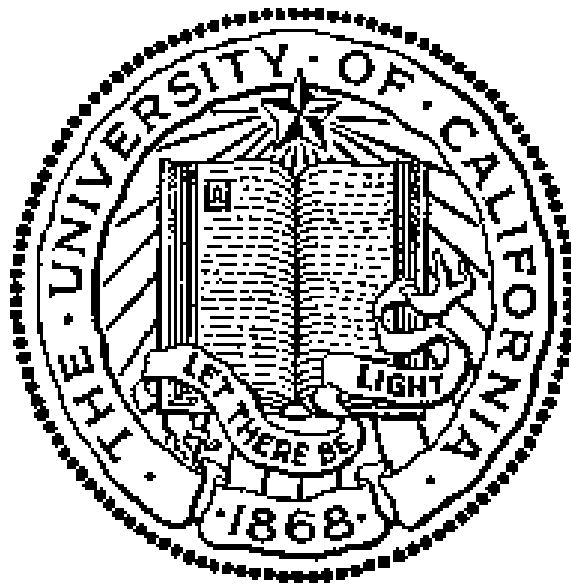


**University of California  
RESIDENCE POLICY and GUIDELINES**

**2012 – 2013 Academic Year**



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## I. TERMS and DEFINITIONS

**Adjustment of Status** — The process of obtaining permanent resident status in the United States without having to leave the United States.

**Adult** — Any person who is 18 years of age or older.

**Aging Out** — When a child turns 21 and loses dependent immigration benefits.

**Alan Patee Scholarship** — Provides tuition and fee exemptions for eligible UC student who is the surviving spouse, registered domestic partner or child of a deceased law enforcement officer or fire fighter. See California Education Code §68120. (See p. 43)

**Alien** — Any person who is not a citizen or national of the United States, generally classified as a Permanent Resident (Immigrant or LPR), Nonimmigrant or Undocumented Alien.

**Asylee** — An alien in the United States or at a port of entry who is unable or unwilling to return to his country of nationality due to a well-founded fear of persecution. (See p. 38)

**CAHSEE** — California High School Exit Exam. The exam does not meet “graduation” qualifications and cannot be used in place of a diploma, proficiency exam or GED when determining AB 540 eligibility.

**Cancellation of Removal** — A benefit adjusting an alien’s status from deportable to lawfully admitted for permanent residence.

**Child** — A natural or adopted son or daughter. The term “child” does not include stepchild unless expressly noted.

**Child Status Protection Act (CSPA)** — An act signed into law on August 6, 2002 that amends the Immigration and Nationality Act by changing how an alien is determined to be a child for purposes of immigration classification.

**Conditional Resident** — An alien granted permanent resident status on a conditional basis (e.g., a spouse of a U.S. citizen). A conditional resident is required to petition for the removal of the “conditional basis” within two years of the approval of the conditional status.

**Continuous Attendance** — Full-time enrollment throughout a normal academic year at an institution of higher education.

**DHS** — Department of Homeland Security.

**Differential Fees** — Based on the difference between the resident fee level and the nonresident fee level.

**Domicile** — The one location where a person is considered to have the most settled and permanent connection, the place where he intends to remain and to which, whenever temporarily absent, he has the intention of returning. A person can have only **one domicile at a time**. A parent accompanying a student to California who fails to relinquish all ties to the former residence does not meet the University's requirements for residence for purposes of tuition and fees.

**DREAM Act** — The California DREAM Acts comprising of new state laws, AB 130 and AB 131, implemented as of January 1, 2012, extend eligibility for certain types of institutional and state aid to students, including undocumented students who qualify for benefits under another California law, AB 540, which exempts certain students from being required to pay nonresident supplemental tuition.

The latest reintroduction of the federal DREAM ACT was reintroduced in the Senate on May 11, 2011. However, it has not yet passed.

**Eligible Alien** — A non-citizen whose immigration status allows him to establish a domicile in the United States.

**Employment Authorization Document (EAD)** — Authorizes a nonresident alien to work in the United States for a specified period of time.

**Enrollment or Enrolls** — The date the student has actually signed up for classes, or the date the student's fees are paid, whichever occurs first. This date may vary depending on the campus where the student is enrolled and the student's status (e.g., freshman, sophomore, etc.).

**Financial Independence** — See "Self-Sufficient/Self-Support."

**Foster Youth** — A student 19 years of age or under 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. (Also see p. 48)

**Full-Time Enrollment** —

**1. At a Campus of the University of California**

- a. Undergraduate**—Registration in 12 or more units of course instruction per quarter for three quarters within an academic year, or registration in 12 or more units per semester for two semesters within an academic year. Summer session units will *not* be counted in determining whether a student is enrolled full time.

**b. Graduate**—Full-time equivalence (100% F.T.E.) within an academic year as determined by a student’s graduate advisor in accordance with University Policy Statement on Limits on the Length of Time Graduate Students May Be Counted for Budgetary Purposes. Summer session units will *not* be counted in determining whether a student is enrolled full time.

**2. California State University Enrollment**

Enrollment in 12 units per semester for two semesters within an academic year, or 12 units per quarter for three quarters within an academic year. Summer sessions are excluded. For purposes of computing units for graduate level courses, a weighting factor of 1.5 shall be applied to each unit. Certification of full-time status should be provided upon request for students who are transferring to the University of California from a California State University.

**3. California Community College Enrollment**

Enrollment in 12 units per term.

**4. California Maritime Academy Enrollment**

Enrollment in 3 trimesters for a period of approximately 11 months within a calendar year. In the four-year curriculum, classroom instruction consists of 7 trimesters of approximately 17 weeks’ duration, one trimester of approximately 10 weeks’ duration and one license preparation trimester of six weeks’ duration. In addition, there are three sea-training trimesters of about 12 weeks’ duration each. A full-time student is enrolled for a minimum of 12 semester units in a 17-week trimester and 8 semester units in the 10-week trimester.

**Governing Board of UC** — The Regents of the University of California.

**Graduate Student or Professional Student** — Includes graduate students or professional students who are graduate instructors, graduate student teaching assistants, research assistants, junior specialists, post-graduate researchers, graduate student researchers and teaching associates, medical students and students enrolled in a teacher credential program.

**Green Card** — See “Permanent Resident Card.”

**Institution** — Any campus of the University of California, any university or college of the California State University, any California Community College, or the California Maritime Academy.

**Labor Certification** — Issued by the Department of Labor (DOL), allows an employer to hire a foreign worker to work permanently in the United States. In most instances, before the U.S. employer can submit an immigration petition to the USCIS. The employer must obtain an approved labor certification request from the DOL's Employment and Training Administration (ETA). The DOL must certify to the USCIS that there are no qualified U.S. workers to accept the job at the prevailing wage for that occupation in the area of intended employment and that employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers.

**Legally Present** — Legally present means that the alien has been inspected and admitted to the United States and maintains a lawful presence as demonstrated by an official USCIS document, which might include a Permanent Resident Card (Green Card), an unexpired nonimmigrant visa and I-94, or one of the documents listed under “Calculating Physical Presence” (see p. 41).

### **LPR — Lawful Permanent Resident**

**Mandatory Fees** — Uniform fees assessed to all registered students. Fees eligible for an exemption include: Tuition, UC Registration Fee, Special Fee for Law and Medicine, Fee for selected professional school students, summer enrollment fees for UC matriculated students (summer session fees for non-UC students are not eligible for an exemption).

**Minor** — For residence purposes, any person who is 17 years of age or under.

**Military Service** — Limited in this Residence Policy to *active duty* in one of the U.S. Armed Forces (Army, Navy, Marine Corps, Air Force and Coast Guard.) The definition does not include the National Guard (except as noted on p. 29), service employees, members of the reserves, or others not in active service.

**NAFTA (North American Free Trade Agreement)** — A special, reciprocal trading relationship that provides a new class of nonimmigrant admission for Canadian businesspersons and their spouses and unmarried minor children, who are temporary visitors to the United States. Under NAFTA, these visitors are not required to obtain nonimmigrant visas, labor certifications or prior approval.

**National of the United States** — A citizen of the United States or a person who, although not a citizen of the United States, owes permanent allegiance to the United States. Citizens of The Northern Mariana Islands, Puerto Rico, the U.S. Virgin Islands and the Territory of Guam are now considered citizens of the United States. American Samoa and Swains Island are “outlying possessions” of the United States, and the citizens are considered U.S. nationals and should be treated the same as citizens when determining residence for tuition purposes. Citizens of the Federated States of Micronesia, the Marshall Islands and the Republic of Palau are considered “foreign nationals” and should not be treated as U.S. citizens when considering residence for tuition purposes.



**NATO Official** — An alien (nonimmigrant) coming temporarily to the United States as a member of the armed forces or as a civilian employed by the armed forces on assignment with a foreign government signatory to NATO (North Atlantic Treaty Organization). The spouse and unmarried minor or dependent children are included.

**Nonimmigrant Alien** — A person admitted to the U.S. for a temporary period of time and for a specific purpose.

**Out of Status** — A visa holder who violates his visa status by not following the visa requirements, staying longer than the expiration date of the visa and/or I-94, becoming 21 (aging out), or engaging in activities not permitted for the visa.

**Parent** — The natural or adoptive father or mother or, if both parents are deceased, the legal guardian with whom the minor resides. The term “parent” does not include stepparents or foster parents, unless expressly noted.

**Parolee** — An alien appearing to be inadmissible to the inspecting officer who is allowed into the United States *temporarily* for urgent humanitarian reasons or when the alien’s entry is determined to be for significant public benefit. Parolees must leave when the conditions supporting their parole cease to exist.

**Permanent Duty Station** – The post of duty or official station to which a member of the Armed Forces is assigned or attached. A member of the Armed Forces assigned to a military base or installation in California would meet the requirements of having a permanent duty station in California.

**Permanent Residence Card** — USCIS form I-551 issued to aliens granted permanent residence. It is also referred to as a “Green Card.”

**Petition for Resident Classification** — Continuing student’s request to change classification from nonresident to resident for tuition and fee purposes.

**Principal Alien** — The alien who applies for immigration status and from whom another alien may derive lawful status under immigration law or regulations (usually spouses and minor children).

**Priority Date** — Determines an individual's turn to apply for an immigrant visa on form I-485 when a visa number becomes available. In family immigration, immigrant visas available to “immediate relatives” of U.S. citizens are always available. However, for other petitioners, it is the date the petition was filed at a DHS office or submitted to an Embassy or Consulate abroad. In employment immigration it may be the date the labor certification application was received by the Department of Labor (DOL), or if no LCA is required, the date the I-140 was received by USCIS.

**Public Post-Secondary Institution** — In California, any campus of the University of California, any university or college of the California State University, any California community college or the California Maritime Academy.

