

**BP 5015 RESIDENCE DETERMINATION**

**References:**

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

***NOTE: The following language in red, underlined ink is legally required.***

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

A resident is a person who has been a bona fide resident of California for at least one year on the residence determination date. The residence determination date shall be the day immediately preceding the first day of a semester or summer session for which the student applies to attend.

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.

Residence classification shall be made for each student 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.

The Chancellor shall enact procedures to assure that residence determinations are made in accordance with Education Code and Title 5 Regulations.

❖ **From the current CLPCCD Policy 5120 titled Residency and Attendance of Students**

~~It is the general policy of the Board of Trustees to provide educational opportunity for residents of the Chabot-Las Positas Community College District. With the exception of certain impacted health science and indentured apprentice programs, all Chabot-Las~~

Positas Community College District course offerings are open to California residents who are otherwise eligible to attend. Out-of-state and international students are eligible for admission, but subject to payment of nonresident tuition. ~~Selected eleventh and twelfth grade district high school students may attend on a part time basis under the provisions of the concurrent enrollment plan as provided by the Education Code and Title 5.~~

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**NOTE:** The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. The language in **black ink** is from the current Chabot-Las Positas CCD Policy 5120 titled Residency and Attendance of Students adopted on March 19, 1996. The language in **green ink** reflects revisions during the administrative review on May 7, 2013.

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**Date Adopted:**

*(This policy replaces current CLPCCD Policy 5120)*

## Legal Citations for BP 5015

### EDUCATION CODE SECTION 68040

**68040.** Each student shall be classified as a resident or nonresident at the University of California, the California State University, or the California Maritime Academy or at a California community college.

### EDUCATION CODE SECTION 76140

**76140.** (a) A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee any person described in paragraph (1), (2), or (3):

(1) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this paragraph shall not be made on an individual basis.

(2) Any nonresident who is both a citizen and resident of a foreign country, if the nonresident has demonstrated a financial need for the exemption. Not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this paragraph may be made on an individual basis.

(3) (A) A student who, as of August 29, 2005, was enrolled, or admitted with an intention to enroll, in the fall term of the 2005-06 academic year in a regionally accredited institution of higher **education** in Alabama, Louisiana, or Mississippi, and who could not continue his or her attendance at that institution as a direct consequence of damage sustained by that institution as a result of Hurricane Katrina.

(B) The chancellor shall develop guidelines for the implementation of this paragraph. These guidelines shall include standards for appropriate documentation of student eligibility to the extent feasible.

(C) This paragraph shall apply only to the 2005-06 academic year.

(b) A district may contract with a state, a county contiguous to California, the federal government, or a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

(c) Nonresident students shall not be reported as full-time equivalent students (FTES) for state apportionment purposes, except as provided by subdivision (k) or another statute, in which case a nonresident tuition fee may not be charged.

(d) The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. The governing board of each community college district shall provide nonresident students with notice of nonresident tuition fee changes during the spring term before the fall term in which the change will take effect. Nonresident tuition fee increases shall be gradual, moderate, and predictable. The fee may be paid in installments, as determined by the governing board of the district.

(e) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (1) the amount that was expended by the district for the expense of **education** as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the district in the preceding fiscal year, (2) the expense of **education** in the preceding fiscal year of all districts

increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all districts during the preceding fiscal year, (3) an amount not to exceed the fee established by the governing board of any contiguous district, or (4) an amount not to exceed the amount that was expended by the district for the expense of **education**, but in no case less than the statewide average as set forth in paragraph (2). However, if for the district's preceding fiscal year FTES of all students attending in the district in noncredit courses is equal to, or greater than, 10 percent of the district's total FTES attending in the district, the district, in calculating the amount in paragraph (1), may substitute, instead, the data for expense of **education** in grades 13 and 14 and FTES in grades 13 and 14 attending in the district.

(f) The governing board of each community college district also shall adopt a tuition fee per unit of credit for nonresident students enrolled in more or less than 15 units of credit per term by dividing the fee determined in subdivision (e) by 30 for colleges operating on the semester system and 45 for colleges operating on the quarter system and rounding to the nearest whole dollar. The same rate shall be uniformly charged nonresident students attending any terms or sessions maintained by the community college. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

(g) In adopting a tuition fee for nonresident students, the governing board of each community college district shall consider nonresident tuition fees of public community colleges in other states.

(h) Any loss in district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

(i) Any district that has fewer than 1,500 FTES and whose boundary is within 10 miles of another state that has a reciprocity agreement with California governing student attendance and fees may exempt students from that state from the mandatory fee requirement described in subdivision (a) for nonresident students.

(j) Any district that has more than 1,500, but less than 3,001, FTES and whose boundary is within 10 miles of another state that has a reciprocity agreement with California governing student attendance and fees may, in any one fiscal year, exempt up to 100 FTES from that state from the mandatory fee requirement described in subdivision (a) for nonresident students.

(k) The attendance of nonresident students who are exempted pursuant to subdivision (i) or (j), or pursuant to paragraph (3) of subdivision (a), from the mandatory fee requirement described in subdivision (a) for nonresident students may be reported as resident FTES for state apportionment purposes. Any nonresident student reported as resident FTES for state apportionment purposes pursuant to subdivision (i) or (j) shall pay a fee of forty-two dollars (\$42) per course unit. That fee is to be included in the FTES adjustments described in Section 76330 for purposes of computing apportionments.

## Cal. Admin. Code tit. 5, s 54000

### TITLE 5. EDUCATION DIVISION 6. CALIFORNIA COMMUNITY COLLEGES CHAPTER 5. STUDENTS SUBCHAPTER 1. STUDENT RESIDENCE CLASSIFICATION

s 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.

Cal. Admin. Code tit. 5, s 54001

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 5. STUDENTS  
SUBCHAPTER 1. STUDENT RESIDENCE CLASSIFICATION

s 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 pursuant 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.

Cal. Admin. Code tit. 5, s 54002

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 5. STUDENTS  
SUBCHAPTER 1. STUDENT RESIDENCE CLASSIFICATION

s 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.

Cal. Admin. Code tit. 5, s 54010

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 5. STUDENTS  
SUBCHAPTER 1. STUDENT RESIDENCE CLASSIFICATION

s 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 chapter 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 encrypted digital signatures as specified in Section 54300.

## Cal. Admin. Code tit. 5, s 54012

### TITLE 5. EDUCATION DIVISION 6. CALIFORNIA COMMUNITY COLLEGES CHAPTER 5. STUDENTS SUBCHAPTER 1. STUDENT RESIDENCE CLASSIFICATION

s 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.

Cal. Admin. Code tit. 5, s 54020

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 5. STUDENTS  
SUBCHAPTER 1. STUDENT RESIDENCE CLASSIFICATION

s 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.