

New AR's for SMC or AR's that need legal language included in AR

AR 5020

NONRESIDENT TUITION (ADOPTED 2004)

NEW AR FOR SMC, AR TO HAVE ITS OWN NUMBER

NOTE: This regulation is legally required. Local practice may be inserted, which must include or address:

- Exemptions, including:
 - Any students, other than non-immigrant aliens under 8 U.S. Code Section 1101(a)(15), who meet the following requirements:
 - either high school attendance in California for three or more years OR attainment of credits earned in California from a California high school equivalent to three or more years of full-time high school coursework and a total of three or more years of attendance in California elementary schools, California secondary schools, or combination of those schools;
 - graduation from a California high school or attainment of the equivalent thereof;
 - registration or enrollment in a course offered for any term commencing on or after January 1, 2002;
 - completion of a questionnaire form prescribed by the California Community Colleges Chancellor's Office verifying eligibility for this nonresident tuition exemption; and
 - in the case of a student without lawful immigration status, the filing of an affidavit that the student has filed an application to legalize his/her immigration status, or will file an application as soon as he/she is eligible to do so.
 - Any students who meet the following requirements:
 - demonstrates financial need;
 - has a parent who has been deported or was permitted to depart voluntarily;
 - moved abroad as a result of that deportation or voluntary departure;
 - lived in California immediately before moving abroad;
 - attended a public or private secondary school in the state for three or more years; and
 - Upon enrollment, will be in his/her first academic year as a matriculated student in California public higher education, will be living in California, and will file an affidavit with the District stating that he/she intends to establish residency in California as soon as possible.
 - Any nonimmigrant aliens granted "T" or "U" visa status under title 8 U.S. Code Section 1101(a)(15)(T)(i) or (ii), or section 1101(a)(15)U(i) or (ii), respectively, who meet the following requirements:
 - high school attendance in California for three or more years;
 - graduation from a California high school or attainment of the equivalent thereof;
 - registration or enrollment in a course offered for any term or commencing on or after January 1, 2002; and
 - completion of a questionnaire form prescribed by the California Community Colleges Chancellor's Office verifying eligibility for this nonresident tuition exemption.
 - A special part-time student, other than a nonimmigrant alien under 8 U.S. Code Section 1101(15)(a), participating in a College and Career Access Pathways (CCAP) partnership program and enrolled in no more than 15 units per term.
- A requirement that the nonresident tuition fee be set not later than February 1 of each year.

- A requirement that the calculation reflect the current expense of education calculated according to the Budget and Accounting Manual.
- Exemptions, if any, due to reciprocity with bordering states.
- Processing fees, if any, for international students.
- A requirement that the calculation include the expense of education in the preceding fiscal year.
- A requirement that the calculation reflect fees in contiguous Districts.
- A requirement that the calculation provide for students enrolled in more or less than 15 units per term.

NOTE: The language below in *blue ink* sample language from other Districts for consideration.

Sample 1 from another District:

The nonresident tuition fee will be established not later than February 1 for the succeeding fiscal year according to one of the following bases:

- Statewide basis
- District basis
- District basis with 10% or more noncredit FTES
- No more than a contiguous district
- No more than the District basis and no less than the statewide basis

Exemptions to the nonresident tuition fee requirements include any students, other than non-immigrant aliens under 8 U.S. Code Section 1101(a)(15), who meet all of the following requirements:

- high school attendance in California for three or more years
- graduation from a California high school or attainment of the equivalent thereof
- registration or enrollment in a course offered by an accredited institution of higher education for any term commencing on or after January 1, 2002
- completion of a questionnaire form prescribed by the California Community Colleges Chancellor's Office verifying eligibility for this nonresident tuition exemption and
- in the case of a student without lawful immigration status, the filing of an affidavit that the student has filed an application to legalize his/her immigration status, or will file an application as soon as he/she is eligible to do so

The computation of the nonresident tuition per unit charge is based on the expense of education for the base year, the annual attendance (FTES), and the U.S. Consumer Price Index.

The computation of the nonresident capital outlay fee is not to exceed the amount expended for capital outlay in the preceding year divided by the total full-time equivalent students.

The application processing fee for citizens and residents of a foreign country is not to exceed the lesser of:

- the actual cost of processing an application and other documentation required by the federal government, or
- \$100, which may be deducted from the tuition fee at the time of enrollment.

Sample 2 from another District:

Nonresident Tuition: Students who are not residents of California for one year prior to the first day of the semester will be charged Nonresident Tuition at the Board-approved rate per semester unit. Nonresident students must pay Nonresident Tuition in addition to the California Community College Enrollment Fees. Calculation of such tuition shall be done in compliance with applicable law and regulation to reflect the current expense of education and that of the preceding fiscal year, and it shall reflect fees in contiguous districts. Students who believe they should be reclassified as resident students have the responsibility to request a change of their classification in the Admissions, Records and Services Office prior to enrollment.

Nonresident Capital Outlay Fee: Nonresident students who are both citizens and residents of a foreign country will be charged a Nonresident Capital Outlay Fee, in addition to the Nonresident Tuition and the California Community College Enrollment Fee.

Military Resident Exemption: Nonresident U.S. military personnel on active duty in California (except those assigned for education purposes to state-supported institutions of higher education) are granted a waiver of Nonresident Tuition until they are discharged from their military service. Their dependents are granted a waiver for a period of one year from the date they enter California. Upon expiration of the waiver, evidence must be provided as to the date the student surrendered his/her out-of-state residence to become a resident of California. The student will be classified as a nonresident and charged Nonresident Tuition until one year has elapsed since the out-of-state residence was surrendered.

High School Graduate Exemptions: Students, other than nonimmigrant aliens under 8 U.S.C. 1101(a)(15), who meet the following requirements are exempt from paying nonresident tuition:

- high school attendance in California for three or more years;
- graduation from a California high school or attainment of the equivalent thereof;
- registration or enrollment in a course offered for any term commencing on or
- after January 1, 2002;
- completion of a questionnaire form prescribed by the Chancellor verifying eligibility for this nonresident tuition exemption; and in the case of a student without lawful immigration status, the filing of an affidavit that the student has filed an application to legalize his/her immigration status, or will file an application as soon as he/she is eligible to do so.

Foreign Students: Citizens and residents of a foreign country shall be charged a Board-approved tuition and a Capital Outlay Fee. Foreign students may be exempt from the Capital Outlay Fee if they meet the criteria in BP 5020 titled Nonresident Tuition. Nonresident tuition and the Capital Outlay Fee are paid in addition to the enrollment fee paid by all students. If the student believes he or she should be classified as a resident student, it is their responsibility to request a change of their classification in the Admissions, Records and Services Office prior to enrollment.

September 11, 2001 Exemption: If an individual who was killed in the terrorist attacks on the World Trade Center in New York City, the Pentagon in Washington, D.C., or the crash of United Airlines Flight 93 was a resident of California on September 11, 2001, or if his/her dependent was a resident

on that date and if he/she meets the financial need requirement for the Cal Grant A Program, the dependent(s) of this individual may be exempt from nonresident tuition. If the dependent is a spouse, the exemption applies until January, 1, 2013. If the dependent is a child, the exemption applies until the person reaches the age of 30.

Also see AR 5015 Residence Determination

Sample 3 from another District:

The Business Officer sets the non-resident tuition fee no later than February 1 of each year. The calculation for international students will be made up of the non-resident fee plus a capital outlay fee. The current fee schedule is published on the College Webpage and in the schedule of classes.

The calculation reflects the current expense of education according to the Budget and Accounting Manual.

Exemptions include Any students, other than non-immigrant aliens under 8 U.S. Code Section 1101(a)(15), who meet the following requirements:

- high school attendance in California for three or more years;
- graduation from a California high school or attainment of the equivalent thereof;
- registration or enrollment in a course offered for any term commencing on or after January 1, 2002;
- completion of a questionnaire form prescribed by the California Community Colleges Chancellor's Office verifying eligibility for this nonresident tuition exemption; and
- in the case of a student without lawful immigration status, the filing of an affidavit that the student has filed an application to legalize his/her immigration status, or will file an application as soon as he/she is eligible to do so.

(NOTE: Also see sample language from other Districts included in the notebook)

References:

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

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel (Liebert Cassidy Whitmore). This regulation reflects updates/revisions from the Policy & Procedure Service in March 2012, April 2014, April 2015, and April 2017. The language in **blue ink** is included for consideration. The language in **yellow highlighting** is included to draw the reviewers' attention, and this language will be removed upon final approval.

