

# University of California RESIDENCE POLICY and GUIDELINES



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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.

**Advance Parole** – Authorizes travel outside the U.S. and return to the U.S. for individuals who have filed a form I-485 Application to Register Permanent Residence or Adjust Status, or certain individuals who have an unexpected need to travel whose immigration status does not allow. May be applied for along with an Employment Authorization Document (EAD), or separately.

**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 p. 42)

**Alien** – Any person who is not a citizen or national of the United States, generally classified as a Permanent Resident (Immigrant or LPR [lawful permanent resident]), 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. 34).

**CAHSEE** – California High School Exit Exam. This 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)** – A federal act that amends the Immigration and Nationality Act and changes how an alien is determined to be a child for purposes of immigration classification. (See p. 38)

**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.

**DACA** – On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children, and meet several key guidelines, may request consideration for deferred action. Deferred action is a discretionary determination to defer removal of an individual as an act of prosecutorial discretion. DACA may be granted for a period of two years, subject to renewal. Deferred action confers *lawful presence*, but does not confer lawful status. DACA grantees are eligible for work authorization.

**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 any former residence will not meet the University's requirements for residence.

**DREAM Act** – The California DREAM Acts comprising new state laws AB 130 and AB 131, implemented 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.

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

**Employment Authorization Document (EAD)** – Authorizes an individual in certain nonimmigrant, pending permanent resident, and other nonresident immigration categories to work legally in the United States for the period of time the EAD is valid.

**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 enrolls and the student's status (i.e., entering, continuing).

**Financial Independence** – See *Self-Sufficient/Self-Support*

**Foster Youth** – A student 19 years of age or under who is currently 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. (See p. 46)

## **Full-Time Enrollment (*Continuous Attendance*)**

### **i. University of California Enrollment**

- 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 the 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.

### **ii. 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.

### **iii. California Community College Enrollment**

Enrollment in 12 units per term.

### **iv. 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 University of California campus, any California State University campus, 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, generally before the U.S. employer can submit an immigration petition to the USCIS. The employer must obtain an approved labor certification request from DOL's Employment and Training Administration (ETA).

**Legally Present** – Legally present means that the alien maintains *lawful presence* in the United States 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 identified under *Classifications of Aliens for Residence Purposes* at page 34.

**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 exemption).

**Minor** – For residence purposes, any person who is under 18 years of age.

**Military Service** – Limited to *active duty* in 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. 30), service employees, reserves members, or others not in active service.

**NAFTA (North American Free Trade Agreement)** – A special, reciprocal trading relationship that provides nonimmigrant admission for a specific class of Canadian and Mexican businesspersons, 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 Marian 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 or lawful permanent residents when considering residence for tuition purposes. However, those individuals may be considered nonimmigrants eligible for a resident classification, provided they have otherwise satisfied the UC Residence Policy and Guidelines and submit a valid I-94.

**NATO Official** – An alien (nonimmigrant) temporarily present in the U.S. 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). A 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 former visa holder who violates their visa status by not following the visa requirement, staying longer than the expiration date of the visa and/or I-94, attaining age 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 a minor resides. The term “parent” does not include step-parents 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. (See p. 37)

**Permanent Duty Station** – The post of duty or official station to which a member of the U.S. Armed Forces is assigned or attached. A member assigned to a military base/installation in California would meet the requirements of having a permanent duty station in California for purposes of determining eligibility under HEOA – federal law. Under applicable state law, a military member stationed in California for educational purposes is not eligible for an exemption from nonresident tuition.

**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** – A continuing student’s request to change classification from nonresident to resident for tuition purposes.

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

**Priority Date** – Determines an individual’s ability to apply for an immigrant visa via 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 (“LCA”) was received by the Department of Labor (DOL). If no LCA is required, the date the I-140 was received by USCIS.

**Public Post-Secondary Institution** – In California, any University of California campus, any California State University campus, 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, the day instruction begins at the last campus to open for the term. For semester-based campuses and schools, the day instruction begins at the Berkeley campus.

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

**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 totally support one’s self financially without support or assistance from others.

**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). 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 temporary refuge in the United States. Grants are initially made for periods of 6 to 18 months and may be extended. Removal proceedings are suspended while in Temporary Protected Status. (See p. 35)

**Undocumented Alien** – One who is 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 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 service due to a service-connected disability within that 90-day period. (California Military and Veterans Code section 980(b)).

## II. RESIDENCE CLASSIFICATION PROCEDURES

- A. A student's classification 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. Classifications are based on evidence presented in a student's Statement of Legal Residence (*SLR*) and supporting evidence a campus deems necessary for determination. Financial hardship is not a consideration.

If a campus Residence Deputy determines further information is required, it may be necessary to provide that information 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. **To receive a California resident classification for tuition purposes, students, and parents when applicable, have the burden of providing clear and convincing evidence that they have satisfied all applicable UC Residence Policy and Guidelines requirements.**

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 an SLR or any requested information within campus deadlines, the Residence Deputy will make a decision based upon the evidence and documentation available at the time of their review of the student's circumstances. No additional evidence will be accepted once the Residence Deputy has rendered a decision.

Students admitted to the University, with the exception of self-supporting programs, are all required to complete an SLR. Students returning to a campus after a leave of absence, transfer students, and continuing students who wish to petition for a resident classification all must submit an SLR. A student who transfers from one UC campus to another must complete an SLR at their new campus. **A student who fails to submit a Statement of Legal Residence will not be entitled to any retroactive reimbursement.**

The SLR must be signed, handwritten or electronically, by the student under penalty of perjury. A student must sign the SLR even if s/he has yet to reach the age of majority; pursuant to California state law, a minor may be prosecuted for perjury.

Most of the information a student will be required to produce in response to the SLR is protected under state and/or federal privacy laws. Disclosure of information contained within a student's SLR to third parties without the student's prior consent is very limited.

- B. Any student who is classified as a resident for tuition purposes but becomes a nonresident by virtue of his/her acts, or the acts of the person from whom their residence is derived, is obligated to notify the Registrar and/or campus Residence Deputy immediately to adjust their classification accordingly.

A student who is classified as a nonresident will retain that status until s/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 until the University determines that the student was incorrectly classified, or a student's altered circumstances necessitate a change in classification. **If a resident classification resulted from concealed facts or untruthful statements, the student will be required to pay all tuition and/or fees that would have otherwise been charged and the student 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 responsibilities for student discipline.