**Professional Student** — See “Graduate Student or Professional Student.”

**Registry Date** — Aliens who have continuously resided in the United States since January 1, 1972 and are not inadmissible, are eligible to adjust to legal permanent resident status under the registry provision.

**Removal** — Expulsion of an alien from the United States. This expulsion may be based on grounds of inadmissibility or deportability.

**Residence Determination Date (RDD)** — For quarter-based campuses at the University of California it is the day instruction begins at the last campus to open for the term. For semester-based campuses and schools, it is the day instruction begins at the Berkeley campus.

**Resident** — A person who the University determines has satisfied the requirements for a resident classification for purposes of tuition and fees. All applicable residence requirements must have been satisfied by the student/parent prior to the residence determination date.

**Resident Student or Parent** — A student or parent who has met the requirements for residence for purposes of tuition and fees.

**Safe Haven** — Temporary refuge given to migrants who have fled their countries of origin to seek protection or relief from persecution.

**Self-Sufficient/Self-Support** — The ability to support oneself financially without the help of others.

**Significant Contribution** — A “significant” economic contribution is interpreted to mean the *major* source of income.

**Student** — A person applying for admission, admitted to or enrolled in an institution of higher education.

**TECRO (Taiwan Economic and Cultural Representative Office)** —Established by the Republic of China (Taiwan) in countries that have diplomatic relations with the People’s Republic of China (PRC). Under the terms of the One China Policy, such countries may not have formal diplomatic relations with the ROC.

In addition to promoting trade and investment, TECROs also perform many of the same functions as a normal embassy or consulate general, such as issuing visas and passports. TECRO employees and dependents, who may hold A or E visas, enjoy diplomatic privileges.

**TPS (Temporary Protected Status)** — A legislative basis for allowing a group of persons temporary refuge in the United States. Grants are initially made for periods of 6 to 18 months and may be extended depending on the situation. Removal proceedings are suspended against aliens while they are in Temporary Protected Status. (Also see p. 38)

**Undocumented Alien** — An alien national present in the United States without legal status.

**USCIS** — Department of Homeland Security's U.S. Citizenship and Immigration Services.

**Veteran** — A citizen of the United States who served on active duty in the U.S. Armed Forces and who received an honorable discharge or was released from active duty under honorable conditions. The person must have served on active duty in the U.S. Armed Forces for a period of not less than 90 consecutive days or have been discharged from the service due to a service-connected disability within that 90-day period. (From California Military and Veterans Code Section 980(b))

## II. RESIDENCE CLASSIFICATION PROCEDURES

**A.** A student's status as a resident or nonresident is determined by the Residence Deputy, located in the Registrar's Office or Office of Admissions and Records on each of the University campuses. Students admitted to the University, with the exception of self-supporting programs, are required to complete a Statement of Legal Residence ("SLR"). Most of the information contained in the SLR is protected by student records laws or other privacy statutes. Disclosure to third parties without the student's prior consent is very limited. Classifications are based on evidence presented in a student's SLR, supporting evidence of residence a campus deems necessary for determination, and any additional evidence the student may submit. The SLR must be signed by the student, handwritten or electronically, under penalty of perjury; a student must sign even if not yet an adult under law. A minor may be prosecuted under the law for perjury. If further information is required, it may be necessary to provide it under oath, by declaration or affidavit. If the student submits an electronic statement, the Residence Deputy may require a separate handwritten signature signed under penalty of perjury or in the presence of a notary.

A student who transfers from one campus to another must complete a Statement of Legal Residence at the new campus.

Students have the burden of providing clear and convincing evidence to the campus Residence Deputy of their eligibility for California residence for purposes of tuition and fees. Each campus has a deadline for the submission of the SLR and any additional evidence that may be requested. If a student fails to submit requested information, the Residence Deputy will make a decision based on the evidence and documentation available. **No additional evidence will be accepted once a decision has been made by the Residence Deputy.**

The above procedure is followed with students returning to a campus after a leave of absence, with transfer students, and with continuing students who wish to petition for a resident classification.

**B.** Any student who is classified as a resident for purposes of tuition and fees but becomes a nonresident by virtue of his own acts or by the acts of the person from whom his residence is derived is obligated to notify the Registrar immediately so his residence classification can be adjusted accordingly.

A student who is classified as a nonresident will retain that status until he applies for and receives a resident classification. A nonresident student may petition for a resident classification with the campus Residence Deputy each term.

**C.** A student's resident classification will continue unless and until the University determines that a student was incorrectly classified or a student's altered circumstances necessitate a change to nonresident classification. If a resident classification resulted from concealed facts or untruthful statements, the student will be required to pay all tuition that would have been charged and he may be subject to appropriate University discipline at the discretion of the campus. In such cases, referrals will be made to the campus office that has responsibility for student discipline.

### III. RESIDENCE REGULATIONS FOR PURPOSES OF TUITION AND FEES

A. **General Rule:** To be classified a California resident for purposes of tuition and fees, an adult student and/or parent(s) who are not precluded from residence due to immigration status must have established a primary and permanent domicile in California and relinquished all ties to their past place(s) of residence for more than one year (at least 366 days). The 366 days must immediately precede the residence determination date of the term the student proposes to attend the University. Students may have to demonstrate financial independence.

B. **Elements of Residence:** Residence can be established or changed only by the union of physical presence and intent. Physical presence alone is insufficient; intent alone is insufficient.

#### 1. Physical Presence

The act necessary to establish residence is physical presence in California. An adult student (and/or the student's parent(s)) must be physically present in California for more than a full year. Residence may not be established in absentia and it must be established (and the prior residence relinquished) for at least 366 days. The 366 days must be immediately prior to the residence determination date for the relevant term. **Physical presence in California solely for educational purposes within California does not constitute the establishment of California residence, regardless of the length of stay.**

#### 2. Intent

Intent to make California one's permanent home is a required element of residence for purposes of tuition and fees. Although physical presence and intent must be established simultaneously (*366 days prior to the first day of the term the student is seeking a resident classification*), intent is evaluated separately from physical presence. Intent requires the residence deputy to assess the totality of the individual's conduct and circumstances.

To prove California is their primary and permanent home, the student and/or parent(s) must obtain legal indicia of intent, as well as other indicia of intent, immediately after entering California and demonstrate that all legal ties to their past place of residence have been relinquished. Legal ties established with the State of California will be given greater weight than other indicia.

**Individuals who fail to establish legal ties with the State of California or fail to relinquish ties to their former place of residence will be presumed to be in California solely for educational purposes.**

**Students who continue to hold out-of-state legal indicia may be denied a resident classification for that term.** Examples of the relevant indicia of intent to establish or maintain California as one's residence for purposes of tuition and fees are:

### **Legal Indicia of Intent**

- Paying California state income tax on total income, including income earned outside the State of California, since the date residence was established in California;
- Maintaining a California ID or driver's license;
- Maintaining a California vehicle registration;
- Registering to vote and voting in elections in California;
- Registering for the Selective Service in California;
- Establishing eligibility for social benefits with agencies within California;
- Establishing a California State business or professional license.

### **Other Indicia of Intent**

- Establishing a home in California where permanent possessions are kept;
- Using a California permanent address on all records;
- The presence of a spouse, registered domestic partner or child in the state;
- Remaining present in California during academic breaks;
- Maintaining active savings and checking accounts in California banks;
- Maintaining active memberships in California professional, social, religious or merchant organizations;
- Maintaining memberships/credit with California merchants;
- Employment in California;
- Applying for loans, scholarships, grants-in-aid or other such assistance from a California source.

### **Conduct that may be inconsistent with a claim of California residence includes:**

- Returning to the former out-of-state residence during academic breaks or residing out of state for an extended period;
- Attending an out-of-state school as a resident of the state in which the school is located;
- 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;
- Maintaining an out-of-state driver's license or identification card.
- Voting in another state;
- Obtaining a loan or other financial assistance requiring residence in another state;

- Holding a permanent resident visa for another country.

### **Tacking (Ed. Code §68072)**

The term “tacking” refers to the process of adding one period of resident qualification to another to satisfy the required one-year (366 day) period of physical presence. Tacking is generally utilized for a student who has not been an adult for more than one year (366 days) immediately preceding the quarter for which he proposes to attend a post-secondary institution. He can have his immediate pre-majority-derived California residence, if any, added to his post-majority residence to obtain the one year of California residence required. Therefore, if the parents of an 18-year-old student relinquish their California residence, and if they had been California residents for at least one year, the student would be eligible for resident status immediately and would not be required to fulfill one year of residence as an adult.

**C. Financial Independence:** To be classified a resident for tuition and fee purposes, a student who is not dependent on a California-resident parent must demonstrate financial independence (total self-sufficiency) for two full years immediately preceding the residence determination date of the term for which the student is requesting a resident classification, in addition to 366 days of physical presence and intent. Relevant documentation to support a finding of financial independence may include tax returns from the student to verify the student’s income and from parents to verify student was not included as a dependent (tax returns amended after admittance to UC are not accepted), student W-2s, two-year budget of income and expenses, apartment rental contracts or leases, copies of all financial documentation (bank statements, loans, trusts, etc.) to verify the sources of the student’s income/savings. The student must have accepted no financial assistance from any individual, including California-resident relatives, during the required two years.

#### **1. Requirements**

An undergraduate student or a student enrolled in a non-degree program who is not dependent on a California-resident parent will meet the financial independence requirement if he meets the following criteria:

- a. student was not claimed as an income tax dependent by any individual for the two tax years immediately preceding the term for which resident classification is requested (federal and state income tax returns for 2010 and 2011 for the 2012-2013 academic year),

*AND*

- b. student is self-sufficient. Student has supported own self with own resources (employment, commercial/institutional loans in student’s name only, financial aid and savings from earnings, all of which require official documentation) for two full years prior to the residence determination date for the term s/he proposes to attend the University

#### **2. Exceptions**

This financial independence requirement will **not** be a factor in the residence determination if the student meets at least *ONE* of the following criteria:

- a. the student's natural or adoptive parent(s), upon whom the student is dependent, meet the requirements for California residence for purposes of tuition and fees,

***OR***

- b. the student is at least 24 years of age by December 31 of the calendar year of the term for which resident classification is requested,

***OR***

- c. the student is a veteran of the U.S. Armed Forces,

***OR***

- d. the student is a ward of the court or both parents are deceased,

***OR***

- e. the student has a legal dependent, other than a spouse or registered domestic partner,

***OR***

- f. the student is married or a registered domestic partner AND was not claimed as an income tax deduction by any individual other than spouse or domestic partner for the one tax year immediately preceding the term for which resident classification is requested,

***OR***

- g. the student is a graduate student or professional student AND was not claimed as an income tax deduction by any individual other than spouse or domestic partner for the one tax year immediately preceding the term for which resident classification is requested,

***OR***

- h. the student is a graduate student or professional student who is employed at UC 49% or more time (or awarded the equivalent in University-administered funds, e.g., grants, stipends, fellowships) in the term for which resident classification is requested,

***OR***

- i. the student reached the age of majority in California while his parents were residents (for tuition purposes) of this state AND the California resident parents left the state to establish a residence elsewhere AND the student continued to reside in the State of California after the parents' departure.