Approved:

(This is a new regulation)

AR 5015 RESIDENCE DETERMINATION (old#4110)
NEW AR# FOR SMC, AR TO HAVE ITS OWN NUMBER

NOTE: This regulation is legally required except as noted. Districts may insert their local practices here.

Residence Classification

Residency classifications shall be determined for each student at the time of each registration and whenever a student has not been in attendance for more than one semester. Residence classifications are to be made in accordance with the following provisions:

- A residence determination date is that day immediately preceding the opening day of instruction for any session during which the student proposes to attend.
- Residence classification is the responsibility of the [designate, such as Admissions Office].

Students must be notified of residence determination within 14 calendar days of submission of application.

The District shall publish the residence determination date and summary of the rules and regulations governing residence determination and classification in the District catalog or addenda thereto.

Rules Determining Residence

- A student who has resided in the state for more than one year immediately preceding the residence determination date is a resident.
- A student who has not resided in the state for more than one year immediately preceding the residence determination date is a nonresident.

The residence of each student enrolled in or applying for enrollment in any class or classes maintained by this District shall be determined in accordance with the Education Code which states that every person has, in law, a residence. In determining the place of residence, the following rules are to be observed:

- Every person who is married or eighteen years of age, or older, and under no legal disability to do so, may establish residence.
- A person may have only one residence.
- A residence is the place where one remains when not called elsewhere for labor or other special or temporary purpose and to which one returns in seasons of repose.
- A residence cannot be lost until another is gained.
- The residence can be changed only by the union of act and intent.
- A man or a woman may establish his/her residence. A woman's residence shall not be derivative from that of her husband.
- The residence of the parent with whom an unmarried minor child maintains his/her place of abode is the residence of the unmarried minor child. When the minor lives with neither parent, the minor's residence is that of the parent with whom the last place of abode was maintained, provided the minor may establish his/her residence when both parents are deceased and a legal guardian has not been appointed.

- The residence of an unmarried minor who has a parent living cannot be changed by the minor's own act, by the appointment of a legal guardian, or by relinquishment of a parent's right of control.

Determination of Resident Status

A resident is a student who has been a bona fide resident of the state for one year prior to the residence determination date. A bona fide resident is a person whose residence is in California as determined above except:

- A student who is a minor and remains in this state after the parent, who was previously domiciled in California and has established residence elsewhere, shall be entitled to retain resident classification until attaining the age of majority and has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.
- A student who is a minor and who provides evidence of being entirely self-supporting and actually present in California for more than one year immediately preceding the residence determination date with the intention of acquiring a residence therein, shall be entitled resident classification until he/she has resided in the state the minimum time necessary to become a resident.
- A student who has not been an adult for one year immediately preceding the residence determination date for the semester for which the student proposes to attend an institution shall have the immediate pre-majority-derived California residence, if any, added to the post-majority residence to obtain the one year of California residence.
- A student holding a valid credential authorizing service in the public schools of this state, who is employed by a school district in a full-time position requiring certification qualifications for the college year in which the student enrolls in an institution, shall be entitled to resident classification if each student meets any of the following requirements:
 - He/she holds a provisional credential and is enrolled in courses necessary to obtain another type of credential authorizing service in the public schools.
 - He/she holds a credential issued pursuant to Education Code Section 44250 and is enrolled in courses necessary to fulfill credential requirements.
 - He/she is enrolled in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Education Code Section 44259.
 - A student holding a valid emergency permit authorizing service in the public schools of this state, who is employed by a school district in a full-time position requiring certification qualifications for the academic year in which the student enrolls at an institution in courses necessary to fulfill teacher credential requirements, is entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one year. Thereafter, the student's residency status will be determined under the other provisions of this procedure.

- A student who is a full-time employee of the California State University, the University of California or a community college, or of any state agency or a student who is a child or spouse of a full-time employee of the California State University, the University of California or a community college, or of any state agency may be entitled to resident classification, until the student has resided in the state the minimum time necessary to become a resident.
- A student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification. If the member of the armed forces of the United States later transfers on military orders to a place outside this state, or retires as an active member of the armed forces of the United States, the student dependent shall not lose his/her resident classification, so long as he/she remains continuously enrolled in the District.
- A student who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the Armed Forces assigned for educational purposes to a state-supported institution of higher education, is entitled to resident classification only for the purpose of determining the amount of tuition and fees. If the student later transfers on military orders to a place outside this state, the student shall not lose his/her resident classification, so long as he/she remains continuously enrolled in the District.
- A veteran who was discharged or released from at least 90 days of active service less than three years before the date of enrollment in a course commencing on or after July 1, 2015, and his/her dependents, regardless of the veteran's state of residence is entitled to resident classification.
- An individual who is the child or spouse of a person who, on or after September 11, 2001, died in the line of duty while serving on active duty as a member of the Armed Forces who resides in California and enrolls in the community college 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.
- A student who is a minor and resides with his/her parent in a district or territory not in a district shall be entitled to resident classification, provided that the parent has been domiciled in California for more than one year prior to the residence determination date for the semester, quarter or term for which the student proposes to attend.
- A student who is a Native American is entitled to resident classification for attendance at a community college if the student is also attending a school administered by the Bureau of Indian Affairs located within the community college district.
- A student who is a federal civil service employee and his/her natural or adopted dependent children are entitled to resident classification if the parent has moved to this state as a result of a military mission realignment action that involves the relocation of at least 100 employees. This classification shall continue until the student is entitled to be classified as a resident, so long as the student continuously attends an institution of public higher education.
- A student who resides in California and is 19 years of age or under at the time of enrollment, 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, may be entitled to resident classification until he/she has resided in the state the minimum time necessary to become a resident.

- A student who lives with a parent who earns a livelihood primarily by performing agricultural labor for hire in California and other states, and the parent has performed such labor in this state for at least two months per year in each of the two preceding years, and the parent resides in this District and the parent of the student has claimed the student as a dependent on his/her state or federal personal income tax return if he/she has sufficient income to have personal income tax liability shall be entitled to resident classification.
- A student who demonstrates financial need, has a parent who has been deported or was permitted to depart voluntarily, moved abroad as a result of that deportation or voluntary departure, lived in California immediately before moving abroad, attended a public or private secondary school in the state for three or more years, and upon enrollment, will be in his/her first academic year as a matriculated student in California public higher education, will be living in California, and will file an affidavit with the District stating that he/she intends to establish residency in California as soon as possible.

Right To Appeal

Students who have been classified as non-residents have the right to a review of their classification (Title 5 Section 54010 (a)). Any student, following a final decision of residence classification by the [designate, such as Admission Office], may make written appeal to the [designate, such as Chief Student Services Officer] within 30 calendar days of notification of final decision by the college regarding classification.

Appeal Procedure

The appeal is to be submitted to [designate, such as Admissions Office] which must forward it to the [designate, such as Chief Student Services Officer] within five working days of receipt. Copies of the original application for admission, the residency questionnaire, and evidence or documentation provided by the student, with a cover statement indicating upon what basis the residence classification decision was made, must be forwarded with the appeal.

The [designate] shall review all the records and have the right to request additional information from either the student or the Admissions Office.

Within 30 calendar days of receipt, the [designate] shall send a written determination to the student. The determination shall state specific facts on which the appeal decision was made.

Reclassification

A student previously classified as a non-resident may be reclassified as of any residence determination date. A residence determination date is that day immediately preceding the opening day of instruction for any session during which the student proposes to attend.

Petitions are to be submitted to the Admissions Office.

Petitions must be submitted prior to the semester for which reclassification is to be effective. Extenuating circumstances may be considered in cases where a student failed to petition for

reclassification prior to the residency determination date. In no case, however, may a student receive a non-resident tuition refund after the date of the first census.

Written documentation may be required of the student in support of the reclassification request.

A questionnaire to determine financial independence must be submitted with the petition for reclassification. Determination of financial independence is not required for students who were classified as non-residents by the University of California, the California State University, or another community college District (Education Code Section 68044).

A student shall be considered financially independent for purposes of residence reclassification if the applicant meets all of the following requirements:

- Has not and will not be claimed as an exemption for state and federal tax purposes by his/her parent in the calendar year prior to the year the reclassification application is made;
- Has not lived and will not live for more than six weeks in the home of his/her parent during the calendar year the reclassification application is made.