All inquiries regarding the UC Residence Policy and Guidelines should be directed to the campus Residence Deputies at the campus Registrar's Office or to the Residence Analysts at the Office of the General Counsel of The Regents at the UC Office of the President. **No other office, entity, or individual is authorized to provide residence information on behalf of the University of California.**

- D. Changes may be made to the UC Residence Policy and Guidelines at any time. Accordingly, immediately before submitting an SLR or Petition for Resident Classification, students should review the Policy to ensure compliance with the most recent requirements.

The UC Residence Policy and Guidelines is established by The Regents and implemented by regulations established by the President in consultation with the General Counsel. *Regents Standing Order 110.2; Regents Policies 3105 and 310.*

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

- A. **General Rule.** To be classified a California resident for tuition purposes, adult students, who are not precluded from establishing residence in the United States, must have established a primary and permanent domicile in California for at least 366 days and relinquished all ties to their past place(s) of residence.

Parent(s) of dependent students who claim California residence also must fulfill the physical presence and intent requirements. Students with out-of-state parent(s) must prove financial independence. (See *Financial Independence*, p. 16)

- B. **Elements of Residence.** Residence can be established, or altered, 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. The adult student/parent(s) must be physically present in California on a continuous basis for at least 366 days. Residence may not be established in absentia and the prior residence must have been relinquished. The 366 days required to fulfill the physical presence requirement must be immediately prior to the residence determination date for the relevant term. If a student is absent from the state during the 366 days s/he is establishing residence, the absence will be carefully scrutinized to determine whether the physical presence requirement has been met. (See *Absences from California*, p. 19)

Physical presence in California solely for educational purposes does not constitute the establishment of California residence, regardless of length of stay.

*Tacking is the process of adding one period of resident qualification to another to satisfy the required 366 days of physical presence. Specifically, tacking is **utilized only for a student who has not been an adult for more than one year (366 days) immediately preceding the quarter for which s/he proposes to attend a post-secondary institution. S/he can have their immediate pre-majority-derived (pre-age 18) California residence added to their post-majority (post-age 17) residence to obtain the required 366 days of California residence for tuition purposes.***

#### 2. Intent

Intent to make California one's permanent home is a required element of residence for purposes of tuition and fees. Intent is evaluated separately from physical presence and requires objective evidence to assist the residence deputy in assessing the totality of the individuals' conduct and circumstances.

To prove California is one's primary and permanent domicile (residence), student/parent(s) must obtain legal indicia of intent, as well as other California indicia of intent, and demonstrate that any and all ties to their past place of residence have been relinquished.

To satisfy the union of physical presence and intent, indicia of intent should be acquired and all out-of-state indicia relinquished at least 366 days prior to the term for which a resident classification is requested. However, the University allows a limited period of time within the 366-day requirement to obtain legal indicia of intent and relinquish all ties to the past place of residence.

Newly enrolling students, or students continuing enrollment at UC who are requesting a resident classification for the 2015 fall term, must have established California legal intent and relinquished all out-of-state legal intent prior to the end of the fall 2014 term.

The table below provides end-of-term dates for the 2015-2016 academic years:

TERM FOR WHICH RESIDENCE CLASSIFICATION IS REQUIRED	LEGAL TIES MUST BE ESTABLISHED BY
Fall Quarter 2015	12/19/14, end of Fall Quarter 2014
Winter Quarter 2016	03/20/15, end of Winter Quarter 2015
Spring Quarter 2016	06/12/15, end of Spring Quarter 2015
Fall Semester 2015	12/19/14, end of Fall Semester 2014
Spring Semester 2016	5/15/15, end of Spring Semester 2015

Students, or parents where applicable, who have satisfied the 366-day physical presence requirement but have not timely obtained California legal indicia and/or continue to hold out-of-state legal indicia may be denied a resident classification. Until California legal indicia have been timely obtained and all out-of-state legal indicia have been relinquished, resident classification may be denied for subsequent terms.

Relevant indicia of intent to establish or maintain California residence for tuition purposes include:

**Legal Indicia of Intent**

- Proof of 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 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;
- 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 prior out-of-state place of 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 financial assistance requiring residence in another state;
- Holding a permanent resident visa for another country.

### C. **Financial Independence**

To be classified a resident for tuition purposes, in addition to 366 days of physical presence and intent, 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 a resident classification is sought.

Relevant documentation to support a finding of financial independence may include tax returns from the student to verify the student's income, as well as W-2s, two year budget of income and expenses, official apartment rental contracts or leases, and copies of all financial documentation (bank statements, loans, trust, etc.) to verify the sources of the student's income/savings. The student must not have accepted any type of financial assistance from any individual, including California residents, during the required two years.

Parents' tax returns may also be required to verify the student was not claimed as a tax dependent within the two year period. Any tax returns amended after a nonresident determination has been rendered will not be considered for the term in which they were originally provided as proof of having satisfied the financial independence requirements.

#### 1. **Requirements**

An undergraduate student or a student enrolled in a non-degree program (e.g., non-degree program) who is not dependent on a California-resident parent will meet the financial independence requirement if s/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 (2013/2014 federal/state returns for 2015-2016 academic year)

**AND**

- b. student is self-sufficient. Student has supported 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

The 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 tuition purposes.

When one parent lives in California, is in a qualifying immigration status, and appears to meet the physical presence and intent requirements, while the other parent lives and works out of state, the Residence Deputy may require additional information to verify that the parent physically present in California has made the state their *primary and permanent place of residence* and has *relinquished ties to the past place of residence*.

**OR**

- b. the student is at least 24 years of age by December 31 of the calendar year of the term for which a 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 their 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 their spouse or domestic partner for the **one** tax year immediately preceding the term for which resident classification is sought,

**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 sought,

**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. Financial Support**

- a. UTMA or UGMA Accounts** – Under Uniform Transfers or Gifts to Minor 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 account 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** – Trusts, and other investment vehicles, may be set up similarly as **a.** above. The student must provide a copy of the trust instrument to determine the date it was established and 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, Irrevocable Trusts, and Similar Investment Vehicles**

- 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. Further, the Residence Deputy may request evidence to verify that the student is using the income from the trust or account for support, and that the student is the only named on the account since reaching the age of majority.
- c. **Loans and Gifts** – Loans and/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 considered financial assistance. Bank accounts in a parent’s, or other individual’s, name and student name will not be considered. 529 plans are not considered when calculating financial independence because the funds can be withdrawn, or otherwise used by the custodian, and are not in the student’s sole control. PLUS loans are not considered because they are co-signed loans.
- d. **Other Non-Institutional Support** – “Bartering” for free or reduced (i.e. below market value) room and board or other services/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 or reduced (i.e. below market value) room and board from a relative or other individual is not deemed “totally self-sufficient,” as this is considered financial assistance.
- e. **Wills or Bequests** – Money willed or bequeathed to a student may be considered, provided the student can verify that the funds have been used for self-support.