### 3. Support

- a. **UTMA or UGMA Accounts** — Under Uniform Transfers or Gifts to Minors acts, assets are transferred to custodians (trustees) to manage in the name of a child. The custodian is often the parent(s) of the minor but can be an independent trustee. The funds cannot revert to the custodian (trustee), and when the minor reaches the age of majority, the assets must be used in the student's sole discretion, under his/her full control, for his/her self-support.
- b. **Irrevocable Trusts** — Other trusts may be set up similarly as a. above. The student must provide a copy of the trust instrument to the Residence Deputy to determine the date it was established, by whom, who owns and controls the funds, whether the trust is revocable or irrevocable, and whether parents, or others, have made or continue to make contributions to the trust after the student's 14<sup>th</sup> birthday.

#### Requirements for UGMA/UTMA Accounts and Irrevocable Trusts

- The account or trust must have been established and funded prior to the student's 14<sup>th</sup> birthday.
- Only account or trust funds that were available prior to the student's 14<sup>th</sup> birthday will be considered. Monetary or other proprietary contributions made to the account or trust after the student's 14<sup>th</sup> birthday will not be considered.
- Account or trust funds cannot revert to the trustee/ custodian. When the minor reaches the age of majority, the assets must be used at the student's sole discretion and under his full control for his self-support.
- A student shall not satisfy the financial independence requirement where he/she is the beneficiary of a trust and receives the proceeds of the trust from a trustee/custodian.

The Residence Deputy will determine whether the conditions of the trust meet the University requirements for financial independence. In addition, the Residence Deputy will verify that the student is using the income derived from the trust to support him or herself.

- c. **Loans or Gifts** — Loans or gifts from parents or other individuals, regardless of the terms, are considered financial assistance and will not be considered as income when evaluating financial independence. Bank loans made to parents or other individuals who turn over the funds to the student, and bank loans with a parent or other adult co-signing are also regarded as financial assistance and will not be considered. Bank accounts in parent(s), or other individual(s), name(s) and student name will not be considered. 529 plans and PLUS loans are not normally considered when calculating financial independence; 529 plans if the funds

can be withdrawn or otherwise used by the custodian and are not in the student's sole control or being used by the student for self-support, and PLUS loans because they are co-signed loans.

- d. **Other Non-Institutional Support** — “Bartering” for a free room and board or other services or necessities is considered financial assistance. A student who receives payment for work performed must be able to document all income received with appropriate W-2 forms/tax returns. A student who has sufficient income to support himself but receives free room and board from a relative or other individual is not deemed “totally self-sufficient” as this is considered to be financial assistance.
- e. **Wills or Bequests** – Money left to a student in a will or bequest can be considered if the student can verify using the funds for self-support.

The Residence Deputy will carefully evaluate the character and nature of each income source to determine if the student is truly self-sufficient.

#### D. Absences from California

##### 1. Prior to Fulfilling the Physical Presence Requirement

A short absence from California during the first year of residence will be evaluated by the Residence Deputy to determine whether it is consistent with a claim of continued residence. Absences that add up to more than six weeks over the first year are presumed to be inconsistent with intent to reside permanently in California and will be scrutinized in light of the totality of the circumstances. A student that leaves California during non-instruction periods, particularly the summer months, is presumed to be in California solely for educational purposes. Here, the burden is on the student to prove otherwise.

A student (or parent) who comes to California for a short time, obtains legal indicia of intent, or other indicia of intent, then leaves California will not have fulfilled the intent/ physical presence requirement.

##### 2. Temporary Absence

A student (or parent) who is temporarily absent from California will **not** lose residence status, unless s/he acts inconsistently with the claim of continued California residence during the absence. **If a student (or parent) leaves the state during the first 366 days of physical presence, the Residence Deputy will determine whether the absence was consistent with intent to remain permanently in the state. Students and parents have the burden of providing clear and convincing evidence of their continuing California residence during all absences from the state.**

A student enrolled in a University of California Education Abroad Program or an equivalent non-UC study abroad program may count the period of his attendance toward establishment of legal residence for purposes of tuition and fees.

A student who takes steps to establish a residence in California but then returns to his/her former residence when school is not in session, or to the his/her parents' out-of-state home, will have the burden of proving with clear and convincing evidence that s/he intends to reside permanently in California.

A parent who takes steps to establish a residence in California but who returns to his former residence or fails to sever ties to his former residence will not meet the University's intent requirement.

When a parent who has established California residence (according to UC regulations) leaves the state to work, his absence will be scrutinized to determine whether it is temporary or transitory. An absence for work outside the state for a long or indefinite period of time may not be considered a temporary absence.

Steps that a student (or the student's parent(s)) should take to retain a California residence during a temporary absence include, but are not limited to:

- Maintain a residence in California.
- Continue to use a California permanent address on all records—education, employment, etc.
- Return to California for home leaves and vacations.
- Satisfy California resident income tax obligations. (Individuals claiming California residence are taxable on their total income from the date they establish California residence, which may include income earned in another state or country. California residents remain taxable residents during absences from California if the absence is considered temporary or transitory.)
- Retain California voter's registration (voting by absentee ballot).
- Maintain a California driver's license and vehicle registration when possible. If it is necessary to change a driver's license and/or vehicle registration while temporarily residing in another state, these documents should be changed back to California as soon as possible.
- Maintain active bank accounts in California.
- Store belongings in California.

*NOTE: If a student (or the student's parent(s)) relinquishes California residence after moving from the state, it will take 366 days of physical presence coupled with one year of demonstrated intent to re-establish residence in California for purposes of tuition and fees.*

**E. Rules Related to Minors**

**1. General Rule**

The residence of the parent with whom an unmarried minor (17 or under) lives is the residence of the unmarried minor. Where the residence of the minor is derived, the parent must satisfy the 366-day physical presence and intent requirements. If the minor does not live with either parent, his residence is that of the parent with whom he last lived, subject to the potential application of **7.** or **8.** below.

**2. Permanent Separation or Divorce of Parents**

If a minor student's parents are separated or divorced, the residence of the parent with whom the minor maintains his principal place of abode will be considered the residence of the minor.

The principal place of abode is typically the residence of the parent with whom the student spends the majority of his time. Thus, the principal place of abode for a student who spends the school year with one parent and summers with the other would be the home of the parent with whom the student lives during the school year.

A minor student will derive residence through a California-resident parent only if s/he begins living with the California parent prior to attaining majority (18th birthday). In this case, the student is not required to fulfill the 366-day physical presence requirement; however, the California parent must satisfy the University's requirements for residence for tuition purposes. The burden is on the student to provide clear and convincing evidence that s/he actually changed their domicile to their California-resident parent's home prior to the student's 18th birthday. The parent has the burden of providing clear and convincing evidence that California has been their primary home for 366 days and that s/he has severed ties to his former out-of-state home.

**3. Deceased Parents**

A minor student may establish a residence when both parents are deceased and no legal guardian has been appointed. Until the minor does so, the student's residence remains that of the last living parent. If the last parent to die was a resident of California, the student will remain a resident of California. If the last parent to die was not a resident of California, the

student must establish his residence in California in the same manner as an adult student.

If a guardian is appointed for a minor after the death of his parents, the minor will take the residence of the guardian.

**4. Adoption**

A minor student who was adopted by a California resident (who has satisfied the physical presence and intent requirements) is eligible for a resident classification for the ensuing term if the student has fulfilled all other applicable residence requirements). A student who has reached the age of majority and has been legally adopted by a California resident (who has satisfied the physical presence and intent requirements) is eligible for a resident classification under the same conditions.

**5. Parent Moves to California While Student Is a Minor**

A minor student whose parent(s) move to California, leaving him behind, can derive the parent's California residence as soon as it is established. However, if the student remains outside California after reaching the age of majority, his activities will be scrutinized to determine whether or not he did anything inconsistent with his claim of a California residence after the parent(s) moved. Some considerations would be 1) whether he paid resident tuition at an institution outside of California, and 2) whether he paid resident taxes in another state. (see "Dependent of a California-resident Parent," p. 45)

**6. Parent of Minor Who Moves from California-(Ed. Code §68070)**

A minor student whose parent(s) move from California to establish residence elsewhere will be **entitled to a resident classification** if he remains behind and enrolls full time in a post-secondary institution within one year of the date that his parents establish their new residence. The student's resident classification will continue as long as he maintains continuous full-time attendance at the post-secondary institution. **Financial independence will not be required in this case.**

**Requirements:**

- a. The parents must have been residents of California for more than one year (366 days) immediately prior to their departure.
- b. The parents must have established a residence elsewhere during the student's minority and within one year immediately prior to the residence determination date for the term.
- c. The student must have remained in California except for short absences.

- d. Once enrolled, the student must maintain continuous full-time attendance at a post-secondary institution. If he has enrolled in more than one post-secondary institution, all such attendances must amount to continuous and full-time, and
- e. The student must be under age 18 when the parents leave the state.

**7. Self-Supporting Minor (Ed. Code §68071)**

A minor student who has been self-supporting and physically present in California for more than one year (366 days) immediately prior to the residence determination date, with the intention of acquiring a residence, is eligible to be considered for resident classification as long as he continues to be self-sufficient and until he has resided in the state the minimum time necessary to become a resident. Unless the student is emancipated (see p. 20) the minimum time necessary includes meeting the University's financial independence test.

**Requirements:**

- a. The student must be a minor on the residence determination date.
- b. The student must be entirely self-sufficient; **AND**
- c. the student must be physically present in the state for more than one year (366 days) immediately prior to the residence determination date with the intention of establishing a permanent residence in the state.

*The student is responsible for providing clear and convincing evidence of self-support.*

**8. Two-Year Care and Control (Ed. Code §68073)**

A minor student may be entitled to a resident classification if, immediately prior to enrolling in a post-secondary institution, he has been living with and been under the *continuous direct care and control* of an adult or adults other than a parent for a period of not less than two years. The adult or adults having control must have been residents of California during the one year immediately prior to the residence determination date. This classification will continue until the student has attained the age of majority and lived in the state the minimum time necessary to become a resident, as long as he maintains continuous attendance at a California public post-secondary institution.

