Chapter 5. Students

Subchapter 1. Student Residence Classification

§ 54000. Uniform Residency Requirements.

The provisions of this chapter implement and should be read in conjunction with the Uniform Residency Requirements contained in part 41 (commencing with section 68000) of the Education Code.


HISTORY
1. Repealer of chapter 1 (sections 54000, 54001, 54100, 54101) and new chapter 1 (sections 54000 through 54002, not consecutive) filed 6-25-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 26). For prior history, see Register 70, No. 16.

2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

3. Repealer of chapter 1 (sections 54000–54002, not consecutive) and new chapter 1 (sections 54000–54070, not consecutive) filed 11-22–82; effective thirtieth day thereafter (Register 82, No. 48). For prior history, see Registers 79, No. 46; 77, No. 45; 74, No. 45; 74, No. 10; and 73, No. 44.

4. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

5. Editorial correction of HISTORY 4 (Register 95, No. 19).

§ 54001. Adoption of Rules and Regulations; Publication; Uniformity.

The residence determination date and a summary of the rules and regulations adopted by the Board of Governors and district governing boards relevant to chapter 1, part 41 of division 5 of the Education Code, commencing with section 68000, shall be published in the district catalogs and/or addenda thereto. The applicable Education Code provisions and the rules and regulations adopted by the Board of Governors and the district shall be made available to the students at each district.


HISTORY
1. New section filed 3-4-91 by the Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

3. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54002. Residence Determination Date.

"Residence determination date" is that 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.


HISTORY
1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54010. Residence Classification Procedures.

(a) Residence classification shall be made 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 or quarter. A student previously classified as a nonresident may be reclassified as of any residence determination date.

(b) The student shall be required to present evidence of physical presence in California, intent to make California the home for other than a temporary purpose and, if the student was classified as a nonresident in the preceding term, financial independence.

(c) Community college districts shall require applicants to supply information as specified in this subchapter and may require additional information as deemed necessary.

(d) The district shall weigh the information provided by the student and determine whether the student has clearly established that he or she has been a resident of California for one year prior to the residence determination date.

(e) Applicants shall certify their answers on residence questionnaires under oath or penalty of perjury.

(f) Pursuant to section 54300, the district may authorize any information required by this section to be submitted electronically using electronic signatures in lieu of manual signatures as specified in section 54300.


HISTORY
1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54012. Residence Questionnaires.

(a) Each community college district shall use a residence questionnaire in making residence classifications.

(b) The residence questionnaire shall ask each student where the student has maintained his or her home for the last two years and whether the student has engaged in any activity listed in subsection (f) of section 54024.

(c) The questionnaire shall ask each student under 19 years of age where the parent has lived for the last two years and whether the parent has engaged in any activity listed in subsection (f) of section 54024.

(d) If the student, or the student's parent if the student is under age 19, has either maintained a home outside of California at any time during the last two years, or has engaged in any activity listed in subsection (f) of section 54024, the student shall be asked for additional evidence of intent to reside in California such as that identified in subsection (e) of section 54024.

(e) The Chancellor shall provide a sample residence questionnaire which districts may use in complying with this requirement.


HISTORY
1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54020. Residence.

In order to establish a residence, it is necessary that there be a union of act and intent. To establish residence, a person capable of establishing residence in California must couple his or her physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose.


HISTORY
1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).
§ 54022. Physical Presence.

(a) A person capable of establishing residence in California must be physically present in California for one year prior to the residence determination date to be classified as a resident student.

(b) A temporary absence for business, education or pleasure will not result in loss of California residence if, during the absence, the person always intended to return to California and did nothing inconsistent with that intent.

(c) Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of the length of that presence.


HISTORY
1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 19).

§ 54024. Intent.

(a) Intent to make California the home for other than a temporary purpose may be manifested in many ways. No one factor is controlling.

(b) A student who is 19 years of age or over, 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 demonstrated a contrary intent by having engaged in any of the activities listed in subdivision (f).

(c) 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 his or her 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).

(d) A student who does not meet the requirements of subdivision (b) or subdivision (c) shall be presumed to have the intent to make California the home for other than a temporary purpose as specified in subdivision (e).

(e) 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 service 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 form.

(7) Payment of California state income tax as a resident.

(8) Possessing California motor vehicle license plates.

(9) Possessing a California driver’s license.

(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 the petitioner for a divorce in California.

(f) 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 institution as a resident of that other state.

(4) Declaring nonresidence for state income tax purposes.


HISTORY
1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 19).

§ 54026. Burden.

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


HISTORY
1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 19).

§ 54028. 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 both is present in California and has manifested clear intent to become a California resident.


