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## AP 5020 Nonresident Tuition

(Replaces current SBCCD AP 5020)

### A. Status Defined

Students who do not establish residence in this State for more than one year immediately preceding the residence determination date prescribed below are classified as "nonresident students." "International students" are students who are citizens and residents of a foreign country.

### B. Authority to Determine Residence

The College President or designee shall make the determination of residence status. The Office of County Counsel shall act as the reviewing authority if differences arise.

### C. Resident Determination Date

The "resident determination date" is the day preceding the first day of instruction of the semester or term during which the student proposes to enroll.

### D. Residency Reclassification –

In order to establish residency, it is necessary that there be a union of act and intent. To establish residency, 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.

1. A student seeking reclassification as a resident, who was classified as a non- resident in the preceding term, shall be determined financially independent or dependent in accordance with Ed Code 68044.
2. One-Year Waiting Period – The one year residence period which a student must meet to be classified as a resident does not begin until the student is both present in California and has manifested a clear intent, as delineated on the College's approved residency determination form, to become a California resident.
3. 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 provide in Ed Code section 68070.
4. Physical Presence – 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. Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of the length of that presence.

5. Intent – Intent to make California the home for other than a temporary purpose may be manifested in many ways. No one factor is controlling. Objective manifestations of intent to establish California residence include but are not limited to (1) ownership of residential property or continuous occupancy of rented 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 relative in the state, (6) showing California as home address on federal income tax form, (7) payment of California state income tax as 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.

**E. Tuition**

The Board shall determine the nonresident tuition fee prior to February 1 each year. Fees are due and payable ~~prior to~~upon completion of the course registration process.

**F. Admission Errors**

Nonresident students subject to payment of nonresident fees, who have been admitted to a class in error without payment of tuition, shall be excluded from attendance until fees have been paid.

**G. Falsification of Residence**

Nonresident students, who have been admitted to a class without the payment of the nonresident fees based on the submission of incomplete or falsified information either by or for them, are subject to immediate exclusion.

**H. Exemptions, including:**

1. Students who are concurrently enrolled in K-12 classes are exempt from nonresident tuition.
2. Students who are members of the military services are exempt from nonresident tuition for one year after their date of assignment in California. After that period, they must take steps to establish residency or pay the nonresident tuition.
3. "Covered individuals" who meet the eligibility criteria as defined in VACA are exempt from nonresident tuition.

**Veterans Access, Choice, and Accountability Act (VACA H.R. 3230)**

In August 2014, President Obama signed the Veterans Access, Choice, and Accountability Act of 2014 ("VACA Act"), into law (Public Law No.: 113-146). Section 702 of the VACA Act (38 U.S.C. 3679(c)) requires the U.S. Department of Veterans Affairs (VA) to disapprove programs of education under the Montgomery GI Bill-Active Duty (MGIB-AD) and Post-9/11 GI Bill education benefit programs (Chapters 30 or 33, respectively, of Title 38, U.S. Code) at institutions of higher learning if the school charges qualifying veterans and dependents ("covered individuals") tuition and fees in excess of the in-state rate for resident students for terms beginning after July 1, 2015. A "covered individual" is defined in the VACA Act as:

- a. A Veteran who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within three years of discharge from a period of active duty service of 90 days or more.
- b. A spouse or child entitled to transferred education benefits who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within 3 years of the transferor's discharge from a period of active duty service of 90 days or more.
- c. A spouse or child using benefits under the Marine Gunnery Sergeant John David Fry

Scholarship (provides Post-9/11 GI Bill benefits to the children and surviving spouses of service members who died in the line of duty while on active duty) who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school 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.

d. After expiration of the three year period following discharge or death as described in 38 U.S.C. 3679(c), a student who initially qualifies under the applicable requirements above will maintain "covered individual" status as long as he or she remains continuously enrolled (other than during regularly scheduled breaks between courses, semesters or terms) at the institution, even if they enroll in multiple programs and shall continue to be exempt from paying nonresident tuition and other fees as described in the updated fee policy described below.

- Any students, other than non-immigrant aliens under 8 U.S. Code Section 1101(a)(15), who meet the following requirements:
  - either high school attendance in California for three or more years OR attainment of credits earned in California from a California high school equivalent to three or more years of full-time high school coursework and a total of three or more years of attendance in California elementary schools, California secondary schools, or combination of those schools;
  - graduation from a California high school or attainment of the equivalent thereof;
  - registration or enrollment in a course offered for any term commencing on or after January 1, 2002;
  - completion of a questionnaire form prescribed by the State Chancellor's Office 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.
- Any students who meet the following requirements:
  - 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 his or her 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 he or she intends to establish residency in California as soon as possible.
- Any nonimmigrant aliens granted "T" or "U" visa status under title 8 U.S. Code Section 1101(a)(15)(T)(i) or (ii), or section 1101(a)(15)U(i) or (ii), respectively, who 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 for any term or commencing on or after January 1, 2002; and
- completion of a questionnaire form prescribed by the State Chancellor's Office verifying eligibility for this nonresident tuition exemption.
- A special part-time student, other than a nonimmigrant alien under 8 U.S. Code Section 1101(15)(a), participating in a College and Career Access Pathways (CCAP) partnership program and enrolled in no more than 15 units per term.
- A requirement that the nonresident tuition fee be set not later than February 1 of each year
- A requirement that the calculation reflect the current expense of education calculated according to the Budget and Accounting Manual
- Exemptions, if any, due to reciprocity with bordering states
- Processing fees, if any, for international students
- A requirement that the calculation include the expense of education in the preceding fiscal year
- A requirement that the calculation reflect fees in contiguous Districts
- A requirement that the calculation provide for students enrolled in more or less than 15 units per term

#### I. Refunds

Refunds are subject to conditions set forth in the Refund Policy.

## References:

Education Code Sections 68130.5 and 76140 et seq.;  
Title 5 Section 54045.5

## Attachments:

[AP 5020 Nonresident Tuition- Comments](#)

[AP 5020 Nonresident Tuition- Legal Citations](#)