A student who has established financial independence may be reclassified as a resident if the student has met the requirements of Title 5 Sections 54020, 54022, and 54024.

Failure to satisfy all of the financial independence criteria listed above does not necessarily result in denial of residence status if the one year requirement is met and demonstration of intent is sufficiently strong.

Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than financial dependence in the preceding second and third calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if (1) the parent on whom the student is dependent is a California resident, or (2) there is no evidence of the student's continuing residence in another state.

The [designate] will make a determination, based on the evidence and notify the student not later than 14 days of receipt of the petition for reclassification.

Students have the right to appeal according to the procedures above.

Non-Citizens

The District will admit any non-citizen who is 18 years of age or a high school graduate.

If non-citizens are present in the United States illegally or with any type of temporary visa, they will be classified as non-residents and charged non-resident tuition unless they meet the exceptions contained below.

If, for at least one year and one day prior to the start of the semester in question, a non-citizen has possessed any immigration status that allows him/her to live permanently in the United States and he/she meets the California residency requirements, the student can be classified as a resident.

Any students who are U.S. citizens, permanent residents of the U.S., and aliens who are not nonimmigrants (including those who are undocumented), may be exempt from paying nonresident tuition if they meet the following requirements:

- high school attendance in California for three or more years;
- graduation from a California high school or attainment of the equivalent thereof;
- registration or enrollment in a course offered by any college in the District for any term commencing on or after January 1, 2002,
- completion of a questionnaire form prescribed by the California Community Colleges Chancellor and furnished by the District of enrollment, verifying eligibility for this nonresident tuition exemption; and
- in the case of a student without lawful immigration status, the filing of an affidavit that the student has filed an application to legalize his/her immigration status, or will file an application as soon as he/she is eligible to do so.

The initial residency classification will be made at the time the student applies for admission. Students may file residency questionnaire forms through the third week of the semester to request a review of their residency status. Final residency determination is made by the [designate]. Students may appeal the decision.

❖ From current SMC AR 4110 Residency Determination

1. Overview of Conditions to Determine Residency Status

- a. In order to establish a residence, it is necessary that there be a union of act and intent. To establish residence, a person capable of establishing residence in California must couple his/her physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose (Education Code, [Sections](#) §68017; [and](#) 68062; Title 5, [Section](#) §54020). California residence for tuition/fee purposes will be dictated by the following factors:

- i. **Physical Presence:**

A person capable of establishing residence in California must be physically present in California for one year prior to the residence determination date to be classified as a resident student. A temporary absence for business, education or pleasure will not result in loss of California residence if, during the absence, the person always intended to return to California and did nothing inconsistent with that intent. Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of length of that presence (Education Code [Sections](#) §68017; [and](#) 68070; Title 5 [Section](#) §54022).

- ii. **Evidence of Intent:**

Intent to make California the home, for other than a temporary purpose, may be manifested in a number of ways, a listing of which is available from Admissions & Records. A student who is 19 years of age or older and who has maintained a home in California continuously for the last two years, shall be presumed to have the intent to make California the home for other than a temporary purpose, unless the student has evidenced a contrary intent by having engaged in any of the activities listed in Section 1(a)(ii)(1) of this Regulation. A student who is under 19 years of age, shall be presumed to have the intent to make California

the home for other than a temporary purpose if both the student and his/her parent have maintained a home in California continuously for the last two years, unless the student has evidenced a contrary intent by having engaged in any of the activities listed in Section 1(a)(ii)(1) of this Regulation (Education Code [Section](#) §68041; Title 5 [Section](#) §54024).

1. Conduct inconsistent with claim of residency include, but are not limited to: (1) maintaining voter registration and voting in another state; (2) petitioning for divorce in another state; (3) attending an out-of-state educational institution as a resident of that other state; (4) declare nonresidence for state income tax purposes; or (5) pay taxes in another state or country as a resident.

iii. **Legal Presence in the United States**

Non-U.S. Citizens, including unmarried minors, may establish residence unless precluded by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) from establishing domicile in the United States, provided the student has had residence in California for more than one year prior to the residence determination date for the term for which attendance at the College is proposed. In general, non-U.S. Citizens are precluded from establishing domicile in the United States if their status in the country is undocumented, or is under a visa which requires residence outside the United States, or entered the United States solely for a temporary purpose (Education Code [Section](#) §68062(h); Title 5, [Section](#) §54045).

iv. **Financial Independence for Reclassification**

A student seeking reclassification from nonresident to resident shall be determined financially independent or dependent. Financial independence shall be among the factors to be considered for reclassification. Students claimed by parents/legal guardians on their income taxes in another state will be precluded from establishing California residency for tuition purposes (Education Code [Section](#) §68044; Title 5 [Section](#) §54032).

- b. Residency classifications shall be determined for each student at the time of each enrollment term and whenever a student has not been in attendance for more than one semester. Summer and winter intersessions are not included in this consideration.
- c. Residency classification is derived from a residence determination date, which corresponds to the day immediately preceding the opening day of instruction for any term during which the student proposes to attend the College.
- d. Residence classification is the responsibility of the Admissions and Records Office, under the supervision of the Dean of Enrollment Services. Students must be notified of residence determination within 14 calendar days of submission of the admission application.

- e. The College shall publish the residence determination date and a summary of the regulations governing residency determination and classification.
- f. The burden is on the student to demonstrate clearly both physical presence in California and intent to establish California residence Education Code [Sections](#) §66700, 68044, and 70901).

2. Criteria for Residency

To determine a person's place of residence, reference is made to the following statutory rules:

- a. A student who has resided in the State of California for more than one year immediately preceding the residence determination date is a resident.
- b. A student who has not resided in the State for more than one year immediately preceding the residence determination date is a nonresident. Except as otherwise provided in statute, as noted in Section 3 of this Administrative Regulation, a student classified as a nonresident shall be required to pay in addition to other fees required, a nonresident fee (Education Code [Section](#) §76140).
- c. The residence of each student enrolled in or applying for enrollment in any class or classes maintained by this District shall be determined in accordance with the Education Code which states that every person has, in law, a residence (Education Code [Section](#) §68060). In determining the place of residence, the following rules are to be observed:
 - i. Every person who is married or eighteen years of age, or older, and under no legal disability to do so, may establish residence (Education Code [Section](#) §68061);
 - ii. A person may have only one residence (Education Code [Section](#) §68062);
 - iii. A residence is the place where one remains when not called elsewhere for labor or other special or temporary purpose and to which one returns in seasons of repose (Education Code [Section](#) §68062);
 - iv. A residence cannot be lost until another is gained (Education Code [Section](#) §68062);
 - v. The residence can be changed only by the union of act and intent (Education Code [Section](#) §68062);
 - vi. The residence of the parent with whom an unmarried minor child maintains his/her place of abode is the residence of the unmarried minor child. When the minor lives with neither parent, the minor's residence is that of the parent with whom the last place of abode was maintained, provided the minor may establish his/her residence when both parents are deceased and a legal guardian has not been appointed (Education Code [Section](#) §68062);

- vii. The residence of an unmarried minor who has a parent living cannot be changed by the minor's own act, by the appointment of a legal guardian, or by relinquishment of a parent's right of control, unless the student qualifies under the Self-Support (Education Code [Section](#) §68071) or the Two-Year Care and Control exceptions (Education Code [Section](#) §68073; Title 5 [Section](#) §54047).
- viii. The one-year residence period necessary to be classified as a resident does not begin until the student both is present and has manifested clear intent to become a California resident (Education Code, [Section](#) §68062(d); Title 5, [Section](#) §54020).

3. Statutory Exceptions from Nonresidency Status

The following individuals are exempted from nonresidency status for tuition/fees purposes only:

- a. **Minor with Continuous Attendance:** A student who is a minor and remains in California after the parent, who was previously domiciled in California and has established residence elsewhere, shall be entitled to retain resident classification until attaining the age of majority and has resided in the State the minimum time necessary to become a resident, so long as continuous attendance is maintained at the College.

Self-Supporting Minor: A student who is a minor and who provides evidence of being entirely self-supporting and actually present in California for more than one year immediately preceding the residence determination date with the intention of acquiring a residence therein, shall be entitled resident classification until he/she has resided in the State the minimum time necessary to become a resident (Education Code, [Sections](#) §68044, [and](#) 68071; Title 5 [Section](#) §54040).

