in residence.

- Resident: A student who has been physically present in the state for more than one year immediately the residence determination date and has demonstrated an intent to make California a permanent home.
- Nonresident: A student who does not have residence in the state for more than one year immediately preceding the residence determination date.

### Residence Classification

Residency classifications shall be determined for each student at the time admissions applications 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 the semester or session during which the student expects to attend. Enrollment in late starting courses within a term are subject to this uniform residence determination date.
- Residence classification is the responsibility of the Director of Admissions and Records/Registrar or designee.

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

A student seeking to enroll exclusively in career development and college preparation courses, and other courses for which no credit is given, shall not be subject to this residency classification requirement.

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.

## Residence Determination at Point of Application

The District uses the state-approved CCC Apply admission application in which the software calculates and determines an initial residence status for the student. Students who are U.S. citizens, permanent non-residents, or have certain state-approved federal visa statuses, in combination with physical presence in the state for at least one year before the residency determination date, may be classified as a California resident.

A paper application may be used for students who do not have access to the web-based CCC Apply admission application. Paper applications are reviewed by WHCCD staff for a residence status determination. To determine a person's place of residence, reference is made to the following statutory rules:

1. Every person has, in law, a residence.
2. Every person who is married or 18 years of age or older, and not precluded by law from doing so, may establish residence.
3. 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 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:
  - a. A person may have only 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 one 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 a woman may establish their residence. A person's residence shall not be derivative from that of their spouse.
  - f. The residence of the parent with whom an unmarried minor child maintains their 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 they maintained their last place of abode. The minor may establish their 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 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.
  - h. An alien, including an unmarried minor alien, may establish their residence unless precluded by the Immigration and National Act from establishing residence in the United States.
  - i. 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.
  - j. A student who has not resided in the state for more than one year immediately preceding the residence determination date is a nonresident.

## Evidence of Intent

- Intent to make California the home, for other than a temporary purpose, may be manifest in many ways. No one factor is controlling.
- A student who is 19 years of age or older 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” above.
- 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 their 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” of this section.
- A student who does not meet the requirements of subdivision “b” or “c” of this section shall be required to provide evidence of intent to make California the home for other than a temporary purpose, as specified in subdivision “e” of this section.
- 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 California professional, religious, merchant, service organizations 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 forms.
  7. Payment of California state income tax as a resident.
  8. Maintaining California motor vehicle license plates/registration.
  9. Maintaining a California driver’s license or California ID.
  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 a petitioner of divorce in California.
  13. Remaining in California during academic breaks.
  14. Registering for the Selective Service in California (indicating California address).
- 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 educational institution as a resident of that other state.

4. Declaring nonresidence for state income tax purposes; paying taxes in another state or country as a resident of that state or country or not fulfilling tax obligations to the State of California.

### 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 is both present in California and has manifested clear intent to become a California resident.

### Burden

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

### 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 by Education Code section 68070 (students who remain in the state after parent moves elsewhere).

### State-Approved Resident Exceptions

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 they have 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:

- They hold a provisional credential and are enrolled in courses necessary to obtain another type of credential authorizing service in the public schools.
  - They hold a credential issued pursuant to Education Code Section 44250 and are enrolled in courses necessary to fulfill credential requirements.
  - They are 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 their resident classification, so long as they remains continuously enrolled in the District.
  - A student who is a member of the armed forces of the United States stationed in this state 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 their resident classification, so long as they remains continuously enrolled in the District.
  - A veteran who was discharged or released from at least 90 days of active service, commencing on or after July 1, 2015, and their dependents, regardless of the veteran's state of residence is entitled to resident classification.
  - 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.