**Requirements:**

- a. The student must have lived with an adult, or series of adults, other than a parent, for at least *two years immediately prior to enrollment*.
- b. The student must not receive support or income from any source outside of California.
- c. The California adults must not receive support or income on behalf of the student from any sources outside of California.
- d. During the two-year period the student must have been under the continuous direct care and control of the adult(s) with no assistance provided by others, including the student's parents.
- e. During the one year immediately prior to the residence determination date the adult(s) must have met the requirements for residence for tuition purposes.
- f. If the student is not a U.S. citizen or permanent resident, he must be eligible to establish residence once he reaches majority.
- g. The student must be under age 18 at the time he enrolls; **AND**
- h. Once enrolled, the student must maintain continuous attendance at a California public post-secondary institution. If the student has enrolled in more than one post-secondary institution, his attendance in all post-secondary institutions must amount to continuous attendance throughout the prescribed period. If the student qualified for this exemption at a California community college or campus of the California State University system, he will continue to be eligible upon transfer to the University of California, as long as he maintained continuous attendance.

*NOTE: The student must live with the person having care and control and at no other address. No exceptions may be made to this requirement (e.g., private school or community college).*

## **9. Emancipation**

In 1978 the Governor signed into law the “Emancipation of Minor Act.” This act permits a person under 18 years of age to become an emancipated minor if he (1) has entered in to a valid marriage; or (2) is on active duty with the armed services; or (3) willingly lives separate and apart from his parents, with their consent or acquiescence; and is managing his own financial affairs. The act further provides the specific purposes for which a minor may be considered emancipated and specifically permits a minor to petition the Superior Court for an official Declaration of Emancipation. Two purposes for which a minor may seek a Declaration of Emancipation under this law are (1) to enroll in a school or college, and (2) to establish his own residence.

A minor student claiming emancipation will be evaluated on the basis of his own efforts to establish a residence within the state. He will not derive residence from a parent or other adult.

For the purposes of a residence classification, the emancipation of a minor can be established by any one of the following:

- A copy of a signed judicial order declaring the minor’s emancipation.
- A copy of the minor’s driver’s license or official California Identification Card that indicates emancipation.
- A careful and independent evaluation by the Residence Deputy as to the minor’s emancipation status.

*The Residence Deputy will make an independent inquiry and determination of the minor student’s status.* In evaluating the status of a minor who claims to be emancipated and a resident of California, the Residence Deputy should consider whether the evidence of emancipation outweighs contrary evidence. The following inquiries are relevant:

- Has the student been entirely self-supporting during the period for which emancipation is claimed?
- Has the student demonstrated proof of parental consent to or acquiescence in the emancipation?
- Has the student been considered emancipated for purposes other than a residence classification?



- Can the student provide proof that he lives separate and apart from his parents?

**F. Spouses/Registered Domestic Partners**

**1. General Rule**

A wife does not derive residence from her husband, a husband does not derive residence from his wife and one registered domestic partner does not derive residence from the other. Married couples or registered domestic partners who are living together might have separate residences and each might have a different, unshared intent, indicating their separate residences.

**2. Marriage of California Resident to Nonresident**

A student does not lose his resident status by marriage to a nonresident. If the couple resides outside California for a period of time, however, inquiry must be made regarding whether the student has retained California residence (See “Temporary Absence,” p. 14).

**Members or Dependents of Members of the Armed Forces  
Application of State and Federal Law Pertaining to Tuition and Fees**

**G. Members of the Military and Their Dependents (Ed. Codes §§ 68074, 68075, 68075.5; Higher Education Opportunity Act of 2008.)**

<b>CATEGORIES</b>	<b>CALIFORNIA LAW (AND CURRENT UC GUIDELINES)</b>	<b>NEW FEDERAL LAW (HIGHER EDUC. OPP. ACT OF 2008)</b>
<p>As of the Residence Determination Date (RDD), the student is:</p> <p><b>1. Member of the Armed Forces</b></p> <p>And is, or seeks admission as:</p> <p><b>Undergraduate Student</b></p>	<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>• Undergraduate student,</li> <li>• who is a Member of the Armed Forces,</li> <li>• stationed in California, <b>and</b></li> <li>• on active duty. (Ed. Code, § 68075(a).)</li> </ul> <p><b>Disqualifications:</b></p> <ul style="list-style-type: none"> <li>• Member of the Armed Forces,</li> <li>• assigned for educational purposes,</li> <li>• to a state-supported institution of higher education. (Ed. Code, § 68075(a).)</li> </ul> <p><b>Status:</b></p> <ul style="list-style-type: none"> <li>• Entitled to <b>resident classification only for the purpose of determining the amount of tuition and fees.</b> (Ed. Code, § 68075(a).)</li> </ul> <p><b>Duration:</b></p> <ul style="list-style-type: none"> <li>• For as long as student maintains the above eligibility requirements. (Ed. Code, § 68075(a).)</li> </ul>	<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>• Member of the Armed Forces,</li> <li>• who is on active duty for a period of more than 30 days, <b>and</b></li> <li>• whose domicile or permanent duty station is in California. (Higher Ed. Opp. Act, §114, 20 U.S.C. 1015d(a).)</li> </ul> <p><b>Status:</b></p> <ul style="list-style-type: none"> <li>• University <b>shall not charge</b> tuition at a rate that is <b>greater than the rate charged for California residents.</b> (20 U.S.C. § 1015d(a).)</li> </ul> <p><b>Duration:</b></p> <ul style="list-style-type: none"> <li>• While continuously enrolled at the University, notwithstanding a subsequent change in the permanent duty station of the member to a location outside of California. (§ 114, 20 U.S.C. § 1015d(b).)</li> </ul>
<p>As of RDD, student is:</p> <p><b>1. Member of the Armed Forces</b></p> <p>And is, or seeks admission as:</p> <p><b>Graduate Student</b></p>	<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>• Student seeking a graduate degree,</li> <li>• who is a member of the Armed Forces,</li> <li>• stationed in California, <b>and</b></li> <li>• on active duty. (Ed. Code, § 68075(b).)</li> </ul> <p><b>Disqualifications:</b></p>	<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>• Member of the Armed Forces,</li> <li>• who is on active duty for a period of more than 30 days, <b>and</b></li> <li>• whose domicile or permanent duty station is in California. (20 U.S.C. § 1015d(a).)</li> </ul> <p>[Note: Federal law has no separate</p>

CATEGORIES	CALIFORNIA LAW (AND CURRENT UC GUIDELINES)	NEW FEDERAL LAW (HIGHER EDUC. OPP. ACT OF 2008)
	<ul style="list-style-type: none"> <li>• Member of the Armed Forces</li> <li>• who is assigned for educational purposes</li> <li>• to a state-supported institution of higher education. (Ed. Code, § 68075(b).)</li> </ul> <p><b>Status:</b></p> <ul style="list-style-type: none"> <li>• Entitled to <b>resident classification only for the purpose of determining the amount of tuition and fees.</b> (Ed. Code, § 68074(a)(1).)</li> </ul> <p><b>Duration:</b></p> <ul style="list-style-type: none"> <li>• Maximum of two academic years. Ed. Code, § 68075(b).)</li> </ul>	<p>provision for graduate students; the requirements set forth above therefore apply to both graduate <u>and</u> undergraduate students.]</p> <p><b>Status:</b></p> <ul style="list-style-type: none"> <li>• University <b>shall not charge</b> tuition at a rate that is <b>greater than the rate charged for California residents.</b> (20 U.S.C. § 1015d(a).)</li> </ul> <p><b>Duration:</b></p> <ul style="list-style-type: none"> <li>• While continuously enrolled at that institution, notwithstanding a subsequent change in the permanent duty station of the member to a location outside of California. (20 U.S.C. § 1015d(b).)</li> </ul>
<p>As of RDD, student is:</p> <p><b>2. Child or spouse of a Member of the Armed Forces</b></p> <p>And is, or seeks admission as:</p> <p><b>Undergraduate Student</b></p>	<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>• Undergraduate student</li> <li>• who is a dependent <ul style="list-style-type: none"> <li>○ natural or adopted child,</li> <li>○ stepchild,</li> <li>○ or spouse</li> </ul> </li> <li>• of a Member of the Armed Forces who is stationed in California on active duty. (Ed. Code, § 68074(a)(1).)</li> </ul> <p><b>Status:</b></p> <ul style="list-style-type: none"> <li>• Entitled to <b>resident classification only for the purpose of determining the amount of tuition and fees.</b> (Ed. Code, § 68074(a)(1).)</li> </ul> <p><b>Duration:</b></p> <ul style="list-style-type: none"> <li>• As long as student continues to satisfy eligibility requirements, above.</li> </ul> <p><b>Change of status of parent:</b></p> <ul style="list-style-type: none"> <li>• If while in student is in attendance, Member/parent transfers <ul style="list-style-type: none"> <li>○ on military orders to a place outside this state where the member continues to serve</li> </ul> </li> </ul>	<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>• Spouse or dependent child</li> <li>• Of a Member of the Armed Forces,</li> <li>• Member is on active duty for a period of more than 30 days, <b>and</b></li> <li>• Member's domicile or permanent duty station is in California. (20 U.S.C. § 1015d(a).)</li> </ul> <p><b>Status:</b></p> <ul style="list-style-type: none"> <li>• University <b>shall not charge</b> tuition at a rate that is <b>greater than the rate charged for California residents.</b> (20 U.S.C. § 1015d(a).)</li> </ul> <p><b>Duration:</b></p> <ul style="list-style-type: none"> <li>• While the student is continuously enrolled,</li> <li>• Notwithstanding a subsequent change in the permanent duty station of the Member to a location outside of California. (20 U.S.C. § 1015d(b).)</li> </ul>

CATEGORIES	CALIFORNIA LAW (AND CURRENT UC GUIDELINES)	NEW FEDERAL LAW (HIGHER EDUC. OPP. ACT OF 2008)
	<p>in the armed forces of the United States, or</p> <ul style="list-style-type: none"> <li>○ is thereafter retired as an active Member of the Armed Forces of the United States (Ed. Code, § 68074(a)(1)),</li> </ul> <p>The student dependent shall not lose his or her resident classification until he or she has resided in the state the minimum time necessary to become a resident. (Ed. Code, § 68074(b).)</p>	
<p>As of RDD, student is:</p> <p><b>2. Child or spouse of a Member of the Armed Forces</b></p> <p>And is, or seeks admission as:</p> <p><b>Graduate Student</b></p>	<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>● A student seeking a graduate degree</li> <li>● who is a dependent <ul style="list-style-type: none"> <li>○ natural or adopted child,</li> <li>○ stepchild,</li> <li>○ or spouse</li> </ul> </li> <li>● of a Member of the Armed Forces <ul style="list-style-type: none"> <li>○ stationed in California</li> <li>○ on active duty (Ed. Code, § 68074(a)(2).)</li> </ul> </li> </ul> <p><b>Status:</b></p> <ul style="list-style-type: none"> <li>● Entitled to <b>resident classification only for the purpose of determining the amount of tuition and fees.</b> (Ed. Code, § 68074(a)(2).)</li> </ul> <p><b>Duration:</b></p> <ul style="list-style-type: none"> <li>● For no more than one academic year. (Ed. Code, § 68074(a)(2).)</li> </ul> <p><b>Change of status of parent:</b></p> <ul style="list-style-type: none"> <li>● If while in student is in attendance, Member/parent transfers <ul style="list-style-type: none"> <li>○ on military orders to a place outside this state where the member continues to serve in the armed forces of the United States, or</li> <li>○ is thereafter retired as an active Member of the Armed</li> </ul> </li> </ul>	<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>● Spouse or dependent child</li> <li>● of a Member of the Armed Forces,</li> <li>● Member is on active duty for a period of more than 30 days,</li> </ul> <p style="text-align: center;"><b>and</b></p> <ul style="list-style-type: none"> <li>● Member’s domicile or permanent duty station is in California. (20 U.S.C. § 1015d(a).)</li> </ul> <p><b>Status:</b></p> <p>University shall not charge tuition at a rate that is <b>greater than the rate charged for California residents.</b> (20 U.S.C. § 1015d(a).)</p> <p><b>Duration:</b></p> <ul style="list-style-type: none"> <li>● While the student is continuously enrolled,</li> <li>● Notwithstanding a subsequent change in the permanent duty station of the Member to a location outside of California. (20 U.S.C. § 1015d(b).)</li> </ul>