- b. **Public School Full-time Credentialed Employee:** A student holding a valid credential authorizing service in California public schools, who is employed by a school district in a full-time position requiring certification qualifications for the college year in which the student enrolls at the College, shall be entitled to resident classification for no more than one year, if the student meets any of the requirements below; thereafter, the student's residency status will be determined under the other provisions of this [Administrative Regulation](#) (Education Code, [Sections](#) §68044, 68078; Title 5 [Section](#) §54046).

- i. Holds a provisional credential and is enrolled in courses necessary to obtain another type of credential authorizing service in the public schools;
- ii. Holds a credential issued pursuant to Education Code Section 44250 and is enrolled in courses necessary to fulfill credential requirements;
- iii. Is enrolled in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Education Code Section 44259.

- c. **State Agency Full-Time Employee:** A student who is a full-time employee of a California Community College, the California State University, the University of

California, or of any state agency or a student who is a child or spouse such employee, may be entitled to resident classification, until the student has resided in the State the minimum time necessary to become a resident. Employee of any state agency means a person employed by the state, who is assigned to work outside the state (Education Code [Section](#) §68079).

- d. **Armed Services Member Stationed in California:** A student who is a member of the armed forces of the United States stationed in California on active duty, except a member of the Armed Forces assigned for educational purposes to a state-supported institution of higher education, is entitled to resident classification only for the purpose of determining the amount of tuition and fees. If the student later transfers on military orders to a place outside this state, the student shall not lose his/her resident classification, so long as he/she remains continuously enrolled in the District (Education Code, [Sections](#) §68044, [and](#) 68075; Title 5 [Section](#) §54042).
- e. **Dependent of an Armed Services Member Stationed in California:** A student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in California on active duty shall be entitled to resident classification. If the member of the armed forces of the United States later transfers on military orders to a place outside this State, or retires as an active member of the armed forces of the United States, the student dependent shall not lose his/her resident classification, so long as he/she remains continuously enrolled at the College resident (Education Code, [Sections](#) §68044, [and](#) 68074; Title 5 [Section](#) §54041).
- f. **Nonresident Veteran, Spouse, or Dependent:** Students verified to be covered individuals that qualify to use Montgomery GI Bill-Active Duty or Post-9/11 GI Bill education benefits (Chapters 30 and 33, respectively, of Title 38, U.S. Code) while living in California, and their covered spouse or dependent children may be waived from nonresident tuition and the capital outlay fee while living in California, provided the eligible veteran was discharged or released from at least 90 days of active service less than three years before the date of enrollment in a course commencing on or after July 1, 2015, regardless of the veteran's state of residence (Education Code, [Section](#) §68075.7).
- g. **Child or Spouse of Individual Killed in the September 11, 2001 Terrorist Attacks:** An individual who is the child or spouse of a person who died, on or after September 11, 2001, as a result of the terrorist attacks, who resided in California at the time of the incident may be granted residency (Education Code, [Sections](#) §68121, [and](#) 76300).
- h. **Relocated Federal Service Employee and Dependent Children:** A student who is a federal civil service employee and his/ or her natural or adopted dependent children are entitled to resident classification if the parent has moved to California as a result of a military mission realignment action that involves the relocation of at least 100 employees. This classification shall continue until the student is entitled to be classified as a resident, so long as the student continuously attends an institution of public higher education.

- i. **Dependent or Ward of the State of California:** A student who resides in California and is 19 years of age or under at the time of enrollment, 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, may be entitled to resident classification until he/she has resided in the State the minimum time necessary to become a resident (Education Code, [Section](#) §68085).
- j. **Agricultural Workers and Children of Agricultural Workers:** A student who lives with a parent, or is him/herself an agricultural laborer in California and other states, may be granted California residency if the student/parent has performed such labor in California for at least two months per year in each of the two preceding years, and the student/parent resides in the District. The parent must have claimed the student as a dependent on state or federal personal income tax returns if sufficient personal income was earned to incur tax liability (Education Code, [Sections](#) §68044, 68074, [and](#) 68075; Title 5 [Section](#) §54050).
- k. **U.S. Citizen Children of Deported Parent:** A student who demonstrates financial need, has a parent who has been deported or was permitted to depart voluntarily, moved abroad as a result of that deportation or voluntary departure, lived in California immediately before moving abroad, attended a public or private secondary school in the state for three or more years, and upon enrollment, will be in his/ ~~er~~ her first academic year as a matriculated student in California public higher education, will be living in California, and will file an affidavit with the District stating that he/ ~~er~~ she intends to establish residency in California as soon as possible (Education Code, [Section](#) §76140).
- l. **Non-Citizens (“AB 540 Students”):** The District will admit any non-citizen who is 18 years of age or a high school graduate for regular attendance. If non-citizens are present in the United States with undocumented status or with any type of temporary visa, they will be classified as non-residents and charged non-resident tuition unless they meet the exceptions below:
 - i. If, for at least one year and one day prior to the start of the term in question, a non-citizen has possessed any immigration status that allows him/her to live permanently in the United States and [he/she](#) ~~she or he~~ meets the California residency requirements, the student can be classified as a resident (Education Code, [Section](#) §68062(h); Title 5, [Section](#) §54045).
 - ii. Any student who is not a nonimmigrant alien, other than those holding a T or U visa are exempt from paying nonresident tuition (Education Code, [Sections](#) §68062(h), [and](#) 68130.5; Title 5, [Section](#) §54045) if the following provisions are met:
 1. Attended a high school in California for three (3) or more years or effective January 1, 2015 pursuant to AB 2000, attained credits earned in California from a California high school equivalent to three or more years of full-time high school coursework and attended a total of three or

more years in California elementary schools, California secondary schools, or a combination of those schools.

2. Graduated with a high school diploma from a California high school or attained the equivalent thereof.
3. Complete a questionnaire form prescribed by the California Community Colleges Chancellor's Office and furnished by the College, verifying eligibility for this nonresident tuition exemption.

iii. Benefits associated with AB 540 do not extend to persons who are absent from California, but are taking distance education courses from California Community Colleges.

m. **Other Waivers:** The District may authorize an exemption from nonresident tuition, in whole or in part, for (1) foreign students (citizens and residents of foreign countries) attending a California Community College, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10% of the nonresident foreign students are so exempted. Exemptions may be made on an individual basis; (2) all students taking six or fewer units. Apportionment may not be claimed for these waivers (Education Code, [Section §76140](#)).

4. **Reclassification to California Resident Status**

Reclassification requests will be considered upon review of a petition for reclassification and documentation demonstrating financial independence.

a. **Petition for Reclassification:**

A student previously classified as a non-resident may be reclassified as of any residence determination date. Petitions must be submitted to the Admissions and Records Office. Petitions must be submitted prior to the semester for which reclassification is to be effective. Extenuating circumstances may be considered in cases where a student failed to petition for reclassification prior to the residency determination date. Written documentation may be required of the student in support of the reclassification request.

b. **Financial Independence:**

A questionnaire to determine financial independence must be submitted with the petition for reclassification. A student shall be considered financially independent for purposes of residence reclassification if the applicant meets all of the following requirements:

- i. Has not and will not be claimed as an exemption for state and federal tax purposes by his/ or her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application (Education Code Section 68044);

- ii. Has not and will not receive more than ~~seven hundred fifty dollars~~ (\$750) per year in financial assistance from his/ ~~or~~ her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application; and
- iii. Has not lived and will not live for more than six weeks in the home of his/ ~~or~~ her parent during the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application.
- iv. A student who has established financial independence may be reclassified as a resident if the student has met the requirements of Title 5 Sections 54020, 54022, and 54024.

Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than financial dependence in the preceding second and third calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if (1) the parent on whom the student is dependent is a California resident, or (2) there is no evidence of the student's continuing residence in another state.

The Admissions and Records Office will make a determination, based on the evidence and notify the student not later than 14 days of receipt of the petition for reclassification. Students have the right to appeal according to the procedures above.

5. **Right to Appeal Residency Determination**

Students who have been classified as non-residents have the right to a review of their classification (Title 5 [Section](#) §54010 (a)). Any student, following a final decision of residency classification by the Admission and Records Office, may make a written appeal to the Dean of Enrollment Services within 30 calendar days of notification of final decision by the College regarding classification (Title 5, [Section](#) §54060).

6. The appeal must be submitted to the Admissions and Records Office Supervisor, who shall forward it to the Dean of Enrollment Services within five working days of receipt. The Admissions and Records Supervisor shall compile all documentation and evidence provided by the student, with a cover statement indicating the basis on which the residence classification decision was made.