## D. Absences from California

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

A short absence from California during one’s first year of residence will be evaluated to determine whether it is consistent with a claim of continued residence. Absences totaling more than six weeks over the first year are presumed to be inconsistent with an intent to reside permanently in California and will be

scrutinized in light of the totality of the circumstances. A student who 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, and/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 an 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 their former residence when school is not in session, or to their parent's out-of-state home, will have the burden of providing clear and convincing evidence that s/he intends to reside permanently in California.

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

When a California-resident parent leaves the state for work, his/her absence will be scrutinized to determine whether it is temporary. An absence for work outside the state for an extended 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
- Return to California for leaves and vacations

- Satisfy California resident income tax obligations (*California does not recognize Foreign Earned Income exclusion. Accordingly, individuals claiming California residence for tuition purposes are taxable on their total income from the date they establish California residence, which may include income earned elsewhere. California residents remain taxable residents during absences from California if the absence is considered temporary*)
- 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

If a student (or the student's parent(s)) relinquishes California residence after moving from the state, 366 days of physical presence coupled with one year of demonstrated intent must be re-established.

## **E. Rules Related to Minors**

### **1. General Rule**

The residence of the parent with whom an unmarried minor (17 or under) lives is considered the residence of the unmarried minor. Accordingly, the parent must satisfy the physical presence and intent requirements. If the minor does not live with either parent, his/her residence is that of the parent with whom s/he last lived, with the exceptions of **7.**, **8.**, or **9.** below.

### **2. Parents' Permanent Separation or Divorce**

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/her time. For example, 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 parent prior to reaching the age of majority. The parent must satisfy all applicable residence requirements. The student must provide clear and convincing evidence that s/he changed their domicile to the California-resident parent's home prior to the student's 18<sup>th</sup> birthday.

**3. Deceased Parents**

A minor student may establish residence when both parents are deceased and no legal guardian has been appointed. Until the minor establishes residence, the student's residence remains that of the last living parent. If the last parent to die was not a California resident, the student must establish residence in the same manner as an adult student. If a guardian is appointed, the minor will assume 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.

The student must provide official, legal documentation (e.g., court order) evidencing adoption.

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

A minor student whose parent moves to California can derive the parent's California residence as soon as it is properly established. However, if the student remains outside California after the parent moved and after reaching the age of majority, the student's activities will be scrutinized to determine whether the student's actions are consistent with a claim of California residence after the parent(s) moved (e.g., whether s/he paid resident tuition at an out-of-state institution; whether s/he paid resident taxes in another state. (*Dependent of a California-resident Parent* at p. 43)

**6. Parent of Minor Who Moves from California**

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

## Requirements

- a. The parents must have been considered California residents for tuition purposes 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 student's University enrollment.
- c. With the exception of short absences, the student must have remained in California on a continuous basis.
- d. The student must maintain continuous full-time enrollment at a post-secondary institution. If s/he has enrolled in more than one post-secondary institution, all such attendances must amount to continuous and full-time enrollment

### 7. Self-Supporting Minor

A minor student who has been totally 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 establishing residence, is eligible for resident classification so long as s/he continues to be self-sufficient. *Unless the student is legally emancipated (p. 24), satisfaction of the University's financial independence test is required.* The student must provide clear and convincing evidence of complete self-sufficiency.

### 8. Two-Year Care and Control

A minor or an 18-year-old student may be eligible for a resident classification if, immediately prior to enrolling in a post-secondary institution, s/he has been living with and been under the continuous direct care and control of an adult, other than a natural or adoptive parent, for a period of not less than two years. The adult having control must have been considered a California resident for tuition purposes immediately prior to the residence determination date. So long as the student maintains continuous enrollment at a California public post-secondary institution, this classification will continue until the student has reached age 19 and lived in the state for the minimum time necessary to become a resident.

## 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, s/he must be eligible to establish residence once s/he reaches majority
- g. The student must maintain continuous enrollment at a California public post-secondary institution. If the student has enrolled in more than one post-secondary institution, attendance in all post-secondary institutions must amount to continuous, full-time attendance throughout the prescribed period
- h. The student must live with the person having care and control, and at no other address. No exceptions will be made to this requirement (e.g., private school or community college)

**9. Emancipation**

The 1978 “Emancipation of Minor Act” permits a person under 18 years of age to become an emancipated minor if s/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/her parents, with their consent or acquiescence, and is managing own financial affairs. The act permits a minor to petition the Superior Court for an official Declaration of Emancipation. For residence classification purposes, an emancipated minor must submit a copy of that Declaration signed by the Court.

A minor student claiming emancipation will be evaluated on the basis of his/her own efforts to establish residence within the state and will not derive residence from a parent. Satisfaction of the financial independence requirement is not an element of a legally emancipated minor's residence determination.

**F. Spouses/Registered Domestic Partners**

**1. General Rule**

One spouse does not derive residence from the other and one registered domestic partner does not derive residence from the other. Married couples or registered domestic partners

may have separate residences and each may have a different, unshared intent, which reflects their separate residences.

## **2. California Resident's Marriage to a Nonresident**

A student does not lose resident status by marriage to a nonresident. However, if the couple resides outside California for an extended or indefinite length of time, inquiry will be made to determine whether the student has retained California residence (*Temporary Absence* at p. 20).

G.