CATEGORIES	CALIFORNIA LAW (AND CURRENT UC GUIDELINES)	NEW FEDERAL LAW (HIGHER EDUC. OPP. ACT OF 2008)
	<p>Forces of the United States the student dependent shall not lose his or her resident classification until he or she has resided in the state the minimum time necessary to become a resident. (Ed. Code, § 68074(b).)</p>	
<p>As of RDD, student is:</p> <p><b>3. Former Member of the Armed Forces</b></p> <p>And is, or seeks admission as:</p> <p><b>Undergraduate or graduate student</b></p>	<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>• Former Member of the Armed Forces,</li> <li>• stationed in California,</li> <li>• who was on active duty,</li> <li>• for more than one year immediately prior to being discharged from the Armed Forces. (Ed. Code, § 68075.5.)</li> </ul> <p><b>Status:</b></p> <ul style="list-style-type: none"> <li>• Resident classification (Ed. Code, § 68075.5.)</li> </ul> <p><b>Duration:</b></p> <ul style="list-style-type: none"> <li>• For the length of time he or she lives in this state after being discharged up to the minimum time necessary to become a resident. (Ed. Code, § 68075.5.)</li> </ul>	<p>[NOTE: Federal law has no equivalent or similar provision for former Members of the Armed Forces.]</p>

#### **4. Summary of Military Member Chart**

##### **CALIFORNIA EDUCATION CODES (§§ 68074, 68075, 68075.5)**

##### **MEMBER of the ARMED FORCES (§ 68075)**

###### **Undergraduate**

Stationed in CA on active duty, not for educational purposes = resident for as long as maintains eligibility requirements.

###### **Graduate**

Stationed in CA on active duty, not for educational purposes = resident for maximum of two academic years.

##### **CHILD or SPOUSE of a MEMBER of the ARMED FORCES (§ 68074)**

###### **Undergraduate**

Student dependent of member of Armed Forces stationed in CA on active duty = resident for as long as maintains eligibility requirements. If parent transfers or retires, dependent shall not lose residence until has resided in state minimum time necessary to become a resident.

###### **Graduate**

Resident for no more than one year.

##### **FORMER MEMBER of the ARMED FORCES (§ 68075.5)**

###### **Undergraduate or Graduate**

Stationed in CA on active duty for more than one year immediately prior to discharge = resident for length of time lives in state after discharge up to minimum time necessary to become a resident.

##### **HEOA – HIGHER EDUCATION OPPORTUNITY ACT of 2008**

##### **MEMBER of the ARMED FORCES**

###### **Undergraduate or Graduate**

Active duty more than 30 days (which can start before and continue after RDD), with domicile or permanent duty station in CA = NR & exemption from nonresident supplemental tuition

Must remain continuously enrolled. Will keep exemption even if change to permanent duty station outside of CA.

## **CHILD or SPOUSE of a MEMBER of the ARMED FORCES**

### **Undergraduate or Graduate**

Student dependent of member of Armed Forces on active duty more than 30 days (which can start before and continue after RDD), with domicile or permanent duty station in CA = NR & exemption from nonresident supplemental tuition. Must remain continuously enrolled. Will keep exemption even if military member's permanent duty station changed to outside of CA.

### **UNDER HEOA**

- Undergraduates and graduates are treated alike.
- Military member may qualify even if in state for educational purposes.
- Military member may qualify if permanent duty station is outside of the state so long as s/he maintains a domicile in CA.

Members of the Armed Forces first will be assessed to see if they meet 1) one of the California Education Codes. If not, 2) HEOA. If not, they will be evaluated under the same residence regulations as civilian students are evaluated.

### **NOTES TO CHART, "MEMBERS OR DEPENDENTS OF MEMBERS OF THE ARMED FORCES – APPLICATION OF STATE AND FEDERAL LAW PERTAINING TO TUITION AND FEES"**

- Federal law grants eligibility to a Member of the Armed Forces who "is" on active duty for 30 days. We interpret this to mean that as of the RDD the Member must be on active duty status, but if he or she has been on such status for less than 30 days, he or she can satisfy the 30-day requirement if there is adequate proof that the status will continue for at least 30 days.
- "Domicile." For purposes of applying the federal law, it is the one location where a person is considered to have the most settled and permanent connection, the place where he intends to remain and to which, whenever temporarily absent, he has the intention of returning. A person can have **only** one domicile at a time. (See p. 2.)
- "Permanent duty station." For purposes of applying the federal law, permanent duty station is defined as the post of duty or official station to which a member of the Armed Forces is assigned or attached. A member of the Armed Forces assigned to a military base or installation in California would meet the requirements of having a permanent duty station in California. (See p. 5.)
- All references to "spouse" are intended to include California registered domestic partners. Residence Deputies should contact the Office of the General Counsel if student claims similar status to registered domestic partner under the laws of another state.

- All references to child dependents are intended to include natural, adoptive or step-children of the Member of the Armed Forces.

## 5. Requirements

When proving eligibility under any provision requiring proof of being stationed in California, the student must provide a statement or other official record or document from his commanding officer or personnel officer indicating the date of his assignment to California and, if proving eligibility under California Education Code section 68075, that the assignment to active duty in California is not for educational purposes at a state institution of higher education.

**Residence Deputies will track Members of the Armed Forces, as their circumstances are subject to change.** Following the period of resident status or exemption for a graduate or professional student, the Residence Deputy will reevaluate the student's circumstances to determine if he qualifies for resident classification.

## 6. Presence in California under Military Orders

A Member of the Armed Forces of the United States who is transferred to California pursuant to orders and who is not otherwise eligible for resident classification or an exemption as provided above will be classified a nonresident, but neither the Member nor his or her dependent spouse, registered domestic partner, or child are precluded thereafter from attaining resident classification under UC residence regulations. For such individuals to establish California resident status for purposes of tuition and fees, evidence of intent must include designation of California as the state of legal residence on military records.

In addition to the usual indicators of intent, there are some that relate specifically to students who are Members of the Armed Forces. Some examples are:

- Designation on military records of California as the state of legal residence (by completing a DD2058 form). [Note: This form must be completed more than one year (366 days) prior to the residence determination date. The change to California on the DD2058 and demonstrated indicia of intent must occur together with at least 366 days of physical presence in the state.]
- Payment of California income tax as a resident. Military personnel stationed in California are not exempt from filing California income tax if they have declared California as their state of legal residence.
- California registration of all automobiles or other vehicles. Nonresident members of the military may license vehicles in



California, but as nonresidents, they are exempt from paying registration fees. Proof of resident registration should be requested.

- Other forms that may indicate California residence include form DD214, the latest Leave and Earnings Statement (LES), the latest Military Orders.
- Verification that the student requested the transfer to the State of California.

## **7. Member of National Guard**

A National Guard member in another state who leaves that state and moves to California does not transfer his membership to a California National Guard unit. Instead, a conditional release is granted by the National Guard unit of the former state and, during a grace period of 60-90 days, membership may be reinstated in a new (California) National Guard unit. Thus, a National Guard member who moves to California must establish California residence.

NOTE: There is no national headquarters and no central repository for personnel files of the National Guard. The National Guard member should therefore indicate on his National Guard records that California is his permanent place of residence.

### **Active Federal Service of National Guard Member**

In ordinary circumstances, National Guard units retain their status as state militia units, under the ultimate command of the governor of the state in which the unit is located. Under certain conditions, however, the President can order those units into active federal service. For as long as they remain in federal service, members of the National Guard are relieved of their status in the State Guard, and their units become exclusively components of the United States Armed Forces. If a member of the National Guard has been assigned to active-duty service under the U.S. Armed Forces on the residence determination date of the term for which he is requesting a resident classification, his circumstances will be assessed for eligibility for an exception for active-duty members of the U.S. Armed Forces.

## **8. Military Reserves**

A member of a United States military reserve unit is not eligible for a military fee exception, nor is his spouse, registered domestic partner or dependent child. The exemption is available only to *active duty* U.S. Armed Forces personnel and their dependents.

**9. Cal Vet (Ed Code #66025.3 (a)(2)(A))**

A California-resident student who is the dependent spouse who has not remarried, registered domestic partner who has not married or registered with another partner, or child (natural or adopted) of a veteran who was killed, disabled while in service or who died as the result of a service-related disability, is exempt from paying nonresident supplemental tuition and mandatory systemwide fees when his annual household income is at or below the poverty level. (*Forms are available at the local Veterans Affairs office.*)

*Eligibility for the CalVet waiver does not make a student ineligible to meet the financial independence requirement.*

**H. Non-Citizens:** There are two broad categories of foreign nationals who may enter the United States: immigrants and nonimmigrants. Both of these categories have undergone great changes over the years, the most recent and sweeping enactments came under the Immigration Reform and Control Act of 1986, the Immigration Act of 1990, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the Patriot Act of 2001, and the Real ID Act of 2005.

**1. Immigrants: United States Lawful Permanent Residents (LPRs)**

Lawful permanent residents of the United States enjoy most of the same rights as United States citizens; namely, they are permitted to live and work in the United States, own property, attend public school and college and leave and return under certain conditions. Lawful permanent residents may acquire their status based upon a family relationship, an employment relationship, or any of the special immigration programs the United States government administers, such as the diversity visa program (Lottery), political asylum and amnesty. Most immigrant categories are subject to numerical quotas and involve significant time delays.

**a. Immediate Relatives (I-130→I-485→I-551 [green card])** – spouses, children under the age of 21 and parents of United States citizens over the age of 21. There is no limit to the number of immediate relatives on whose behalf immigrant petitions may be submitted. Immediate relatives are not subject to quotas.