The Dean of Enrollment Services shall review all the records and have the right to request additional information from either the student or the Admissions and Records Office.

Within 30 calendar days of receipt, the Dean of Enrollment Services shall send a written determination to the student. The determination shall state specific facts on which the appeal decision was made.

[Also see BP/AR 5010 Admissions, BP/AR 5011 Admission and Concurrent Enrollment of High School and Other Young Students, BP/AR 5012 International Students, AR 5013 Students in the Military, BP/AR 5020 Nonresident Tuition, and BP/AR 5030 Fees.](#)

References:

Education Code Sections 68000 et seq., 68075.7, and 68130.5;

Title 5 Sections 54000 et seq.;

38 U.S. Code Section 3679

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel (Liebert Cassidy Whitmore). This regulation reflects updates/revisions from the Policy & Procedure Service in February 2002, February 2011, March 2012, April 2015, and October 2015. The language in **black ink** is from current SMC AR 4110 Residency Determination approved on April 29, 2003 and revised on May 15, 2010; March 26, 2013; May 14, 2013; and March 2, 2016. The language in **blue ink** is included for consideration. The language in **yellow highlighting** is included to draw the reviewers' attention, and this language will be removed upon final approval.

Approved: April 29, 2003

Revised: May 15, 2010; March 26, 2013; May 14, 2013; March 2, 2016;

(Replaces SMC AR 4110)

AR 5220 SHOWER FACILITIES FOR STUDENTS (adopted 2016) New AR to SMC

NOTE: An administrative regulation on shower facilities is **suggested as good practice** for those districts that have shower facilities on campus for student use.

The District maintains shower facilities for student use on campus (including any enrolled student who may be experiencing homelessness), who is enrolled in a minimum of [#1] unit of coursework, has paid enrollment fees, and is in good standing with the District.

A homeless student is defined as a student who does not have a fixed, regular, and adequate nighttime residence. This includes, but is not limited to, students who: are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative accommodations; are living in emergency or transitional shelters; have a primary nighttime residence that is a public or private place not designated for or

ordinarily used as a regular sleeping accommodation for human beings; or are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.

Shower facilities are located at [**insert location(s), building name(s), etc.**] and are open to use by students experiencing homelessness [**insert days and hours – not less than two hours per weekday**]. Hours of operation for the use of facilities are available on the District website. With the exception of use for classes, the District has identified the hours of [**insert days and hours – not less than two hours per weekday**] as a preferred time for use. In the event that these hours conflict with the hours of an intercollegiate athletic program (special event), appropriate notice will be posted and the District will post alternative hours to use the facilities [**insert district's plan of action if hours of operation conflict with an intercollegiate athletic program**].

Reference:

Education Code Section 76011

NOTE: The **red ink** signifies language that is **suggested as good practice/optional** by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). The Policy & Procedure Service issued this regulation in October 2016. The language in **yellow highlighting** is included to draw the reviewers' attention, and this language will be removed upon final approval.

Approved:

(**This is a new regulation**)

AR 5210 COMMUNICABLE DISEASE: STUDENTS (adopted 2000)
New AR to SMC

NOTE: **The language in red ink is legally advised.** Local practice may be inserted following are the minimum standards required by law:

- **Cooperation with local health officers in measures necessary for the prevention of communicable diseases in students**
- **Compliance with any immunization program required by State Department of Health regulations.**

NOTE: **The impetus behind these statutes appears to be public health controls for hepatitis. Nothing in the statutes authorizes or requires screening for HIV or AIDS.**

The information in *blue ink* below is sample language from other districts and is included for consideration.

Sample 1 from another District:

The District shall comply with all state and federally mandated health requirements relative to infectious disease, including:

- Cooperation with local health officers in measures necessary for the prevention and control of communicable diseases in students and
- Compliance with any immunization program required by State Department of Health Services regulations.

The Student Health Center provides:

- Health education and intervention for communicable disease prevention, including disease reporting to the Los Angeles County Office of Public Health.
- Standard immunizations required and/or recommended for the prevention of communicable diseases.

Sample 2 from another District:

The District will cooperate with local health officers by taking any measures necessary for the prevention and control of diseases in students.

The District will comply with any immunization program required by the State Department of Health Services regulations.

Student Health Services professional staff shall maintain a liaison with the appropriate local public health authority when communicable disease issues involve the campus.

Student Health Services professionals will report communicable disease measures to appropriate District departments.

Sample 3 from another District:

The District recognizes that response protocols for communicable diseases will vary according to the nature and type of pathogen, known modes of transmission, best practices for prevention, and established treatments.

In the event of the identification of a reportable communicable disease, appropriate District officials will coordinate required responses at District-owned or operated facilities and with Department of Health officials.

(NOTE: Also see sample language from other Districts included in the notebook)

Reference:

Education Code Section 76403

NOTE: The **red ink** signifies language that is **legally advised** and recommended by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). The language in **blue ink** is included for consideration. The language in **yellow highlighting** is included to draw the reviewers' attention, and this language will be removed upon final approval.

Approved:

(This is a new regulation)

**AR 5510 OFF-CAMPUS STUDENT ORGANIZATIONS (adopted 2011)
New AR to SMC**

NOTE: The language in **red ink** is **legally required**. Either alternative may be used for this regulation. For Districts whose police monitor off-campus activity, insert Alternative A. For Districts whose police do not monitor off-campus activity or for Districts without a police department, insert Alternative B.

[Alternative A]

When a student is involved in an off-campus offense, police officers may assist with the investigation in cooperation with local, state, or federal law enforcement. **[Local law enforcement authority]** police routinely work and communicate with campus officers on any serious incidents occurring on-campus or in the immediate neighborhood and business areas surrounding campus. Students may live in the neighborhoods surrounding the campus. Although **[local law enforcement authority]** have primary jurisdiction in all areas off campus, campus officers can and do respond to student-related incidents that occur in close proximity to campus. Campus officers have direct radio

communications with the city police, fire department, and ambulance services to facilitate rapid response in any emergency situation.

[Alternative B]

[Identify name of District Police Department or Responsible Security Official] does not provide law enforcement service to off-campus organizations nor are activities off-campus recognized by District authority.

Reference:

34 Code of Federal Regulations Section 668.46(b)(7)

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). This regulation was issued by the Policy & Procedure Service in July 2011. The language in **yellow highlighting** is included to draw the reviewers' attention, and this language will be removed upon final approval.

Approved:

(This is a new regulation)

**AR 5610 VOTER REGISTRATION (adopted 2005)
New AR to SMC**

NOTE: **This regulation is legally advised.** **Insert local practice, which should address the following:**

- **A good faith effort to distribute a mail voter registration form to each student enrolled in a degree or certificate program and physically in attendance at the institution.**
- **Forms are widely available to students at the institution**
- **Districts that operate an automated class registration system, on or before January 1, 2008, must allow students to coordinate with the Secretary of State during the class registration process to receive voter information.**
- **Districts that do not operate an automated class registration system, on or before January 1, 2008, may implement an automated voter registration**

system within two years of when they begin operation of an automated class registration system.

- *Districts must designate contact person to be contacted by the Secretary of State for distribution of voter registration cards.*

NOTE: *The information in **blue ink** below is sample language from other districts and is included for consideration.*

Sample 1 from another District:

A good faith effort shall be made to distribute a mail-in voter registration form to each student enrolled in a degree or certificate program and physically in attendance at each college.

Mail-in voter registration forms shall be made widely available to students at each college.

An active link to the California Secretary of State's voter registration web page or site shall be provided on the student portal to allow students to receive voter information during the class enrollment process.

The college designees for the California Secretary of State to contact for purposes of distribution of voter registration cards shall be the Directors of Student Activities.

Sample 2 from another District:

The District makes a good faith effort to provide voter registration materials and forms to each student enrolled in a degree or certificate program and physically in attendance at the institution.

Forms are widely available to students throughout both institutions through links on each college's website and League of Women Voters-provided voter registration information on the campus.

The District operates an automated class registration system that provides a link to allow students to coordinate with the Secretary of State during the class registration process to receive voter information.

The Chief Admissions and Records Officers are to be contacted by the Secretary of State for communication pertaining to the distribution of voter registration information.

Sample 3 from another District:

A good faith effort shall be made to make voter registration forms available to each student actively enrolled in a degree or certificate program.

Mail-in voter registration forms shall be made available to students.

An active link to the California Secretary of State's voter registration web page or site shall be provided via the Admissions and Records web pages.

