

California Nonresident Tuition Exemptions

Allan Hancock College Board Policy 5015

Assembly Bill 540 (Stats. 2001, ch. 814), which was enacted into law on October 12, 2001, added a new section 68130.5 to the California Education Code. Section 68130.5 creates a new exemption from payment of nonresident tuition for certain nonresident students who have attended high school in California and received a high school diploma or its equivalent. The law became effective on January 1, 2002.

This law does not affect current Title 5 regulations concerning residency. Those regulations remain in effect; changes are not anticipated. The law does not grant or amend current residency rules but rather provides for an exemption from nonresident tuition for certain nonresident students.

Students must meet all requirements in section 68130.5 and must currently reside in the state of California to be eligible for the exemption.

SECTION 1.

Section 68130.5 of the Education Code, as amended by Section 1 of Chapter 675 of the Statutes of 2014, was amended in October 2017 to read:

68130.5.

Notwithstanding any other law:

(a) A student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, shall be exempt from paying nonresident tuition at the California State University and the California Community Colleges if the student meets all of the following requirements:

(1) Satisfaction of the requirements of either subparagraph (A) or subparagraph (B):

(A) A total attendance of, or attainment of credits earned while in California equivalent to, three or more years of full-time attendance or attainment of credits at any of the following:

(i) California high schools.

(ii) California high schools established by the State Board of Education.

(iii) California adult schools established by any of the following entities:

(I) A county office of education.

(II) A unified school district or high school district.

(III) The Department of Corrections and Rehabilitation.

(iv) Campuses of the California Community Colleges.

(v) A combination of those schools set forth in clauses (i) to (iv), inclusive.

(B) Three or more years of full-time high school coursework, and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of California elementary and secondary schools.

(C) (i) Full-time attendance at a campus of the California Community Colleges counted towards the requirements of this paragraph shall comprise either a minimum of 12 units of credit per semester or quarter equivalent per year or a minimum of 420 class hours per year or semester or quarter equivalent per year in noncredit courses authorized pursuant to Section 84757. Attendance in credit courses at a campus of the California Community Colleges counted towards the requirements of this paragraph shall not exceed a total attendance of two years of full-time attendance.

(ii) Full-time attendance at a California adult school counted towards the requirements of this paragraph shall be a minimum of 420 class hours of attendance for each school year in classes or courses authorized pursuant to Section 41976 or Sections 2053 to 2054.2, inclusive, of the Penal Code.

(2) Satisfaction of any of the following:

(A) Graduation from a California high school or attainment of the equivalent thereof.

(B) Attainment of an associate degree from a campus of the California Community Colleges.

(C) Fulfillment of the minimum transfer requirements established for the University of California or the California State University for students transferring from a campus of the California Community Colleges.

(3) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year.

(4) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.

(b) A student who is exempt from nonresident tuition under this section may be reported by a community college district as a full-time equivalent student for apportionment purposes.

(c) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall prescribe rules and regulations for the implementation of this section.

(d) Student information obtained in the implementation of this section is confidential.

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(c) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall prescribe rules and regulations for the implementation of this section.

(d) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, information obtained in the implementation of this section is confidential, shall be used only to administer tuition payments pursuant to this section, shall not be open to the public for inspection, and shall not be disclosed without the written consent of the student, except as necessary to administer this section, or as otherwise required by California law or a state or federal court order. This subdivision does not prohibit the disclosure of aggregate data if it is disclosed in a manner that would prevent it from being used to determine the identities of the persons upon whom the data is based.

Seasonal Agricultural Exemption

A student may be classified as a resident if they live with a parent who earns a livelihood primarily by performing agricultural labor for hire in California and the parent has performed such labor in this state for at least two months per year in each of the two preceding years, the parent lives within the district which maintains the community college attended by the student, and parent claims the student as a dependent on his or her California state or federal personal income tax returns if he has sufficient income to have personal income tax liability, or evidence showing the student themselves earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

These exemptions are not available for persons who are absent from California, but who are taking distance learning education classes from California community colleges.

The student must file an exemption request with the college, including a signed affidavit, which indicates that the student has met all applicable conditions described above. Affidavits are available at the Admissions and Records office. Non-resident students meeting the criteria will be exempted from the payment of nonresident tuition, but they will not be classified as California residents. They continue to be “nonresidents” and therefore, are not eligible for the California College Promise Grant (CCPG).