- **First Preference (FS-1)** – Unmarried adult sons and daughters of United States citizens.
- **Second Preference (FS-2)** – Spouses and unmarried children under the age of 21 of lawful permanent residents; adult unmarried sons and daughters over the age of 21 of lawful permanent residents.
- **Third Preference (FS-3)** – Married sons and daughters of

United States citizens.

- **Fourth Preference (FS-4)** – Brothers and sisters of United States citizens.

**b. Employment-based Immigration (LCA→I-140→I-485→I-551 [green card])**

- **First Employment-based Category**

(EB-1) – Priority Workers. This category includes persons of extraordinary ability, outstanding professors and researchers, multi-national executives and managers of international companies.

- **Second Employment-based Category**

(EB-2) – Members of Professions Holding Advanced Degrees or Persons of Exceptional Ability in the Sciences, Arts or Business whose exceptional ability will substantially benefit prospectively the national economy, cultural or educational interests or welfare of the U.S. This category is subject to the Labor Certification process.

- **Third Employment-based Category**

(EB-3) – Skilled Workers, Professionals and Other Workers. This category is subject to the Labor Certification process.

- **Fourth Employment-based Category**

(EB-4) – **Special Immigrants, Religious Workers.**

- **Fifth Employment-based Category**

(EB-5) – Investors. This visa is for investors who make a substantial investment in the United States and create jobs for at least 10 U.S. workers (citizens and permanent residents).

**c. Individuals Not Eligible for the Family-based or Employment-based Categories**

- **Diversity Immigrant** — To be eligible for permanent residence, an applicant must be from a country designated by the Attorney General, have at least a high school education (or equivalent), or have worked at least two years in an occupation that requires two years of training or experience. Eligibility also extends to the spouse and children.

- **Refugee** — Any person who is outside of the country of his nationality or habitual residence and is unable or unwilling to

return to that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. An individual may also be considered a refugee even if he is still in the country of nationality or habitual residence, but is being persecuted or has a well-founded fear that persecution will occur on account of race, religion, nationality, and membership in a particular social group or political opinion. *Refugees are paroled into the United States under quotas set by the President and may apply for permanent residence one year after being granted refugee status.*

The spouse or child of a qualifying refugee may be entitled to admission if accompanying or following to join the principal refugee and the principal refugee may apply to give derivative status to a spouse or child within two years of his admission to the United States.

- **Asylee** — Any person who is a refugee as defined above who is physically present in the United States or at a land border or port of entry. Application for asylum must be filed within one year after the date of arrival in the United States. An asylee is eligible to have his spouse and children follow to join him in the United States and be granted asylum in their own right; applications to have the spouse or children join must be filed within two years after the grant of asylum. *After one year in asylee status, asylees may apply for adjustment to permanent resident status.*

## 2. **Nonimmigrants**

Nonimmigrants are admitted *temporarily* for a limited time and purpose, while immigrants are admitted for permanent residence. While immigrants enjoy many of the same rights as United States citizens, nonimmigrants have no right to remain in the United States beyond the period of stay authorized by the USCIS.

Further, a nonimmigrant cannot engage in activities that are inconsistent with the purposes and conditions of the particular category for which he was granted approval, such as accepting employment if employment is not authorized by the category or specifically approved. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA) created many new penalties for nonimmigrants who violate conditions of admissions.

Foreign nationals who seek to enter the United States are presumed to be immigrants unless they can establish to the satisfaction of the consular official at the time of application for a visa that they are entitled to nonimmigrant status. Foreign nationals are subject to further scrutiny

when they arrive at a U.S. port of entry. Immigration inspectors at ports of entry may not admit a visa holder if they believe the alien does not intend to return to his or her home country or that he is inadmissible to the United States.

The most significant restriction imposed on visa holders in many nonimmigrant categories is the prohibition against employment or, more specifically, employment that is not authorized under the specific visa.

Nonimmigrants may remain in the United States until the expiration or termination of the period of authorized stay, and may engage in activities compatible with the particular nonimmigrant classification they used for admission. Employment that is not otherwise authorized by the particular visa classification is strictly prohibited.

Aliens who are admitted to the United States in one nonimmigrant classification and desire to engage in activities appropriate to a different nonimmigrant classification must apply to the USCIS for a change of nonimmigrant status.

**The Chart** below lists and briefly describes the many visa types a student or parent may hold. If a student is holding one of the visas preceded by an asterisk (\*), s/he will not be eligible to establish residence for tuition purposes. (\*\*) are diplomatic visas. Individuals with these visas cannot establish California indicia; however, they are eligible for residence if they meet the physical presence requirement and have been in that visa status for more than 366 days.

<b>VISA TYPE</b> (* = cannot establish residence)	<b>CATEGORY OF NONIMMIGRANT</b>	<b>INITIAL PERIOD OF ADMISSION</b>
<b>**A-1, A-2 &amp; A-3</b>	<b>Diplomatic: foreign government official or employee, family and servants</b>	<b>Duration of service.</b>
<b>*B-1</b>	<b>Temporary visitor for business</b>	<b>One year—extensions granted for no more than six months' time.</b>
<b>*B-2</b>	<b>Temporary visitor for pleasure, medical treatment</b>	<b>One year—extensions can be granted.</b>
<b>*B-1, B-2</b>	<b>Temporary visitor for pleasure</b>	<b>Same as B-1 or B-2.</b>
<b>*Visa waiver program</b>	<b>Visitor</b>	<b>No visa required.</b>
<b>*C-1, C-2 &amp; C-3</b>	<b>Alien in transit</b>	<b>Twenty-nine days.</b>
<b>*C-4 (TROV)</b>	<b>Transit without visa</b>	<b>Next available flight.</b>
<b>*D-1, D-2</b>	<b>Crewmen (ship or aircraft crew)</b>	<b>Twenty-nine days.</b>
<b>E-1</b>	<b>Treaty trader, spouse and child</b>	<b>Five years w/unlimited extensions granted in increments not over two yrs.</b>
<b>E-2</b>	<b>Treaty investor, spouse and child</b>	<b>Five years w/ unlimited extensions granted in increments not over two years.</b>
<b>E-3</b>	<b>Specialty Occupation Workers, Nationals of the Commonwealth of Australia. Dependents may study in the U.S. but need work authorization for employment.</b>	<b>Two years maximum with unlimited extensions granted in increments not to exceed two years.</b>
<b>*F-1</b>	<b>Academic students and students in language-training programs</b>	<b>Duration of status (D/S in the passport).</b>
<b>*F-2</b>	<b>Spouse and child of F-1 student.</b>	<b>Duration of status of F-1</b>
<b>**G-1, G-2, G-3 &amp; G-4</b>	<b>Recognized foreign member of government, representatives of foreign governments to international organizations, representatives of non-recognized foreign governments to international organizations, international organization officers or employees</b>	<b>Three years with two-year extensions.</b>
<b>*G-5</b>	<b>Attendant, servant, personal employee of aliens under G-1, G-2, G-3 and G-4, and members of immediate family.</b>	

<b>VISA TYPE</b> (* = cannot establish residence)	<b>CATEGORY OF NONIMMIGRANT</b>	<b>INITIAL PERIOD OF ADMISSION</b>
<b>H-1B</b>	Specialty occupations, DOD and fashion models	Six-year maximum
<b>H-1C</b>	Nurses working in health/professional shortage areas	Three years
<b>*H-2A</b>	Temporary worker performing agricultural services unavailable in U.S.	Three-year maximum
<b>*H-2B</b>	Temporary worker, skilled and unskilled	One year initially, three-year maximum
<b>*H-3</b>	Alien trainee	As authorized in petition, but not to exceed two years
<b>*H-4 (H-1B dependent)<sup>1</sup></b>	Dependent spouse or child of H-1, H-2 or H-3	Same as principal
<b>Humanitarian Parole</b>	Temporary parole into the U.S. for urgent humanitarian reasons or significant public benefit	Duration of emergency or one year maximum
<b>I</b>	Representative of foreign information media, spouse and child	Duration of authorized employment
<b>*J-1 (Student)</b>	Exchange visitor— J-1 Student must maintain full-time enrollment; J-1 Scholar can study only part-time.	Duration of approved program
<b>*J-2</b>	Spouse and child of exchange visitor— student	Duration of status of J-1
<b>K-1</b>	Alien fiancée or fiancé of U.S. citizen	90 days
<b>K-2</b>	Minor child of alien fiancée or fiancé of U.S. citizen	90 days
<b>K-3</b>	Spouse of U.S. citizen who is the beneficiary of I-130 petition filed in U.S. (LIFE Act)	
<b>K-4</b>	Child of alien entitled to K-3 classification (LIFE Act)	
<b>L-1A</b>	Intracompany transferee (executive, managerial) and specialized personnel continuing employment with international firm or corporation	Seven-year maximum

<sup>1</sup> H-4 spouses and children of H-1 principal alien MAY establish residence. H-4 spouses and children of H-2 and H-3 principal aliens MAY NOT establish residence. Status of the principal alien must be confirmed.

<b>VISA TYPE</b> (* = cannot establish residence)	<b>CATEGORY OF NONIMMIGRANT</b>	<b>INITIAL PERIOD OF ADMISSION</b>
<b>L-1B</b>	<b>Intracompany transferee (specialized knowledge) continuing employment with international firm or corporation</b>	<b>Five-year maximum</b>
<b>L-2</b>	<b>Spouse and child of intracompany transferee</b>	<b>Same as L-1</b>
<b>*M-1</b>	<b>Student of vocational or nonacademic institution, not in language training program</b>	<b>Duration of studies as indicated on 120M (+ 30 days to depart U.S.) or one year, whichever less. Extension may be granted.</b>
<b>*M-2</b>	<b>Spouse or child of M-1</b>	<b>Duration of status of M-1</b>
<b>N-8</b>	<b>Parent of a special immigrant child (Classified SK-3)</b>	
<b>N-9</b>	<b>Child of a special immigrant (classified N-8, SK-1, SK-2, SK-3)</b>	
<b>NATO-1 through NATO-7</b>	<b>NATO representatives, staff, family, expert employees and civilians accompanying NATO members</b>	
<b>O-1</b>	<b>Alien with extraordinary ability in the sciences, arts, education, business or athletics</b>	<b>Three years with extensions in one-year increments</b>
<b>*O-2</b>	<b>Attendant accompanying and assisting an O-1</b>	<b>Same as O-1</b>
<b>*O-3<sup>2</sup></b>	<b>Spouse and child of O-1 or O-2</b>	<b>Same as O-1</b>
<b>*P-1</b>	<b>Individual or team athletes</b>	<b>Five years with one five-year extension for P-athlete; all other P-1s admitted for one year with one-year extensions.</b>
<b>*P-2</b>	<b>Artist or entertainer entering the U.S. to perform under a reciprocal exchange program</b>	<b>Same as P-1; may not be readmitted as P-2 unless remained outside U.S. for 3 months after date of most recent admission.</b>

<sup>2</sup> Spouses and children of O-2 principal alien MAY NOT establish residence. Status of principal alien must be confirmed.