The District's designee for the California Secretary of State to contact for purposes of distribution of voter registration cards shall be the Chief Student Services Officer.

References:

20 U.S. Code Section 1094(a)(23)(A):

34 Code of Federal Regulations Section 668.14(d)(1)

NOTE: The **red ink** signifies language that is **legally advised** and recommended by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). This regulation was issued by the Policy & Procedure Service in February 2005 and revised/updated in February 2008. The language in **blue ink** is included for consideration. The language in **yellow highlighting** is included to draw the reviewers' attention, and this language will be removed upon final approval.

Approved:

(This is a new regulation)

**AR 5700 INTERCOLLEGIATE ATHLETICS (adopted 2004)
New AR to SMC**

NOTE: The language in **red ink** is **legally advised**. Local practice may be inserted here. Rules for participation in intercollegiate athletics should be developed in accordance with Education Code Sections 67360 et seq. and BP 5700 Intercollegiate Athletics, which states that the District shall comply with rules and regulations adopted by voluntary associations, one of whose purposes is to govern intercollegiate athletics (e.g. the California Community College Athletic Association (CCCAA)).

The authority for developing, implementing and monitoring these procedures should be stated, and should reference appropriate assistance required from the Academic Senate.

Athletic Drug Testing

NOTE: Athletic Drug Testing is not mandated. If the District wishes to consider such a procedure, language may be inserted here.

The information in blue ink below is sample language from other districts and is included for consideration.

Sample 1 from another District:

The District is a member of the California Community College Athletic Association (CCCAA) and is governed by the rules of the CCCAA constitution and bylaws. The District will provide an athletics program and physical education curriculum based on the most recent constitution and bylaws of CCCAA and conference(s) in which the District is a member.

The Athletics Department is committed to nondiscrimination and providing equitable opportunities, benefits, and resources available to all students. This commitment promotes an atmosphere that is free from harassment or discrimination within all athletic program activities and classes.

The Athletics Department is committed to student-athlete academic success and shall monitor and track student-athlete academic performance.

Any fundraising activities conducted by a member of the Athletics Department shall follow approval procedures prior to the proposed event as outlined in the Athletics Department Staff Handbook. All fundraising and trust account activities shall follow the procedures established by the District Fiscal Services Office.

Changes to the Intercollegiate Athletics program curriculum will follow the procedures outlined in BP 4021 Program Discontinuance. Athletic programmatic procedures are contained in the Athletics Department Staff Handbook and information kept in the Athletics Director's Office.

The District shall submit conference, state, and federal compliance reports as required.

Also see BP/AR 3410 Nondiscrimination, BP/AR 4300 Field Trips and Excursions, BP/AR 6400 Financial Audits, and the Athletics Department Staff Handbook

Sample 2 from another District:

The District's Athletics Programs are members of the California Community College Athletic Association (CCCAA) and are governed by the rules of the (CCCAA) constitution and bylaws. The District will provide an athletic program and physical education curriculum based on the most recent constitution and bylaws of (CCCAA).

The program will be committed to nondiscrimination and providing equitable athletic opportunities, benefits, and resources available to all students. The commitment promotes an atmosphere within its athletic competition that is free from sexual harassment or discrimination in its programs.

Compliance procedures are contained in compliance handbooks and information kept in the Dean's Office.

An annual Equity in Athletics Report will be submitted to the Department of Education by the Superintendent/President, which provides information on the District's intercollegiate athletics program.

Also see BP/AR 4300 Field Trips and Excursions.

Sample 3 from another District:

The District shall maintain an organized program for men and women in intercollegiate athletics and shall not discriminate on the basis of gender in the availability of athletic opportunities. The District will provide services for student athletes that are provided to all students.

The District shall comply with the California Community College Athletic Association Constitution and Bylaws, and Sport Championship Handbooks, which govern the administration of California community college intercollegiate athletics.

The District is a member of the ----- Conference. As a member, the colleges will comply with the Constitution, Bylaws, and Rules of the ----- Conference.

The Director of Athletics has been delegated authority to determine individual eligibility in accordance with the CCCAA, the Conference, and the District rules. This determination is done in conjunction with the Eligibility Clerk, the Academic Advisor for Athletes, and the Vice President of Student Services.

The Director of Athletics and the Vice President of Students Services will assume the responsibility for enforcement of the board policies and administrative procedures. General direction and administration of the athletic program, within the established policies and procedures, is the responsibility of the Director of Athletics. Individual team coaches are directly responsible to the Director of Athletics for governance of their teams and enforcement of established policies.

All rules governing athletic eligibility of the CCCAA, Conference, and the District are applicable and in addition:

1. The District does not discriminate on the basis of gender in the availability of athletic opportunities and complies with state and federal Title IX laws pertaining to equitable opportunities for men and women.
2. Each student athlete must have completed both the District and the conference eligibility procedures before becoming eligible for any contest, game, meet, match, or scrimmage.
3. Each student athlete must complete a physical by a medical doctor before becoming eligible for any contest, game, meet, match, or scrimmage.

The Director of Athletics, with the consent of the Vice President of Student Services, and/or the College President shall establish certain special training rules applicable to all members of the athletic teams. Among these rules is a ban on all alcohol and drugs. This ban includes the passing of random drug screenings. Failure to do so may lead to suspension or expulsion from the team for any team member not in compliance. In addition to the eligibility requirements as set forth by the CCCAA, student athletes at the College must adhere to the Standards of Student Conduct (AR 5500

Standards of Student Conduct). Failure to do so may lead to suspension or expulsion from the team for any team member not in compliance.

(NOTE: Also see sample language from other Districts included in the notebook)

References:

Education Code Sections 66271.6, 66271.8, 67360 et seq., and 78223;
Title IX, Education Amendments of 1972;
ACCJC Accreditation Standard II.C.4

NOTE: The **red ink** signifies language that is **legally advised** and recommended by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). This regulation reflects updates/revisions from the Policy & Procedure Service in February 2004, February 2007, June 2013, and April 2015. The language in **blue ink** is included for consideration. The language in **yellow highlighting** is included to draw the reviewers’ attention, and this language will be removed upon final approval.

Approved:

(This is a new regulation)

AR 5800 PREVENTION OF IDENTITY THEFT IN STUDENT FINANCIAL TRANSACTIONS
(adopted 2008) New AR to SMC

NOTE: The language in red ink is legally required.

I. The Purpose of the Identity Theft Prevention Program

The purpose of this Identity Theft Prevention Program (ITPP) is to control reasonably foreseeable risks to students from identity theft, by providing for the identification, detection, and response to patterns, practices, or specific activities (“Red Flags”) that could indicate identity theft.

II. Definitions

“Identity theft” is a fraud attempted or committed using identifying information of another person without authority.

A “creditor” includes government entities who defer payment for goods (for example, payment plans for bookstore accounts or parking tickets), issued loans or issued student debit cards. Government entities that defer payment for services provided are not considered creditors for purposes of this ITPP.

“Deferring payments” refers to postponing payments to a future date and/or installment payments on fines or costs.

A “covered account” includes one that involves multiple payments or transactions.

“Person” means any individual who is receiving goods, receives a loan, and/or is issued a debit card from the District and is making payments on a deferred basis for said goods, loan, and/or debit card.

Detection or discovery of a “Red Flag” implicates the need to take action under this ITPP to help prevent, detect, and correct identity theft.

III. Detecting “Red Flags” For Potential Identity Theft

A. Risk Factors for Identifying “Red Flags”

The District will consider the following factors in identifying relevant “Red Flags:”

- 1) the types of covered accounts the District offers or maintains;
- 2) the methods the District provides to open the District’s covered accounts;
- 3) the methods the District provides to access the District’s covered accounts; and
- 4) the District’s previous experience(s) with identity theft.

B. Sources of “Red Flags”

The District will continue to incorporate relevant “Red Flags” into this ITPP from the following sources:

- 1) incidents of identity theft that the District has experienced;
- 2) methods of identity theft that the District identifies that reflects changes in identity theft risks; and
- 3) guidance from the District’s supervisors who identify changes in identity theft risks.