**MILITARY PROVISIONS**

**State and Federal Law**

**(Cal. Ed. Code §§ 68074, 68075, Higher Education Opportunity Act, and Veteran’s Access, Choice, and Accountability Act)**

<b>CATEGORIES</b>	<b>CALIFORNIA LAW (and UC REGENTS POLICIES)</b>	<b>FEDERAL LAW (HIGH. ED. OPP. ACT)</b>
<p>As of the Residence Determination Date (RDD), the student is:</p> <p><b>1. Member of the Armed Forces</b></p>	<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>• Member of the Armed Forces, stationed in California, <b>and</b></li> <li>• on active duty. (Cal. Ed. Code § 68075(a))</li> </ul> <p><b>Disqualification:</b></p> <ul style="list-style-type: none"> <li>• Assigned for educational purposes to a state-supported institution of higher education. (Cal. 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> (Cal. Ed. Code § 68075(a))</li> </ul> <p><b>Duration:</b></p> <ul style="list-style-type: none"> <li>• So long as the student maintains eligibility requirements. (Cal. Ed. Code § 68075(a))</li> </ul> <p><b>Change of status:</b></p> <ul style="list-style-type: none"> <li>• If, while in attendance, student 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 the student shall not lose resident classification so long as s/he remains continuously enrolled at <b>that</b> institution. (Cal. Ed. Code § 68074(b))</li> </ul> </li> </ul>	<p><b>Eligibility Requirements:</b></p> <p>Member of the Armed Forces,</p> <ul style="list-style-type: none"> <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. (20 U.S.C. § 1015d(b))</li> </ul>

CATEGORIES	CALIFORNIA LAW (and UC REGENTS POLICIES)	FEDERAL LAW (HIGH. ED. OPP. ACT)
<p>As of RDD, student is:</p> <p><b>2. Child or spouse of a Member of the Armed Forces</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. (Cal. Ed. Code § 68074(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> (Cal. Ed. Code § 68074(a))</li> </ul> <p><b>Duration:</b></p> <ul style="list-style-type: none"> <li>• So long as the student remains continuously enrolled at UC. (Cal. Ed. Code § 68074(b))</li> </ul> <p><b>Change of status of parent:</b></p> <ul style="list-style-type: none"> <li>• If, while 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, <b>or</b></li> <li>◦ is thereafter retired as an active Member of the Armed Forces of the United States (Cal. Ed. Code, § 68074(b)), student dependent shall not lose resident classification so long as s/he remains continuously enrolled at <b>that</b> institution. (Cal. Ed. Code § 68074(b))</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 UC REGENTS POLICIES)	FEDERAL LAW (VETERAN'S ACCESS, CHOICE AND ACCOUNTABILITY ACT and UC REGENTS POLICIES, EFFECTIVE FOR TERMS AFTER JULY 1, 2015 <sup>*</sup> )
<p>As of RDD, student is:</p> <p><b>3. Former Member of the Armed Forces</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</li> </ul> <p>(Cal. Ed. Code § 68075.5)</p> <p><b>Status:</b></p> <ul style="list-style-type: none"> <li><i>Exempt</i> from paying nonresident tuition (Cal. 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. (Cal. Ed. Code § 68075.5)</li> </ul>	<p><b>Eligibility Requirements:</b></p> <ul style="list-style-type: none"> <li>Former Member of US Armed Forces,</li> <li>eligible for Chapter 30 &amp; 33</li> <li>lives in California and</li> <li>has been discharged or released from active duty military service of not less than 90 days within 36 months of date of enrollment.</li> </ul> <p>(38 U.S.C § 3679(c)(1); Cal. Ed. Code § 68075.5(c))</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></li> </ul> <p>(38 U.S.C § 3679(c)(1); Cal. Ed. Code § 68075.5(c))</p> <p><b>Duration:</b></p> <ul style="list-style-type: none"> <li>So long as the student remains continuously enrolled at UC.</li> </ul> <p>(38 U.S.C § 3679(c)(3); Cal. Ed. Code § 68075.5(c))</p>

#### 4. Military Provisions Summary

MEMBER of the ARMED FORCES (Cal. Ed. Code § 68075)

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

<sup>\*</sup> Effective for terms beginning after July 1, 2015, as amended in Regents Policies 3105 and 3106.

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

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 so long as student remains continuously enrolled at UC.

FORMER MEMBER of the ARMED FORCES (Cal. Ed. Code § 68075.5; 38 U.S.C. § 3679)

Stationed in CA on active duty for more than one year immediately prior to discharge = **exemption** for length of time lives in state after discharge up to minimum time necessary to become a resident. *Disqualification: a dishonorable or bad conduct discharge.*

Effective for terms beginning after July 15, 2015: Lives in California and is eligible for education benefits under Chapter 30/33 = **nonresident with exemption from nonresident supplemental tuition**. Student must be:

- a veteran who enrolls within three years of discharge or released from a period of active duty service of 90 days or more **or**
- a spouse or dependent child using transferred benefits who enrolls within three years of the transferor's discharge from a period of active duty service of 90 days or more **or**
- a spouse or dependent child of a person who, enrolls within three years of the service member's death in the line of duty following a period of active duty service of 90 days or more.
- Continuous enrollment is required.

MEMBER of the ARMED FORCES (HEOA)

Active duty more than 30 days (which may start before and continue after RDD), with domicile or permanent duty station in CA = **nonresident with exemption from nonresident supplemental tuition**. Continuous enrollment is required. Member will not lose exemption even if permanent duty station changed to outside of CA.

CHILD or SPOUSE of a MEMBER of the ARMED FORCES (HEOA)

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 = **nonresident with exemption from nonresident supplemental tuition** even if military member's permanent duty station changed to outside of CA.

PURSUANT TO HEOA

- 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.

## 5. Requirements

Members of the Armed Forces first will be assessed to determine whether they meet one of the California Education Code provisions. If they do not, their

circumstances will be assessed under HEOA. If neither state law nor federal law applies, such students (or parents) will be evaluated under the same residence regulations as civilians.

- Federal law grants eligibility to a Member of the Armed Forces who is on **active duty** for 30 days; meaning, as of the residence determination date the member must be on active duty status, but if s/he has been on such status for less than 30 days, s/he may 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, is the one location where a person is considered to have the most settled and permanent connection; the place where s/he intends to remain; whenever temporarily absent, s/he has the intention of returning to. A person can have **only** one domicile at a time. (See p. 5)
- **Permanent duty station**, for purposes of applying the federal law, 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. 8)
- All references to **spouse** include California registered domestic partners.
- All references to **child dependents** include natural, adoptive, or step-children.

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

*Residence Deputies will track Members of the Armed Forces, and re-evaluate their circumstances as needed. Following the period of resident status or exemption, the student's circumstances will be re-evaluated to determine whether s/he has established California residence for tuition purposes.*

## **6. Presence in California under Military Orders**

A member of the Armed Forces 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 dependent spouse, registered domestic partner, or child are precluded

thereafter from establishing residence in order to attain a resident classification for tuition purposes.

In addition to the usual indicia of intent, examples of other indicia that relate specifically to Members of the Armed Forces are as follows:

- Designation on military records of California as the state of legal residence (by completing a DD2058 form). To obtain a resident classification for tuition purposes, the DD2058 must be completed more than one year (366 days) prior to the residence determination date.
- 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 a nonresident, 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 most recent Leave and Earnings Statement (LES), and the most recent Military Orders.
- Verification that the student requested transfer to the State of California.