Reference: ECS 68100, T5 54048;

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

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

1. A Veteran who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within three years of discharge from a period of active duty service of 90 days or more.
 2. A spouse or child entitled to transferred education benefits who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within 3 years of the transferor’s discharge from a period of active duty service of 90 days or
 3. A spouse or child using benefits under the Marine Gunnery Sergeant John David Fry Scholarship (provides Post-9/11 G.I. Bill® benefits to the children and surviving spouses of service members who died in the line of duty while on active duty) who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within three years of the Service member’s death in the line of duty following a period of active duty service of 90 days or
1. After expiration of the three year period following discharge or death as described in 38 U.S.C. 3679(c), a student who initially qualifies under the applicable requirements above will maintain “covered individual” status as long as he or she remains continuously enrolled (other than during regularly scheduled breaks between courses, semesters or terms) at the institution, even if they enroll in multiple programs and shall continue to be exempt from paying nonresident tuition and other

Eligibility Determination

As it relates to verifying student eligibility for “covered individual” status and qualification for Montgomery G.I. Bill®-Active Duty or Post-9/11 G.I. Bill® education benefits (Chapters 30 and 33, respectively, of Title 38, U.S. Code), districts will need to rely on actual evidence and not a self-certification that the student meets the above criteria. Students eligible for VA education benefits are provided a “Certificate of Eligibility” (COE) by the VA that will confirm the approved education benefits for the veteran or eligible dependent (who is made eligible through the Transfer of Entitlement (TOE) to basic educational assistance under chapters 30 and 33 of title 38, U.S. Code). The DD Form 214, Certificate of Release or Discharge from Active Duty, generally referred to as a “DD 214”, may also be of assistance in confirming “covered individual” status at it will show the effective date of the veteran’s discharge from active service.

Students are required to submit the Certificate of Eligibility and DD 214 to the Admissions and Records office for verification and reclassification of residency status. Students who obtain VACA residency classification are not eligible for the California College Promise Grant.

Students Associated with the Armed Forces

Students who are members of the armed forces of the United States and their dependents stationed in this state on active duty, except those assigned to California for educational purposes, are exempt from nonresident tuition. There is no requirement for the military person to establish residence; however, the student must be on active duty on the residence determination date. If a nonresident student who is a member of the military becomes separated from the military, he or she would be required to provide evidence of intent to establish California residence for a minimum of one year prior to the residence determination date. Effective Jan. 1, 1996, Assembly Bill 723 was added to the California Education Code to allow a member of the armed forces who was stationed in California on active duty for more than one year prior to being discharged from the service, to claim resident classification for up to one year if he or she lives in California after being discharged.

After the one-year exception, the student would have to prove California residence had been established.

International/Foreign Students

Allan Hancock College is authorized under federal law to enroll nonimmigrant alien students. Such students, regardless of age, have nonresident status and will be assessed appropriate tuition. The U.S. Department of Homeland Security/Citizenship and Immigration Services precludes foreign students from establishing residency. Admission to Allan Hancock College requires completion of an International Student Application and acceptance to the college. International student applications are available at the Admissions and Records office, by phone and by email. A TOEFL score of 475 on the paper test, 153 on the computerized test or 53 on the Internet-

based test is required for admission. Once accepted, international students must maintain full-time status (12 semester units) for each semester in which they are enrolled.

A student classified as an international student will be required to pay tuition as a condition of and at the same time of enrollment in an amount set forth by the Board of Trustees of the Allan Hancock Joint Community College District. (Allan Hancock College Board Policy 5012)

Nonresident Students

A student classified as a nonresident will be required to pay tuition as a condition of enrollment in an amount set forth by the Board of Trustees of the Allan Hancock Joint Community College District. Information regarding tuition fees and refunds is found in the fees section of this catalog.

Incorrect Classification

A student incorrectly classified as a California resident is subject to reclassification as a nonresident and payment of nonresident tuition. If incorrect classification results from false or misleading statements, a student may be excluded from class or classes upon notification.

Reclassification

Reclassification to resident status must be requested by the student before the first day of the semester in which they are registering. Students may not request a change in classification after the semester has officially begun. Financial independence during the current year and preceding two years will be considered at the time the student requests reclassification. Students who were previously classified as nonresidents must contact the Admissions and Records office to provide documentation for consideration to be classified as a resident before registering for classes and before the official start date of the term in which reclassification is requested. Information regarding requirements for reclassification is available in the Admissions and Records office.

Tuition fees may not be refunded to a student classified as a nonresident due to lack of documentation if at a later date documentation is presented for that previous semester.

Limitation of Residency Rules

The student is cautioned that this summary of rules regarding residency determination is by no means a complete explanation of their meaning or content. The student should also note that changes may have been made in the statutes and regulations between the time this statement is published and the beginning of the semester.

Further information regarding residency is available in the Admissions and Records office.