C. Categories of “Red Flags”

The following Red Flags have been identified for the District’s covered accounts:

Alerts, Notifications, or Warnings from a Consumer Reporting Agency:

- 1) A fraud or active duty alert is included with a consumer report the District receives as part of a background check.
- 2) A consumer reporting agency provides a notice of credit freeze in response to a request for a consumer report.
- 3) A consumer reporting agency provides a notice of address discrepancy. An address discrepancy occurs when an address provided by a student substantially differs from the one the credit reporting agency has on file. See Section (V)(9) for specific steps that must be taken to address this situation.
- 4) A consumer report indicates a pattern of activity that is inconsistent with the history and usual pattern of activity of an applicant, such as:
 - (a) A recent and significant increase in the volume of inquiries;
 - (b) An unusual number of recently established credit relationships;
 - (c) A material change in the use of credit, especially with respect to recently established credit relationships; or

(d) An account that was closed for cause or identified for abuse of account privileges by a creditor or financial institution.

Suspicious Documents:

- 5) Documents provided for identification appear to have been forged or altered.
- 6) The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification.
- 7) Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.
- 8) Other information on the identification is not consistent with readily accessible information that is on file with the District, such as a signature card or a recent check.
- 9) An application appears to have been altered or forged, or gives the appearance of having been destroyed or reassembled.

Suspicious Personally Identifying Information:

- 10) Personal identifying information provided is inconsistent when compared against external information sources used by the District.

For example:

(a) The address does not match any address in the consumer report; or

(b) The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.

- 11) Personal identifying information provided by a person is not consistent with other personal identifying information provided by the person. For example, there is a lack of correlation between the SSN range and date of birth.
- 12) Personal identifying information is associated with known fraudulent activity as indicated by internal or third-party sources used by the District. For example:
 - (a) The address on an application is the same as the address provided on a fraudulent application;
 - (b) The phone number on an application is the same as the phone number provided on a fraudulent application;
- 13) Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the District. For example:
 - (a) The address on an application is fictitious, a mail drop, or a prison; or
 - (b) The phone number is invalid, or is associated with a pager or answering service.
- 14) The SSN provided is the same as that submitted by other persons currently being served by the District.
- 15) The address or telephone number provided is the same or similar to the account number or telephone number submitted by an unusually large number of other persons being served by the District.
- 16) The person opening the covered account fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

- 17) Personal identifying information provided is not consistent with personal identifying information that is on file with the District.
- 18) The person opening the covered account cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

Unusual Use Of – Or Suspicious Activity Relating To – A Covered Account:

- 19) A new covered account is used in a manner that is commonly associated with known patterns of fraud patterns. For example, a person makes a first payment, but there are no subsequent payments made.
- 20) A covered account is used in a manner that is not consistent with established patterns of activity on the account. For example, there is:
 - (a) Nonpayment when there is no history of late or missed payments; or
 - (b) A material change in electronic fund transfer patterns in connection with a payment.
- 21) A covered account that has been inactive for a reasonably lengthy period of time is suddenly used or active.
- 22) Mail sent to the person holding the covered account is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the person's covered account.
- 23) The District is notified that the person is not receiving paper account statements.
- 24) The District is notified of unauthorized transactions in connection with a person's covered account.

Notices from Customers/Persons, Victims of Identity Theft, Law Enforcement Authorities, or Other Businesses About Possible Identity Theft in Connection with Covered Accounts:

- 25) The District is notified by a person with a covered account, a victim of identity theft, a law enforcement authority, or any other person, that it has opened a fraudulent account for a person engaged in identity theft.

IV. Measures to Detect "Red Flags"

The District shall do the following to aid in the detection of "Red Flags:"

- 1) When a new covered account is open, the District shall obtain identifying information about, and information verifying the identity of, the student or other person seeking to open a covered account. Two forms of identification shall be obtained (at least one of which must be a photo identification).

The following are examples of the types of valid identification that a person may provide to verify the identity of the person seeking to open the covered account: valid state-issued driver's license, valid state-issued identification card, current passport, a Social Security Card, current residential lease, or copy of a deed to the person's home or invoice/statement for property taxes.

- 2) Persons with covered accounts who request a change in their personal information on file, such as a change of address, will have the requested changes verified by the District.

The person shall provide at least one written form of verification reflecting the requested changes to the personal information. For example, if an address change is requested, then documentation evidencing the new address shall be obtained. If a phone number change is requested, then documentation evidencing the new phone number, such as a phone bill, shall be obtained.

V. Preventing and Mitigating Identity Theft

One or more of the following measures, as deemed appropriate under the particular circumstances, shall be implemented to respond to “Red Flags” that are detected:

- 1) Monitor the covered account for evidence of identity theft;
- 2) Contact the person who holds the covered account;
- 3) Change any passwords, security codes, or other security devices that permit access to a covered account;
- 4) Reopen the covered account with a new account number;
- 5) Not open a new covered account for the person;
- 6) Close an existing covered account;
- 7) Not attempt to collect on a covered account or not sell a covered account to a debt collector;
- 8) Notifying law enforcement;
- 9) Where a consumer reporting agency provides an address for a consumer that substantially differs from the address that the consumer provided, the District shall take the necessary steps to for a reasonable belief that the District knows the identity of the person for whom the District obtained a credit report, and reconcile the address of the consumer with the credit reporting agency, if the District establishes a continuing relationship with the consumer , and regularly, and in the course of business, provides information to the credit reporting agency; or
- 10) Determine that no response is warranted under the particular circumstances.

VI. Updating the ITPP

The District shall update this ITPP on an annual basis to reflect changes in risks to persons with covered accounts, and/or to reflect changes in risks to the safety and soundness of the District from identity theft, based on the following factors:

- 1) The experiences of the District with identity theft;
- 2) Changes in methods of identity theft;
- 3) Changes in methods to detect, prevent and mitigate identity theft;
- 4) Changes in the types of covered accounts that the District maintains;
- 5) Changes in the business arrangements of the District, including service provider arrangements.

VII. Methods for Administering the ITPP

A. Oversight of the ITPP

Oversight by the District's [designate position] shall include:

- 1) Assigning specific responsibility for the ITPP's implementation;

- 2) Reviewing reports prepared by the staff regarding compliance of the ITPP; and
- 3) Approving material changes to the ITPP as necessary to address changing identity theft risks.

B. Reports

- 1) **In General:** Staff responsible for the development, implementation, and administration of this ITPP shall report to the Governing Board on an annual basis.
- 2) **Contents of Report:** The report shall address material matters to the ITPP and evaluate the following issues: the effectiveness of the policies and procedures in addressing the risk of identity theft in connection with opening new covered accounts and with respect to existing covered accounts; service provider arrangements; significant incidents involving identity theft and management's response; and recommendations for material changes to the ITPP.
- 3) **Oversight of Service Provider Arrangements:** Whenever the District engages a service provider to perform an activity in connection with one or more covered accounts the District shall take steps to ensure that the activity of the service provider is conducted in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft. To that end, the District shall require our service contractors, by contract, to have policies and procedures to detect relevant "Red Flags" that may arise in the performance of the service provider's activities, and either report the "Red Flags" to the District, or to take appropriate steps to prevent or mitigate identity theft.

Reference:

15 U.S. Code Section 1681m(e) (Fair and Accurate Credit Transactions Act (FACT ACT or FACTA))

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). This regulation was issued in September 2008 by the Policy & Procedure Service and revised in February 2011. The language in **yellow highlighting** is included to draw the reviewers' attention, and this language will be removed upon final approval.

Approved:

(This is a new regulation)

**AP 4500 Student News Media (adopted 2000)
New AR to SMC**

NOTE: The following procedure applies if the college has news media programs. These procedures are **optional**, but are **legally advised**. Districts should adapt the language to accurately describe their programs.

Philosophy

College news media are any news/feature publications issued under the name of the college, funded by the District, and produced by students as an integral part of instruction in **insert name of relevant discipline or program**. It may include, but is not limited to, student newspaper reporting, broadcast news journalism and internet news journalism. The term "editorial" refers to all content other than advertising.

College news media, as laboratory publications of the **insert name of relevant discipline or program** curriculum, shall provide vehicles to train students for careers in mass communication. College news media shall also serve the entire college community by reporting the news, including college events and activities, providing a forum for comment and criticism, and encouraging free expression as guaranteed in the First Amendment to the Constitution of the United States.

College news media are valuable aids in establishing and maintaining an atmosphere of free and responsible discussion. College news media shall exercise editorial freedom in order to maintain their integrity as vehicles for free inquiry and free expression in the college community. At the same time, the editorial freedom of the college news media shall entail corollary responsibilities.