## **7. Member of the 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. Therefore, the National Guard member's records should reflect that California is their permanent place of residence.

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

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 a resident classification is sought, the student will be assessed for eligibility as an active duty member of the U.S. Armed Forces.

#### **8. Military Reserves**

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

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

A California resident (for tuition purposes) student who is the dependent spouse (who has not re-married), 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 the student's annual household income is at or below the poverty level. Eligibility for the Cal Vet waiver does not make a student ineligible to meet the financial independence requirement. *Forms are available at the local Veterans Affairs office.*

#### **10. Dependent of a Deceased or Disabled Member of the California National Guard (Cal. Ed. Code § 66025.3(a)(3))**

A student who is the dependent ) of a member of the California National Guard who was killed or permanently disabled while in active service of the state may not necessarily be exempt from paying nonresident supplemental tuition, but is exempt from paying mandatory systemwide fees.

### **H. NON-CITIZENS**

#### **1. Nonimmigrant Visa Types**

The chart below lists and briefly describes the visa types a student or parent may hold.

(\*) denotes ineligible nonimmigrant visa types. 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.

(\*\*) denotes diplomatic visas. Individuals with diplomatic 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>*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>Two years w/unlimited extensions granted in increments not over two yrs.</b>
<b>E-2</b>	<b>Treaty investor, spouse and child</b>	<b>Two years w/unlimited extensions granted in increments not over two years</b>
<b>E-2C</b>	<b>Long-term foreign investors in the CNMI (Commonwealth of Northern Mariana Islands)</b>	<b>Allows foreign, long-term investors to remain lawfully present in the CNMI through December 2014 while they resolve their immigration status. (CNMI transitioning from CNMI permit system to U.S. immigration laws.)</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 in international organizations</b>	<b>Three years with two-year extensions</b>
<b>H-1B</b>	<b>Specialty occupations, DOD and fashion models</b>	<b>Six-year maximum</b>
<b>H-1C</b>	<b>Nurses working in health/professional shortage areas</b>	<b>Three years</b>
<b>*H-2A</b>	<b>Temporary worker performing agricultural services unavailable in U.S.</b>	<b>Three-year maximum</b>

<b>VISA TYPE</b> (* = Cannot Establish Residence)	<b>CATEGORY OF NONIMMIGRANT</b>	<b>INITIAL PERIOD OF ADMISSION</b>
<b>*H-2B</b>	<b>Temporary worker, skilled and unskilled</b>	<b>One year initially, three-year maximum</b>
<b>*H-3</b>	<b>Alien trainee</b>	<b>As authorized in petition, but not to exceed two years</b>
<b>*H-4 (H-1B dependent)<sup>1</sup></b>	<b>Dependent spouse or child of H-1, H-2 or H-3</b>	<b>Same as principal</b>
<b>Humanitarian Parole</b>	<b>Temporary parole into the U.S. for urgent humanitarian reasons or significant public benefit</b>	<b>Duration of emergency or one year maximum</b>
<b>I</b>	<b>Representative of foreign information media, spouse and child</b>	<b>Duration of authorized Employment</b>
<b>*J-1 (Student)</b>	<b>Exchange visitor – J-1 Student must maintain full-time enrollment; J-1 Scholar can study only part-time.</b>	<b>Duration of approved program</b>
<b>*J-2</b>	<b>Spouse and child of exchange visitor – student</b>	<b>Duration of status of J-1</b>
<b>K-1</b>	<b>Alien fiancée or fiancé of U.S. citizen</b>	<b>90 days</b>
<b>K-2</b>	<b>Minor child of alien fiancée or fiancé of U.S. citizen</b>	<b>90 days</b>
<b>K-3</b>	<b>Spouse of U.S. citizen who is the beneficiary of I-130 petition filed in U.S. (LIFE Act)</b>	
<b>K-4</b>	<b>Child of alien entitled to K-3 classification (LIFE Act)</b>	
<b>L-1A</b>	<b>Intracompany transferee (executive, managerial) and specialized personnel continuing employment with international firm or corporation</b>	<b>Seven-year maximum</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>N-8</b>	<b>Parent of 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>	

<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>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>Attendance 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 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>
<b>*P-3</b>	<b>Artist or entertainer entering the U.S. to perform under a program that is culturally unique</b>	<b>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>
<b>*P-4</b>	<b>Spouse and child of P-1, P-2 or P-3</b>	<b>Same as P-1</b>
<b>*Q-1</b>	<b>International cultural exchange program</b>	<b>Not to exceed 15 months</b>
<b>*Q-2</b>	<b>Irish Peace Process Cultural and Training Program (Walsh visa)</b>	
<b>*Q-3</b>	<b>Spouse or child of Q-2</b>	
<b>R-1</b>	<b>Religious occupation</b>	<b>Not to exceed 5 years</b>
<b>R-2</b>	<b>Spouse or child of R-1</b>	
<b>*S-5</b>	<b>Aliens supplying critical information relating to organized crime “informant”</b>	
<b>*S-6</b>	<b>Aliens supplying critical information relating to terrorism “informant”</b>	
<b>T-1</b>	<b>Victim of a severe form of trafficking in persons</b>	<b>Three years</b>
<b>T-2</b>	<b>Spouse of a victim of a severe form of trafficking in persons</b>	<b>Three years</b>
<b>T-3</b>	<b>Child of victim of a severe form of trafficking in persons</b>	<b>Three years</b>
<b>*TN, *TD</b>	<b>NAFTA Professional visa (status) for citizens of Canada and Mexico, and dependent visa (status)</b>	<b>Until visa (status) expiration date or once job is terminated; there is no grace period</b>

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

VISA TYPE (* = Cannot Establish Residence)	CATEGORY OF NONIMMIGRANT	INITIAL PERIOD OF ADMISSION
U-1	Victim of Certain Criminal Activity	Three years
U-2	Spouse of U-1	Three years
U-3	Child of U-1	Three years
U-4	Parent of U-1 (if U-1 victim is under 21 years of age)	Three years
V-1	Spouse of LPR with pending I-130 filed prior to 12/21/2000	Two years, with two-year extensions
V-2	Child of LPR with pending I-130 filed prior to 12/21/2000	Two years, with two-year extensions
V-3	Derivative child of V-1 or V-2	Two years, with two-year extensions