- An individual who is entitled to transferred Post-9/11 GI Bill program benefits by virtue of their relationship to a member of the uniformed services who is serving on active duty.
- A student who is a minor and resides with their 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.
- 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 their 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 they have 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 they have sufficient income to have personal income tax liability shall be entitled to resident classification.
- A student who demonstrates financial need, has a parent who has been deported or was permitted to depart voluntarily, moved abroad as a result of that deportation or voluntary departure, lived in California immediately before moving abroad, attended a public or private secondary school in the state for three or more years, and upon enrollment, will be in their first academic year as a matriculated student in California public higher education, will be living in California, and will file an affidavit with the District stating that they intend to establish residency in California as soon as possible.
- A student who has a special immigrant visa that has been granted status under Section 1244 of Public Law 110-191 or under Public Law 109-163, or is a refugee admitted to the United State 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 live in this state up to the minimum time necessary to become a resident.

- 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.

### Reclassification from Non-Resident Status

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 for reclassification are to be submitted directly to the college's Director of Admissions and Records/Registrar or designee.

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 from 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).

### Financial Independence

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 their parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the year the reclassification application is made and in any of the three calendar years prior to the reclassification application;
- Has not lived and will not live for more than six weeks in the home of their parent during the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application;
- Has not and will not receive more than seven hundred fifty dollars (\$750.00) per year in financial assistance from their parent in the calendar year the

reclassification application was made and in any of the three calendar years prior to the reclassification application.

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's Director of Admissions and Records/Registrar 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.

#### Appeal Procedure

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 decision of residence classification by the CCC Apply application process or designee, may make written appeal to the Director of Admissions and Records/Registrar or designee within 30 calendar days of the college's notification.

Students have the right to appeal based on the following criteria:

1. To determine whether the determination process was conducted in a fair and equitable manner.
2. To consider new information sufficient to potentially alter the determination.

The appeal is submitted directly to the college's assigned staff who must forward it to the Director of Admissions and Records/Registrar or designee within five working days of receipt. Copies of the original application for admission, the residency questionnaire, and evidence or documentation provided by the student, along with a cover statement from the college's assigned staff indicating the basis of the residence classification decision, must be forwarded with the appeal.

The Director of Admissions and Records/Registrar or designee shall review all the records and have the right to request additional information from either the student or the college's assigned staff.

Within 30 calendar days of receipt, the Director of Admissions and Records/Registrar or designee shall send a written determination to the student. The determination shall state specific facts on which the appeal decision was made.

## Non-Citizens

The District will admit any non-citizen who is 18 years of age or a high school graduate. Certain federal visa statuses prevent non-citizens from admission and enrollment in California community colleges.

If non-citizens are present in 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, with a visa that requires they have a residence outside of the United States, 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:

1. 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 them to live permanently in the United States and they meet the California residency requirements, the student can be classified as a resident.
2. Any students who are U.S. citizens, permanent residents of the United States, and foreign national persons who are not non-immigrants (including those who are undocumented), may be exempt from paying nonresident tuition if they meet the following requirements:

### Requirement 1: Attendance at California Schools

This requirement may be met in either of the following two ways:

- Total attendance (or attainment of credits earned) in California equivalent to three or more years of full-time attendance at California high schools, California adult schools, campuses of the California community colleges; or a combination of these thereof; or
- Three or more years of full-time California high school coursework and a total of three or more years of attendance in California elementary schools, and/or a combination of California elementary and secondary schools.

Note: Attendance in credit courses at a California community college counted toward this requirement shall not exceed a total of two years of full time attendance.

### Requirement 2: Completion of a Course of Study

This requirement can be met in any of the following ways:

- Graduation from a California high school or equivalent;
- Attainment of an associate degree from a California Community College;
- Fulfillment of the minimum transfer requirements established for the University of California or the California State University for students transferring from a California community college;

### Requirement 3: Registration

Requires registration as an entering student at, or current enrollment with, the District.

### Requirement 4: California Nonresident Tuition Exemption Request or California Dream Act Application (CADAA)

Students must file a tuition exemption request with the District, or in the case of students applying for state-based financial aid, must file a California Dream Act Application (CADAA) with the California Student Aid Commission, verifying eligibility for this nonresident exemption.

### Requirement 45: Affidavit of Student Without Lawful Immigration Status

Undocumented persons must file an affidavit with the Admissions and Records office stating that the student has either filed an application to legalize their immigration status, or will file an application as soon as they are eligible to do so.

Documents and information obtained in implementing this exemption are confidential.

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