Each college newspaper or other news medium is published as a learning experience, offered under the **insert name of relevant discipline or program**. The editorial and advertising materials published in each news medium, including any opinions expressed, are the responsibility of the student staff. An editorial board should be formed for the news media involved. Under appropriate state and federal court decisions, these materials are free from prior restraint by virtue of the First Amendment to the United States Constitution. These procedures are adopted so as to encourage a responsible exercise of such freedom.

NOTE: *Colleges are legally advised to establish grievance procedures that provide an avenue for complaints about news media content. They should include or address:*

Journalism Grievance Procedures

Definition of a Grievance – A grievance is a complaint that alleges facts which, if true, would demonstrate a violation of the grievant's right to free inquiry, free speech, or fair treatment; contains allegations that appear to be substantially credible; and is not frivolous.

Informal Grievance Proceedings – Describe a procedure that includes a written complaint to those with direct responsibility for the program and their responsibilities to respond in a timely manner.

Formal Grievance Proceedings – More formal grievance procedures may include a grievance hearing committee and appeal to the **CEO or designee** in a timely fashion. The procedures should include how grievance hearings should be conducted, access to and maintenance of related records, and the responsibility of the authorities to respond to the grievance in a timely fashion.

Reference:

Education Code Section 66301

Revised 10/20

AR 5013 STUDENTS IN THE MILITARY
NEW AR# FOR SMC, AR TO HAVE ITS OWN NUMBER (SECTION)

NOTE: *This regulation is optional. The following language may also be placed in other administrative regulations as appropriate, e.g., residence determination and grading and drop/add procedures.*

Residence Determinations for Military Personnel and Dependents

A student who is a member of the armed forces of the United States stationed in California on active duty, except a member of the armed forces assigned for educational purposes to a state-supported institution of higher education, is entitled to resident classification. Such student shall retain resident classification in the event that the member of the armed forces is thereafter transferred on military orders to a place outside of California or thereafter retires from active duty, so long as the student remains continuously enrolled in the District.

An undergraduate student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification. Such student shall retain resident classification if he/she is thereafter transferred on military orders to a place outside of California, so long as the student remains continuously enrolled in the District.

A veteran who was discharged or released from at least 90 days of active service less than three years before the date of enrollment in a course commencing on or after July 1, 2015, and his/her dependents, regardless of the veteran's state of residence is entitled to resident classification.

An individual who is the child or spouse of a person who, on or after September 11, 2001, died in the line of duty while serving on active duty as a member of the Armed Forces who resides in California and enrolls in the community college 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 is entitled to resident classification.

A parent who is a federal civil service employee and his/her natural or adopted dependent children are entitled to resident classification if the parent has moved to this state as a result of a military mission realignment action that involves the relocation of at least 100 employees. This classification shall continue until the student is entitled to be classified as a resident, so long as the student continuously attends an institution of public higher education.

A student claiming the residence classifications provided for in this procedure must provide a statement from the student's commanding officer or personnel officer providing evidence of the date of the assignment to California, and that the assignment to active duty in California is not for educational purposes. A student claiming the residence classifications provided for here for the dependent of military personnel shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date, or has been transferred outside of California on active duty after the residence determination date, or that the military person has retired from active duty after the residence determination date. (Title 5 Sections 54041 and 54042)

Withdrawal Policies for Members of the Military

A student who is a member of an active or reserve United States military service and who receives orders compelling a withdrawal from courses shall be permitted to withdraw upon verification of such orders. A withdrawal symbol may be assigned which may be a “W” or a “MW.” Military withdrawal shall not be counted in progress probation, dismissal calculations, or in calculating the permitted number of withdrawals. In no case may a military withdrawal result in a student being assigned an “FW” grade. In no case may a college require a student who is required to report for military duty to withdraw from a course by a specified date in order to receive a full refund of the tuition and fees the student paid to the college for the academic term in which the student was required to report for military service.

Districts may reference or include local administrative procedures regarding how such a student would withdraw.

References:

Education Code Sections 68074, 68075, 68075.5, and 68075.7;
Title 5 Sections 55023, 55024, 54041, 54042, 54050, and 58620
Military and Veterans Code Section 824;
38 U.S. Code Section 3679

NOTE: The **red ink** signifies language that is **suggested as good practice/optional** from the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). This regulation reflects updates/revisions from the Policy & Procedure Service in August 2006, August 2007, July 2011, March 2012, November 2014, and October 2015. The language in **yellow highlighting** is included to draw the reviewers’ attention, and this language will be removed upon final approval.

Approved:

(This is a new regulation)

AR 4110 AWARDING OF HONORARY DEGREES (ADOPTED 2000) **New AR to SMC**

NOTE: This administrative regulation is **optional** and applies only if the Board of Trustees has adopted a policy that allows for honorary degrees. Local practice may be inserted here.

NOTE: The following language in **blue ink** is included for consideration.

Sample 1 from another District:

Honorary Degree Nominations and Selection:

Nominations for recipients of honorary degrees must be submitted in writing to the College President by February 1st for consideration for the May graduation ceremony.

1. The written statement must adhere to the criteria for awarding honorary degrees and include:
 - a. Name and contact information of person making nomination
 - b. Name of nominee
 - c. Clear explanation of why the individual should be awarded an honorary degree
2. The College President shall meet with the College Vice Presidents and the President of the Academic Senate for review, validation of merits, and final recommendation.
 - a. Further documentation may be requested of the person making the nomination as deemed necessary.
 - b. The Superintendent/President will forward the name(s) of the successful candidate(s) for recommendation to the Board of Trustees.
 - c. Approved honorary degrees shall specify “Honorary” on the diploma.

Sample 2 from another District:

Honorary degrees may be awarded to citizens on such occasions as graduation and other awards ceremonies. The degree awarded shall be an Associate in Arts or Associate in Science degree as appropriate. Recipients must have distinguished themselves in education, community or national service, or in their profession. Their service must also support the mission, values, and objectives of the college.

Recommendations for an honorary degree shall be submitted to the President of the College. Recommendations shall include:

- Name of recipient;
- Educational and professional experience;
- Record of distinguished service that justifies awarding of an honorary degree; and
- Occasion at which degree is to be awarded.

The Superintendent/President shall review and submit the award request to the Board of Trustees for final approval.

Sample 3 from another District:

The District currently does not issue Honorary Degrees.

(NOTE: Also see sample language from other Districts included in the notebook)

References:

Education Code Sections 70902 and 72122

NOTE: The **red ink** signifies language that is **suggested as good practice/optional** by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). The language in **blue ink** is included for consideration. The language in **yellow highlighting** is included to draw the reviewers' attention, and this language will be removed upon final approval.

Approved:

(This is a new regulation)

AR 4070 COURSE AUDITING AND AUDITING FEES

❖ From current SMC AR 4111.1 Auditing of Courses

The auditing of courses is not permitted at Santa Monica College.

❖ From current SMC AR 5340 Auditing of Classes

It is the responsibility of the instructor to check the class roster to ensure that all students in the classroom are officially enrolled in the class. Students are not permitted to "informally audit" a class.

Reference:

Education Code Section 76370

NOTE: The **red ink** signifies language that is **legally advised** and recommended by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). The Policy & Procedure Service provided a legal update to this regulation in October 2015. The language in **black ink** is from current SMC AR 4111.1 Auditing of Courses dated December 11, 2001 and AR 5340 Auditing of Classes dated October 2002. The language in **yellow highlighting** (above in this regulation) is included to draw the reviewers' attention and will be removed upon final approval.

Approved: December 11, 2001 (for AR 4111.1) and October 2002 (for AR 5340)

(Replaces AR 4111.1 and AR 5340)

Revised:

Education Code Section 76370

76370. The governing board of a community college district may authorize a person to audit a community college course and may charge that person a fee pursuant to this section.

(a) If a fee for auditing is charged, it shall not exceed fifteen dollars (\$15) per unit per semester.

The governing board shall proportionately adjust the amount of the fee for term lengths based upon a quarter system or other alternative system approved pursuant to regulations of the board of governors, and shall also proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses.

In making these adjustments, the governing board may round the per unit fee and the per term or per session fee to the nearest dollar.

(b) Students enrolled in classes to receive credit for 10 or more semester credit units shall not be charged a fee to audit three or fewer semester units per semester.

(c) No student auditing a course shall be permitted to change his or her enrollment in that course to receive credit for the course.

(d) Priority in class enrollment shall be given to students desiring to take the course for credit towards a degree or certificate.

(e) Classroom attendance of students auditing a course shall not be included in computing the apportionment due a community college district.