## 2. Classifications of Aliens for Residence Purposes

An adult alien (21 years of age or older) may be able to establish residence for tuition purposes if s/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

An alien who is in the process of applying for permanent residence or to adjust status (Form I-485) may be able to begin counting 366 days of physical presence and intent if:

- i. Student has a properly filed application to register permanent residence or adjust status. S/he should provide an acknowledgement of receipt of the Form I-485, a USCIS receipt notice indicating a proper fee was paid for filing the I-485, a valid employment authorization document that reflects 8 CFR 274a.12(c)(9).
- ii. Student 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), which application lists the student as an alien worker, or the child or spouse of an alien worker;
  - an *approved* Immigrant Petition for Alien Relative (I-130), which application lists the student as the child or spouse of the alien relative;

- an *approved* employment-based immigrant petition (I-526) for entrepreneurs (those who wish to invest \$1M or more in the United States);
- an official document verifying student has been granted cancellation of removal or withholding of removal. Acceptable documentation includes a valid employment authorization document that reflects 8 CFR 274.a.12(a)(10).

**b. Asylee**

An asylee may establish residence in California for tuition purposes if s/he is legally present in the United States and has a properly filed Request for Asylum (I-589) pending approval with a receipt date that is at least 366 days prior to the residence determination date for the term a resident classification is sought.

To verify legal presence and applicant status, a student who has applied for asylum may provide a valid copy of an I-589 acknowledgment of receipt and a valid employment authorization document that reflects withholding of removal or pending asylum, EAD categories (a)(10) and (c)(8) respectively. (8 CFR 274a.12(c)(8)).

When asylum has been granted, the applicant receives a confirmatory USCIS letter and Form I-94, or a copy of the court order granting asylum. Either of the foregoing documents that confirm whether asylum has been granted should include spouse and minor children, provided they were present in the U.S. and included in the asylum application. EAD category (a)(5).

To be eligible for a resident classification, students, and/or parents, with asylee status must satisfy all applicable requirements, including 366 days of physical presence with concurrent intent, and financial independence when applicable.

**c. Deferred Action for Childhood Arrivals (DACA)<sup>3</sup>**

Periods of time when students are in a DACA status in California are periods of ‘legal presence’ that count toward a student’s physical presence. DACA confers *lawful presence*, but does not confer lawful status. Students who have an approved DACA classification may be authorized to be employed in the United States for renewable periods of up to two years.

DACA approved students will receive an I-821D Approval Notice indicating dates through which DACA status is valid. To be eligible for a resident classification, DACA students must provide a copy of the I-821D Approval

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<sup>3</sup> <http://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>

Notice and satisfy all applicable requirements, including 366 days of continuous physical presence (to start from the date of the “approval notice” on the I-821D) with concurrent intent and financial independence when applicable.

**d. Refugee**

Refugees may present a copy of a Form I-590 (Registration for Classification as Refugee) approval letter, or copy of a Form I-730 (Refugee/Asylee Relative Petition) approval notice. EAD category (a)(3). Either document must have been approved at least 366 days prior to the residence determination date for the term a resident classification is sought. Also required for verification is a copy of the Form I-94 the refugee receives when entering the U.S., with a refugee admission stamp - paroled as a refugee. EAD category (a)(4).

The spouse or child of a qualifying refugee may be entitled to admission to the U.S. if s/he is accompanying or following to join the principal refugee. The principal refugee may apply on behalf of a spouse or child for derivative status within two years of admission to the United States.

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

A foreign country may be designated by the Department of Homeland Security (DHS) for TPS for a specific period of time, which may be extended. During the designated period, individuals who are TPS beneficiaries, or preliminarily eligible for TPS, are not removable from the U.S., can obtain an employment authorization document (EAD) category (a)(12) or (c)(19) (for those eligible for TPS even before final approval), and may be granted travel authorization.

A TPS grantee may be able to begin counting 366 days to establish residence for tuition purposes if s/he can verify legal presence by providing an approved Form I-821 (initial registration only) and a valid EAD category (a)(12) or (c)(19). If the EAD has expired, the Residence Deputy will verify whether it has been automatically extended by the DHS and whether the student has re-registered to TPS. Additional information on designated countries, eligibility, registration and expiration dates may be found at [www.uscis.gov/tps](http://www.uscis.gov/tps).

TPS is a temporary benefit that does not lead to lawful permanent resident status or give any other immigration status, although the individual can also apply for nonimmigrant status, permanent residence, or any other immigration benefit or protection for which s/he may be eligible.

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

A battered immigrant who has self-petitioned on Form I-360 may be able to begin counting 366 days to establish residence for tuition purposes if legal presence can be verified through a copy of the Form I-360 receipt notice. When the VAWA

self-petition has been approved, verification of the approval can be provided with a copy of the approved Form I-360 and an EAD category (c)(31). The battered immigrant may then immediately file a Form I-485 - application to become a lawful permanent resident.

**g. Withholding of Removal**

A person granted withholding of removal has status similar to an asylee. USCIS withholds removal because of a threat to life or freedom in the home country. Students with this status are not eligible to adjust to lawful permanent resident status. However, appropriate immigration authorities can extend one's "withholding" status indefinitely. To confirm legal presence, the student must provide an I-94 stamped "Withholding of Removal (or Deportation), § 243 (h) or 241 (b)(3)" or a copy of a valid EAD category (a)(10).

**h. Nonimmigrant Classifications Eligible to Establish Residence for Tuition Purposes**

A-1, A-2, A-3  
E-1, E-3  
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<sup>4</sup>  
R-1, R-2

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

Removal proceedings are initiated with a written Notice to Appear (NTA). As the holder of an NTA may be subject to removal, s/he does not qualify for a resident classification, unless s/he holds a valid EAD category (c)(8) (pending asylum application).

**j. Parolees**

A parolee is an alien appearing to be inadmissible to the inspecting officer, allowed into the United States for urgent humanitarian reasons or when that alien's entry is determined to be for significant public benefit. *Parole does not constitute a formal admission to the United States and confers temporary status*

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<sup>4</sup> Spouses and children of O-2 principal alien MAY NOT establish residence. The status of principal alien must be confirmed as O-1 in order for an O-3 derivative beneficiary to establish residence for tuition purposes.