<b>VISA TYPE</b> (* = cannot establish residence)	<b>CATEGORY OF NONIMMIGRANT</b>	<b>INITIAL PERIOD OF ADMISSION</b>
<b>*P-3</b>	Artist or entertainer entering the U.S. to perform under a program that is culturally unique	Same as P-1; may not be readmitted as P-3 unless outside U.S. for 3 months after date of most recent admission.
<b>*P-4</b>	Spouse and child of P-1, P-2 or P-3	Same as P-1
<b>*Q-1</b>	International cultural exchange program	Not to exceed 15 months
<b>*Q-2</b>	Irish Peace Process Cultural and Training Program (Walsh visa)	
<b>*Q-3</b>	Spouse or child of Q-2	
<b>R-1</b>	Religious occupations	Not to exceed 5 years
<b>R-2</b>	Spouse or child of R-1	
<b>*S-5</b>	Aliens supplying critical information relating to organized crime "informant"	
<b>*S-6</b>	Aliens supplying critical information relating to terrorism "informant"	
<b>T-1</b>	Victim of a severe form of trafficking in persons	Three years
<b>T-2</b>	Spouse of a victim of a severe form of trafficking in persons	Three years
<b>T-3</b>	Child of victim of a severe form of trafficking in persons	Three years
<b>T-4</b>	Parent of victim of a severe form of trafficking in persons (if T-1 victim is under 21 years of age)	Three years
<b>*TN</b>	Trade visa for Canadians and Mexicans	One year, with one-year extensions
<b>*TD</b>	Spouse or child accompanying TN	Same as TN
<b>U</b>	Victims of Certain Crimes	
<b>U-1</b>	Victim of Certain Criminal Activity	
<b>U-2</b>	Spouse of U-1	

VISA TYPE (* = cannot establish residence)	CATEGORY OF NONIMMIGRANT	INITIAL PERIOD OF ADMISSION
U-3	Child of U-1	
U-4	Parent of U-1 (if U-1 victim is under 21 years of age)	
	Certain <i>Second Preference</i> beneficiaries	

### 3. Classification of Aliens for Residence Purposes

#### Adult Alien (21 years of age or older)

An adult alien may be able to establish residence for tuition purposes if he is legally present in the United States and eligible to establish a domicile. The following classifications entitle non-citizens to establish a domicile in the United States:

**a. Immigrant (See p. 30)**

**b. Asylee**

An asylee may establish a residence in California for tuition purposes if he is legally present in the United States and has a properly filed Request for Asylum (I-589) pending approval. An alien who has applied for asylum may verify legal presence and asylum applicant status by a copy of his I-589 and acknowledgment of receipt along with a valid employment authorization document showing provision of law 274a.12(c)(8) or 274a.12(a)(10).

**c. Refugee**

The spouse or child of a qualifying refugee may be entitled to admission if accompanying or following to join the principal refugee and the principal refugee may apply to give derivative status to a spouse or child within two years of his admission to the United States.

**d. Temporary Protected Status (TPS)**

A foreign country may be designated by the DHS for TPS due to conditions that temporarily prevent the country's nationals from returning safely, or in certain circumstances, where the country is unable to handle the return of its nationals adequately. USCIS may grant TPS to eligible nationals of certain countries (or parts of

countries), who are already in the United States. Eligible individuals without nationality who last resided in the designated country may also be granted TPS.

During a designated period, individuals who are TPS beneficiaries or who are found preliminarily eligible for TPS 1) are not removable from the U.S.; 2) can obtain an employment authorization document with code (a)(12); and 3) may be granted travel authorization.

The USCIS website on Temporary Protected Status contains a chart of countries currently designated for TPS, with dates of designation, current expiration date and re-registration period, current initial registration period and EAD period of extension.

**e. VAWA – Violence Against Women Act**

A victim of sexual assault or trafficking qualifies for immigration relief under section 101(a)(15)(U) of the Immigration and Nationality Act. An alien who has applied may verify legal presence with an approved form I-360, or a pending I-360 and an EAD with code (c)(14).

**f. Withholding of Removal**

A person granted withholding of removal has a similar status to an asylee. USCIS withholds removal because of a threat to life or freedom in the home country. There is a higher standard of evidence required for granting withholding status than for asylee status. In some circumstances, people may choose between asylum or some other status for which they qualify. However, if people meet the criteria for a withholding status, that is the one they must be granted. People with this status are not eligible to adjust to lawful permanent resident status. However, the appropriate immigration authorities can extend their "withholding" status for an indefinite period. Verification of legal presence includes an I-94 stamped "Withholding of Removal (or Deportation), § 243(h) or 241(b)(3)" or a copy of an EAD with code (a)(10).

**g. Certain Nonimmigrant Classifications**

A-1, A-2, A-3

E-1, E-2

G-1, G-2, G-3, G-4

H-1B, H-4

I

K-1, K-2, K-3, K-4

L-1, L-2

N-8, N-9

NATO-1 through NATO-7

O-1, O-3

R-1, R-2

**The following category cannot establish residence for purposes of tuition and fees**

**h. Notice of Hearing in Removal Proceedings**

Removal proceedings are initiated with a written Notice to Appear (NTA). Because the holder of a Notice to Appear may be subject to removal, he does not qualify for a resident classification.

**4. Alien Minor**

An alien student who is a minor is eligible to be considered for a resident classification upon admission or readmission if the parent with whom he resides has been domiciled (established residence) in California for more than one year (366 days) immediately prior to the residence determination date. If the parent of the minor is undocumented, out of status, or holds a nonimmigrant visa that precludes the establishment of a domicile in the United States, the student is not eligible for a resident classification.

**5. Citizen (with Alien Parent)**

Any student who is a U.S. citizen (minor or adult), whose parent is undocumented or out of status but has otherwise established a primary residence in California for more than one year, will be eligible for a resident classification. **Adult students will not be subject to the financial independence requirement in this case.**

**6. Child Status Protection Act (CSPA)**

The Child Status Protection Act was signed into law on August 6, 2002, to permit an applicant to retain classification and receive certain benefits as a “child” subsequent to reaching the age of 21. A student will only benefit from this law if he aged out (turned 21) after the date the law was enacted (August 6, 2002) or the I-130/I-140 petition was filed prior to that date but

no final determination was made. To determine whether a student can adjust status as a child after reaching age 21:

**For a Derivative Beneficiary:**

- a. Determine the age of the alien on the date a visa number becomes available (the approval date of the I-130 or I-140 if visa number was available at that time. If a visa number is not available, the first day of the month that it becomes available);
- b. From that age, subtract the number of days the petition was pending (days between receipt date and approval date);
- c. Determine that an I-485 was filed within one year of the approval date of the petition (I-130 or I-140).

**Example:** Student turned 21 on August 20, 2005. The student's parents filed an I-130 with a receipt date of January 2004 and an approval date of January 2005. There was no visa number immediately available but one did become available on August 30, 2006, at which time the family immediately filed an I-485. The time between January 1, 2004 and August 1, 2006 is 2 years and 8 months. Subtracting 2 years and 8 months from the students' age in September 2007 (23 years and 1 month) gives you an age of 20 years and 4 months. (277 months minus 32 months = 245 months divided by 12 = 20.41, or 20 years and 4 months.)

**7. Calculating Physical Presence**

An alien who is in the process of applying to register permanent residence or adjust status may be able to begin counting his 366 days to establish residence for purposes of tuition and fees if:

- a. He has a properly filed application to register permanent residence or adjust status. He should provide an acknowledgement of receipt of his I-485, a USCIS receipt notice indicating a proper fee was paid for the filing of his I-485, or a valid employment authorization document with provision of law 274a.12(c)(9).
- b. He is *legally present* and has a properly filed Request for Asylum (I-589) that is pending approval. In this instance, he can verify his legal presence by providing an acknowledgment of receipt for his I-589 and valid EAD with code (a)(10) or (c)(8).
- c. He is *legally present* in the United States and can provide an unexpired nonimmigrant visa and I-94 stamp AND acceptable documentation that includes one of the following:

- an *approved* Immigrant Petition for Alien Worker (I-140) listing him as an alien worker or the child or spouse of an alien worker,
- an *approved* Immigrant Petition for Alien Relative (I-130), or
- He has an official document verifying he has been granted cancellation of removal or withholding of removal. Acceptable documentation includes a valid employment authorization document with provision of law 274.a.12(a)(10).
- He has an official document verifying he has been granted Temporary Protected Status. Acceptable documentation includes a valid employment authorization document coded (a)(12).

## **8. Additional Immigration Information**

An I-526 is an employment-based immigrant petition for those who wish to invest \$1M or more into the United States. This form works similarly to the I-140 where a petition is filed, approved, then an I-485 is filed to adjust status if petitioner and beneficiaries are in the U.S.

An alien spouse does not derive residence from his citizen or permanent resident spouse. An alien who marries a U.S. citizen or U.S. permanent resident is not eligible to establish residence for tuition purposes until he is legally present in the United States in a status that allows him to establish residence for tuition purposes.

When an unmarried child turns 21, he is no longer eligible for dependent status under his parent. Prior to turning 21, he must file with the USCIS to change to another status, or depart the United States. A change of status may or may not affect a resident classification at UC, depending on whether the student has filed an I-485 Application to Register Permanent Residence or Adjust Status.

Once an alien has acquired a status that entitles him to establish residence in California for tuition purposes, he must fulfill the same criteria as a U.S. citizen in order to be classified as a resident for tuition purposes—the combination of more than one year of physical presence, intent, and, if an undergraduate under the age of 24, two years of financial independence. Once residence is established, it must be maintained for more than one year immediately prior to the residence determination date.

All aliens who are not precluded from eligibility for federal, state and local benefits under immigration laws 8 U.S.C. §§ 1615 and 1621 and who are not precluded by such laws from establishing residence or domicile in

California, can establish California residence if they meet the UC requirements for California residence for purposes of tuition and fees.