HISTORY
1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 19).

§ 54030. 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 in Education Code section 68070.


HISTORY
1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 19).

§ 54032. Financial Independence.

(a) A student seeking reclassification as a resident, who was classified as a nonresident in the preceding term, shall be determined financially independent or dependent in accordance with Education Code section 68044.

(b) A student who has established financial independence may be reclassified as a resident if the student has met the requirements of section 54020 for one year prior to the residence determination date.

(c) In determining whether the student has objectively manifested intent to establish California residence, financial independence shall weigh in favor of finding California residence, and financial dependence shall weigh against finding California residence.

(d) Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than shall financial independence in earlier 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.


HISTORY
1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 19).
§ 54040. Self-Supporting Exception.

Any student claiming application of the self-supporting exception pursuant to Education Code section 68071 shall provide evidence such documentation, including W-2 forms or a letter from the employer, showing earnings for the year immediately preceding the residence determination date of attendance, a statement that the student has actually been present in California for said year (short absences from the state for business or pleasure will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.


HISTORY
1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 19).

§ 54041. Military Dependent.

A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to section 68074 of the Education Code shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date; that the military person is outside of California on active duty after having been transferred immediately and directly from a California duty station after the residence determination date; or that the military person has, after the residence determination date, retired as an active member of the armed forces of the United States.

A statement that the student who qualifies for resident classification as a natural or adopted child or stepchild is a dependent of the military person for an exemption on federal taxes shall also be provided.


HISTORY
Amendment filed 6–8–83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of History 2 (Register 95, No. 19).

§ 54042. Member of Military.

A student claiming application of section 68075 of the Education Code must provide a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also provide evidence of the date of assignment to California.


HISTORY
1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 19).

§ 54045. Alien Students.

(a) An alien not precluded from establishing domicile in the United States by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) shall be eligible to establish residency pursuant to the provisions of this subchapter.

(b) An alien is precluded from establishing domicile in the United States if the alien:
1. entered the United States illegally (undocumented aliens);
2. entered the United States under a visa which requires that the alien have a residence outside the United States; or
3. entered the United States under a visa which permits entry solely for some temporary purpose.

(c) An alien described in paragraph (b) shall not be classified as a resident unless and until he or she has taken appropriate steps to obtain a change of status from the Immigration and Naturalization Service to a classification which does not preclude establishing domicile, and has met the requirements of Sections 54020–54024 related to physical presence and the intent to make California home for other than a temporary purpose. The Chancellor shall, after consultation with the University of California and the California State University, issue guidelines for the implementation of this section.

(d) Notwithstanding any other provision of this subchapter, an alien who was classified as a California resident by any college in a district as of September 30, 1991, or during the Fall 1991 term, shall not be subject to recategorization unless the student has not been in attendance at any college in the district for more than one semester or quarter.


HISTORY
1. Repealer and new section filed 3–3–86; effective thirtieth day thereafter (Register 86, No. 10).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 8–30–91; operative 9–29–91 (Register 92, No. 4).
4. Editorial correction of printing error in second paragraph (Register 92, No. 12).
5. Repealer and new section filed 1–16–92; operative 2–18–92 (Register 92, No. 18).
6. Editorial correction of History 2 (Register 95, No. 19).

§ 54045.5. Nonresident Tuition Exemption.

(a) In accordance with Education Code section 68130.5, any student, other than a student who is a nonimmigrant alien under 8 U.S.C. 1101(a)(15), shall be exempt from paying nonresident tuition at any community college district if he or she:
1. Attended high school in California for three or more years;
2. Graduated from a California high school or attained the equivalent of such graduation; and
3. Registers for or is enrolled in a course offered by any college in the district for any term commencing on or after January 1, 2002.

(b) Any student seeking an exemption under subdivision (a) shall complete a questionnaire form prescribed by the Chancellor and furnished by the district of enrollment, verifying eligibility for this nonresident tuition exemption, and may be required to provide documentation in addition to the information required by the questionnaire as necessary to verify eligibility for an exemption. All nonpublic student information so provided shall be confidential and shall not be disclosed unless required by law.

(c) Any student without lawful immigration status who is seeking an exemption under subdivision (a), shall, in the questionnaire described in (b), affirm that he or she has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

(d) A student seeking this tuition exemption has the burden of providing evidence of compliance with the requirements of this section.

(e) Nothing herein modifies eligibility standards for any form of student financial aid, including but not limited to those contained in Subchapter 7 of Chapter 9 of this Division.

(f) Nothing herein authorizes a refund of nonresident tuition that was paid for any term commencing prior to January 1, 2002.


HISTORY