*only, requiring parolees to leave when the conditions supporting their parole cease to exist.*

Parolees include:

- *Deferred Inspection*: authorized at the port of entry upon alien's arrival; may be conferred by an immigration inspector when one appears at a port with documentation, but, after preliminary examination, some question remains about the individual's admissibility which may best be answered at his/her point of destination.
- *Advance Parole*: 1) Application and approval authorized by USCIS for travel outside of the U.S. and return to the U.S. for individuals who have filed a Form I-485 Application to Register Permanent Residence or Adjust Status while the I-485 is in process. 2) May be issued to aliens residing within the U.S. in an other than lawful permanent resident status who have an unexpected need to travel and return, and whose conditions of stay, DACA for example, do not otherwise allow for re-admission if they depart.
- *Humanitarian Parole*: authorized at USCIS headquarters or overseas District Offices for "urgent humanitarian reasons" specified by law. Generally, used in cases of medical emergency and comparable situations.
- *Significant Public Benefit Parole*: authorized at USCIS headquarters Office of International Affairs. Generally used for aliens who enter the U.S. to take part in legal proceedings in which there is a benefit to a government agency. Such requests must be submitted by a law enforcement agency.

*With the exception of advance parole for individuals with a pending I-485, the above parolee categories are not eligible for a resident classification, unless the individual holds additional immigration documentation that satisfies all applicable UC requirements.*

### **3. Alien Minor**

An alien student who is a minor may be considered for a resident classification for tuition purposes if the parent with whom s/he resides has established residence in California for tuition purposes immediately prior to the residence determination date. The minor student is not eligible for residence if the parent is undocumented, out of status, or holds a nonimmigrant visa that precludes establishing residence in the United States.

#### **4. Citizen or Permanent Resident with Undocumented Parent**

Any student who is a U.S. citizen or permanent resident of the U.S. (minor or adult), whose parent is undocumented, or out of status, but has otherwise been physically present in California with concurrent intent to remain in California for 366 days, will be eligible for a resident classification.

Eligible students whose parents begin to acquire lawful presence will not lose their eligibility for this provision, so long as his/her parents do not act inconsistently with a claim of continued California residence.

#### **5. Child Status Protection Act (CSPA)**

The Child Status Protection Act permits a derivative beneficiary “child” to retain a resident classification after s/he has reached age 21.

A student who ages out (reaches age 21), and therefore changes status to an F-1 visa, and holds only an approved I-130 or I-140 while awaiting a visa date will not be able to file an I-485 unless s/he is covered under the Child Status Protection Act.

Eligibility Criteria:

- a. Must be the beneficiary of a pending or approved visa petition on or after August 6, 2002.
- b. The beneficiary must not have had a final decision on an application for adjustment of status or an immigrant visa before August 6, 2002.
- c. The beneficiary must “seek to acquire” – file a Form I-824 or Form I-485 or Form DS-230 – within 1 year of a visa becoming available.
- d. The student may submit official documentation confirming whether s/he is covered by the CSPA.

#### **6. Calculating Physical Presence**

A lawful permanent resident (LPR), or one who has sought to become a lawful permanent resident, may establish California residence for tuition purposes, provided s/he submits to the campus Residence Deputy proper documentation.

A lawful permanent resident must submit a copy of their Permanent Resident card (Green Card), which must have been issued at least 366 days prior to the residence determination date for the term a resident classification is sought. The student must have also satisfied all other requirements under the UC Residence Policy and Guidelines.

A student who has sought to become a lawful permanent resident must submit an approved I-130 or an approved I-140 with a **notice date** that is at least 366 days prior to the residence determination date for the term a resident classification is sought. Additionally, the student must submit a copy of a concurrently valid visa that is valid at least until the student files an I-485 (Application to Register Permanent Residence or Adjust Status), along with a valid I-94. The student must have also satisfied all other requirements under the UC Residence Policy and Guidelines.

A student who held an eligible nonimmigrant visa (the nonimmigrant visa must have been valid at least until the I-485 receipt notice date) for at least 366 days prior to the residence determination date, and prior to filing an I-485, may retain a resident classification even if the I-485 receipt date will not yet meet the 366-day requirement, provided the student has satisfied all of the UC Residence Policy and Guidelines requirements while holding the eligible nonimmigrant visa and there are no gaps in status.

A student who has sought to become a permanent resident and whose circumstances somehow differ from the instances described above may submit official immigration documentation to the campus Residence Deputy for consideration, so long as the student's circumstances clearly and convincingly indicate that the student has satisfied all of the UC Residence Policy and Guidelines' requirements.

## **7. Permanent Residence**

### **a. Permanent Resident Status (Green Card - Valid 10 years)**

Permanent resident status does not expire when the green card expires; however, the University requires that an individual with an expired green card provide verification that it has been renewed.

#### **Verification of Green Card Renewal**

Copy of Form I-90 renewal application receipt notice. The Residence Deputy will ensure the I-90 renewal application receipt notice has the same "A" number as the expired green card.

### **b. Conditional Permanent Residence (Valid 2 years)**

A conditional permanent resident receives a green card valid for 2 years. It cannot be renewed. To remain a permanent resident, a conditional permanent resident must file a petition to remove the condition during the 90 days before the card expires.

### **Verification of Removal of Conditions**

- Marriage-based Conditional Green Cards: Copy of Form I-751, Petition to Remove the Conditions of Residence.
- Entrepreneur-based Green Card: Form I-829, Petition by Entrepreneur to Remove Conditions.

*A lawful permanent resident will not lose that status until there is a final administrative order of exclusion, deportation, or removal.*

### **8. Additional Immigration Information**

An alien spouse does not derive residence from a 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 s/he is legally present in the United States in a status that permits him/her to establish residence for tuition purposes.

When an unmarried child turns 21, s/he is no longer eligible for dependent status (ages out). Prior to turning 21, the student must file with the USCIS to change status, or depart the United States. A change of status may affect a resident classification for tuition purposes, depending upon whether the student has filed an I-485 Application to Register Permanent Residence or Adjust Status prior to aging out.

Once an alien has acquired a status that entitles him/her to establish residence in California for tuition purposes, s/he must fulfill the same criteria as a U.S. citizen in order to be classified as a resident for tuition purposes – at least 366 days of physical presence with concurrent intent, and, if an undergraduate under the age of 24, two years of financial independence, all immediately prior to the residence determination date for the term a resident classification is sought.

All aliens who are eligible for federal, state, and local benefits under federal immigration law, namely 8 U.S.C. §§ 1615 and 1621, and who, under those laws, are eligible to establish residence in California, may establish California residence for tuition purposes, provided they satisfy all applicable UC requirements.