#### **IV. EXCEPTIONS TO GENERAL RESIDENCE REGULATIONS**

There are certain exceptions to the general rules of residence. Some of these exceptions are discussed elsewhere in this Residence Determination Manual in sections where they logically follow the subject matter being discussed. Exceptions treated elsewhere in this Residence Policy include:

**Parent Moves to California While Student Is a Minor** — p. 17

**Parent of Minor Who Moves from California** — p. 17

**Self-Supporting Minor** — p. 18

**Two-Year Care and Control** — p. 19

**Military Exemptions** — pp. 22-29

**Other exceptions are as follows:**

##### **A. Employee of California Public School District (Ed. Code § 68078)**

Any person holding a valid California teaching credential who is employed by a school district in a full-time certificated position may be eligible for resident status at the University of California for the purposes of admission fees and rates of tuition if any of the following apply:

1. He holds a preliminary credential and enrolls at the University of California in courses necessary to obtain another type of credential authorizing service in the public schools.
2. He holds a credential of the types designated in section 44250 (Ed. Code §68078) and enrolls at the University of California in courses necessary to fulfill postponed credential requirements.
3. He enrolls at the University of California in courses necessary to fulfill the requirements for a fifth year of college or university education prescribed by subdivision (b) of section 44259 (Ed. Code §68078)

##### **B. Spouse, Registered Domestic Partner or Child of Deceased Law Enforcement or Fire Suppression and Prevention Public Employee (Ed. Code §68120)**

An exemption from nonresident supplemental tuition and mandatory systemwide fees is provided for any person who is the spouse, registered domestic partner or child of a deceased law enforcement officer or fire fighter who, at the time of death, was a resident of California and who meets the following requirements:

1. The duties of the law enforcement officer or fire fighter were not principally clerical and consisted of one of the following:

- active law enforcement service
- active fire suppression and prevention

*AND*

2. The spouse/parent/registered domestic partner was killed in the course of those duties, or died as a result of an accident incurred in the course of those duties, or died as a result of an injury caused by external violence or physical force incurred in the course of those duties.

**C. Dependent of Deceased or Disabled Veteran or Deceased or Disabled Member of the California National Guard (Ed. Code §66025.3)(4)(A)**

A student who is the dependent spouse, registered domestic partner or child of a deceased or disabled veteran, or who is the dependent (or the surviving registered domestic partner or spouse who has not remarried) of any member of the California National Guard who was killed or permanently disabled while in active service of the state, *will not be exempted from nonresident supplemental tuition*, but may be exempted from mandatory systemwide fees.

**D. University Employment Outside of California**

A student may be entitled to an immediate resident classification if he is a full-time University employee who is assigned to work outside of the State of California, or if he is the unmarried dependent child, spouse or registered domestic partner of a full-time University employee who is assigned to work outside of the State of California.

This provision most often will be applied to employees of Los Alamos Laboratory in New Mexico and the University of California Washington, DC Center.

Full-time employment outside of the State of California must be maintained during all terms for which the student receives residence benefits. If the employee leaves the employment of the University for any reason (death and retirement included) or otherwise ceases to be a full-time employee, the student will be allowed to complete the current quarter or semester as a resident student. *A review will be conducted each term to verify continuation of the applicable employment status.*

**E. Native American Graduates of a BIA School (Ed. Code §68077)**

A student who is a graduate of a California school operated by the Federal Bureau of Indian Affairs (BIA) and who enrolls at one of the University of California campuses is eligible for a resident classification as long as continuous attendance is maintained by the student at an institution of higher education. Currently,



Sherman Indian High School in Riverside is the only California high school operated by the BIA.

**F. Dependent of a California Resident (Ed. Code §68076) (Condit)**

A student who has not been an adult physically present in California for more than one year (366 days) and who is the dependent child (natural or adopted) of a California resident who has been a resident for more than one year (366 days) immediately prior to the residence determination date may be entitled to resident classification *until he has resided in California for the minimum time necessary to establish a residence (366 days), as long as he maintains continuous full-time attendance at a post-secondary institution.*

**Requirements:**

1. On the residence determination date, the student:
  - a. must be the dependent child of a California resident who has met the University's requirements for residence for tuition purposes for 366 days. (Dependence is typically proven by submitting verification that the student is claimed as a dependent for income tax purposes *or the California parent is providing court-ordered support*), and
  - b. must not have lived in California for more than one year since he arrived in the state or since he reached his 18th birthday.
2. Once enrolled, the student must maintain continuous full-time attendance at a post-secondary institution as defined by Ed. Code §68016. If the student has attended more than one post-secondary institution, his enrollment must have been continuous and full-time.
3. On the residence determination date, the parent must have been a California resident for the immediately preceding 366 days. *Financial independence will not be required since the student is the dependent of a California resident.*

*When this exemption expires, the student must have fulfilled the UC residence requirements to maintain resident status—366 days of physical presence with concurrent intent and qualifying immigration status.*

**G. Unmarried Child, Spouse or Registered Domestic Partner of a Faculty Member**

The spouse, registered domestic partner, or unmarried, dependent child under age 21 of a member of the University faculty who is a member of the Academic Senate may be eligible for a waiver of nonresident supplemental tuition. *The Residence Deputy must verify the membership in the Academic Senate and the child's dependent status before this waiver may be granted.*

**H. Student Athlete in Training at U.S. Olympic Training Center, Chula Vista (Ed. Code §68083)**

Any amateur student athlete in training at the United States Olympic Training Center in Chula Vista is entitled to resident classification for tuition purposes until he has resided in the state the minimum time necessary to become a resident.

“Amateur student athlete,” for purposes of this section, means any student athlete who meets the eligibility standards established by the national governing body for the sport in which the athlete competes.

**I. California High-School Graduates (AB 540) (Ed. Code §68130.5)**

A student who attended a high school in California for three or more years and who graduated from a California high school (or attained the equivalent) will be exempt from paying nonresident supplemental tuition until he meets the University of California residence requirements.

**Requirements:**

The student must have:

1. attended a high school in California for three or more years **and** graduated from a California high school (or attained the equivalent), **and**
2. enrolled at or registered to enroll at a University of California campus after January 1, 2002, **and**
3. he must not be a nonimmigrant as defined by federal immigration law, **and**
4. he must complete an affidavit stating that if he does not have a lawful immigration status, he has filed an application to legalize his immigration status or will file such an application as soon as he is eligible to do so.

This exemption is available to undergraduate, graduate and professional students. A student who meets the qualifications listed above will remain a nonresident for tuition purposes, but will **not** be assessed nonresident supplemental tuition.

- Enrollment in the 9<sup>th</sup> grade, whether at a middle school or high school, **does** count toward the California high-school attendance criterion.
- The three required years in a California high school do **not** have to be consecutive.
- Home-schooled students are eligible only if they were home-schooled by a person holding a valid California teaching credential.

- Private Internet high schools and other long-distance learning or correspondence schools do *not* meet the requirements unless the student can verify that he “attended” and graduated from an Internet high school while domiciled continuously in California per UC residence regulations).
- Students who have obtained a T or U nonimmigrant visa and otherwise would meet the requirements of Section 68130.5 shall be exempt from paying nonresident tuition at the University until they are eligible to establish a resident classification pursuant to Regents Policy 3401.

**Proof of “graduation” can include any of the following:**

- A diploma from a California high school.
- A High School Equivalency Certificate, issued by the California State GED Office.
- A Certificate of Proficiency, resulting from a California High School Proficiency Examination.

**J. Surviving Spouse, Registered Domestic Partner or Dependent Children of California Residents Killed in September 11, 2001 Terrorist Attacks (Ed. Code §68121)**

The surviving spouse, registered domestic partner or dependent children of a California resident killed in the September 11, 2001 terrorist attacks on the World Trade Center, the Pentagon or the crash of United Airlines Flight 93 are eligible for an exemption from nonresident supplemental tuition and mandatory student fees.

**Requirements:**

The student must be an *undergraduate* and the dependent of a California resident who:

1. was a California resident on September 11, 2001,
2. was killed in the 9/11/01 terrorist attacks on the World Trade Center, the Pentagon or the crash or United Airlines Flight 93,
3. is the surviving spouse, registered domestic partner or child (natural or adopted) or qualifies as a dependent for purposes of compensation under the federal 9/11 Victim Compensation Fund of 2001, or
4. is a child under 30 years of age.

This exemption is available to a surviving spouse or registered domestic partner *until January 1, 2013*, and to a surviving child until that person reaches age 30, and to other qualified dependents *until January 1, 2013*.

**K. Recipient or Child of a Recipient of the Congressional Medal of Honor (Ed. Code §66025.3(4)(A))**

The recipient of the Congressional Medal of Honor and the child of a recipient of the Congressional Medal of Honor are eligible for an exemption from nonresident supplemental tuition and mandatory systemwide fees.

**Requirements:**

The student must be the recipient of the Congressional Medal of Honor, or the undergraduate child under the age of 28 of such recipient who is a California resident or was a California resident at the time of his or her death.

The student's annual income, including the value of any support received from a parent, must not exceed the national poverty level.

**L. Dependent or Ward of State through California's Child Welfare System (Ed. Code §68085, enacted January 1, 2010) (Foster Youth)**

Notwithstanding any other provisions, a student who resides in California and is 19 years of age or under at the time of enrollment, and 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, shall be entitled to a resident classification as long as he or she remains continuously enrolled.

Verification of being or having been a dependent or ward of the state through California's child welfare system can be demonstrated by providing a copy of:

1. A juvenile dependency court document indicating foster care in California's child welfare system (court order establishing court jurisdiction or court order terminating jurisdiction), or
2. Letter from the (county) director of human services verifying student was under care of Dept. of Social Services.

## V. APPEALS

### A. Grounds for Appeal

A student may appeal a campus nonresident determination *only if at least one of the following applies:*

1. The decision was based on:
  - a. A significant error of fact,
  - b. A significant procedural error, and/or
  - c. An incorrect application of policy

Which, if corrected, would require that the student be reclassified as a resident.

2. Significant new information:
  - a. Became available after the date of the campus decision classifying the student as a nonresident;
  - b. Despite the exercise of reasonable diligence, the information was not previously known or available to the student; and,
  - c. Based on the new information, the classification as a nonresident is incorrect.

### B. Appeal Procedures

1. Instructions and an Application to Appeal will accompany the nonresident determination letter and are available at <http://www.ucop.edu/ogc/documents/uc-residency-instructions-appeal-form.pdf>.
2. Students may *only* submit the Application to Appeal form, along with a copy of the campus nonresident determination letter to the Office of the General Counsel:

**Email:** [residency.appeal@ucop.edu](mailto:residency.appeal@ucop.edu)

**Fax:** 510-987-9757, attn: Residency Analyst

**Mail:** Residency Analyst, University of California, Office of the General Counsel, 1111 Franklin Street, 8th Floor, Oakland, CA 94607-5200

3. The appeal must be received in the Office of the General Counsel within thirty (30) days after the date of the nonresident determination letter. No late appeals will be accepted without the prior approval of the campus Residence Deputy or Registrar.

4. A copy of the campus residence determination letter must be attached to the Application to Appeal.
5. Whether the appeal is accepted for further review will be based solely on the Application to Appeal form and accompanying nonresident determination letter.
6. If an appeal is accepted for further review, the Office of the General Counsel may request additional information. *No additional information should be submitted unless requested by the Office of the General Counsel.*
7. This is the student's only opportunity to appeal for the term for which he or she has been classified as a nonresident.
8. The University will not waive or defer nonresident supplemental tuition pending the outcome of the appeal.

**C. Information and Inquiries Relating to Appeals**

All inquiries regarding the appeal process should be addressed or directed to the Office of the General Counsel.