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

There are certain exceptions to the general residence regulations. Some of those exceptions are discussed elsewhere in the Residence Policy and Guidelines, in sections where they logically follow the subject matter topics. Other exceptions to the general Residence Policy and Guidelines include:

**Parent Moves to California While Student Is a Minor – p. 22**

**Parent of Minor Who Moves from California – p. 22**

**Self-Supporting Minor – p. 23**

**Two-Year Care and Control – p. 23**

**Military Provisions – p. 25**

**Other exceptions are as follows**

##### **A. Employee of California Public School District**

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 classification for tuition purposes if any of the following apply:

1. Student 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. Student holds a credential of the types designated in Cal. Ed. Code section 44250 and enrolls at the University of California in courses necessary to fulfill postponed credential requirements.
3. Student 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 Cal. Ed. Code section 44259 (Cal. Ed. Code § 68078).

##### **B. Spouse, Registered Domestic Partner, or Child of Deceased Law Enforcement or Fire Suppression and Prevention Public Employee – Alan Patee Scholarship**

A waiver from nonresident supplemental tuition and mandatory systemwide fees is granted to any 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:

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

- active law enforcement services
- active fire suppression and prevention

**AND**

2. S/he was employed by a public agency, or was a contractor, or an employee of a contractor, performing services for a public agency.<sup>5</sup>

**AND**

3. S/he was killed in the course of, or as a result of, those duties.

**C. University Employment Outside of California**

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

*Review will be conducted each term to verify continuation of employment status.*

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<sup>5</sup> A person who qualifies under this provision as a surviving child of a contractor, or of an employee of a contractor, who performed services for a public agency shall, in addition to the above requirements, provide documentation that his/her annual income, including the value of any support received from a parent, does not exceed the maximum household income and asset level for an applicant for a Cal Grant B award, as set forth in California Education Code section 69432.7.

“Contractor” or “employee of a contractor” does not include a security guard or security officer, as defined in California Business and Professions Code section 7582.1.

**D. Native American Graduates of a BIA School**

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

**E. Dependent of a California Resident (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 parent who is considered a California resident for tuition purposes immediately prior to the residence determination date, may be entitled to resident classification until s/he has resided in California for the minimum time necessary to establish a residence (366 days), so long as s/he maintains continuous full-time attendance at a post-secondary institution. Benefits received under this provision shall not exceed one full academic year; eligible students must satisfy all residence requirements during their “Condit year” to maintain a resident classification.

**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 arriving in the state or since reaching age 18.
2. Once enrolled, the student must maintain continuous full-time attendance at a post-secondary institution as defined by Cal. Ed. Code § 68016. If the student has attended more than one post-secondary institution, his enrollment must have been continuous and full-time.
3. The parent must have been a California resident for tuition purposes for the 366 days immediately preceding the residence determination date. *Financial independence will not be required as the student is the dependent of a California resident.*

*The Condit exemption expires after one full year. To maintain a resident classification once the Condit exemption expires, the student must have satisfied the physical presence and intent requirements to establish his/her own residence during their Condit year. The death of the California-resident parent of a continuously enrolled student will not cause the student to lose a resident classification.*

**F. 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 an exemption from nonresident supplemental tuition. The Residence Deputy must verify membership in the Academic Senate and the child's dependent status before this exemption may be granted.

**G. Student Athlete in Training at U.S. Olympic Training Center - Chula Vista**

Any amateur student athlete in training at the United States Olympic Training Center in Chula Vista is entitled to a resident classification for tuition purposes until s/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.

The Chula Vista Athletic Center or a related U.S. Olympic Training Center official will provide the student with a verification letter confirming eligibility.

**H. California High School Graduate (AB 540 – Cal. Ed. Code § 68130.5)<sup>6</sup>**

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 s/he meets the University of California residence requirements.

**AB 540 Requirements:**

1. attended a high school in California for three or more years **and** graduated from a California high school (or attained the equivalent), **OR** attained credits earned in California from a California high school equivalent to

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<sup>6</sup> Effective January 1, 2015 state bill AB 2000 expands eligibility for AB 540 status to also include students who “demonstrate attainment of credits earned in California from a California high school equivalent to three or more years of full-time high school coursework and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of those schools.” (Cal. Ed. Code section 68130.5)



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 those schools **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. must not be a nonimmigrant as defined by federal immigration law, **and**
4. must complete an affidavit stating that if s/he does not have a lawful immigration status, s/he has filed an application to legalize his/her immigration status, or will file such an application as soon as s/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 attendance and graduation from an internet high school while continuously residing in California.
- High school credits from a California Community College may count toward three years of high school attendance. Generally, those credits must be earned prior to high school graduation, or attaining the equivalent thereof, and must be included on the student's high school transcript.

**Proof of "graduation" may 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 (CHSPE).

**I. T or U visa holders**

Students who possess a T or U nonimmigrant visa and otherwise would meet the requirements of Cal. Ed. Code section 68130.5 (AB 540) shall be exempt from paying nonresident tuition at the University until they are eligible to establish a resident classification, pursuant to Regents Policy 3106.

**J. Recipient or Child of a Recipient of the Congressional Medal of Honor**

A recipient of the Congressional Medal of Honor, including the child of a recipient of the Congressional Medal of Honor, is eligible for an exemption from nonresident supplemental tuition and mandatory system-wide 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/her death.

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

**K. Dependent or Ward of State through California's Child Welfare System (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 so long as he or she remains continuously enrolled.

Verification may 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 confirming the student was under the care of the Department of Social Services.

*In guardianship situations, guardianship must have been determined through a child dependency court (Welfare & Institutions code 300 series), not a probate court or the child welfare delinquency system.*

## 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 policywhich, 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 form along with a copy of the campus nonresident determination letter and are available at:  
[http://www.ucop.edu/general-counsel/\\_files/ed-affairs/uc-residency-instructions-appeal-form.pdf](http://www.ucop.edu/general-counsel/_files/ed-affairs/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: Residence Analyst  
Mail: Residence Analyst, University of California, Office of the General Counsel, 1111 Franklin Street, 8<sup>th</sup> Floor, Oakland, CA 94607-5200
3. The appeal must be received in the Office of the General Counsel within thirty (30) days of the issuance 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 provided along with 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 s/he has been classified as a nonresident.
8. The University will not waive or defer nonresident supplemental tuition pending the outcome of the appeal.

**C. Appeals-related Inquiries**

All inquiries regarding the appeal process should be directed to the Office of the General Counsel: [residency.appeal@ucop.edu](mailto:residency.appeal@ucop.edu).