

# RESIDENCY REQUIREMENTS

## General Guidelines

The California Education Code states that all public institutions of higher education shall apply uniform rules in determining a student's residency classification. Each student applying for admission to Southwestern College will be classified as a resident or nonresident of California in accordance with the Education Code. Each student shall provide information to demonstrate clearly physical presence in California and intent to establish California residence. The day immediately preceding the first day of instruction for the semester shall be the residency determination date for the fall, spring, and summer semesters.

## Residency Categories

Applicants for admission to Southwestern College shall be classified under one of the two categories listed below.

### • Resident

A student who has been physically present in the state for more than one year immediately preceding the residence determination date (one year and one day), and has demonstrated an intent to make California a permanent home.

### • Nonresident

A student who does not have residence in the state for more than one year immediately preceding the residence determination date.

### • AB 540 Students

On October 12, 2001, Governor Davis signed into law Assembly Bill 540, which adds a new section to the California Education Code. The exemption was expanded in 2012, 2014, and 2018. It creates an exemption from payment of nonresident tuition for certain nonresident students who have attended school in California and received a high school diploma or its equivalent. This law provides an exemption from paying non-resident fees. However, it does not give the student resident classification status. Students who receive this exemption may also be eligible for some state-funded programs (EOPS, CCPG, CalGrant). For more information contact Admissions at (619) 421-6700, ext. 5215 or 5216, or at [swccd.edu/admissions](https://www.swccd.edu/admissions) (<https://www.swccd.edu/admissions-and-financial-aid/>).

## Establishing Residency

In order to be eligible to establish residency, a student must be a citizen of the United States, a permanent resident or approved applicant for permanent residency, or on a visa status that does not preclude the student from establishing domicile in the United States. In order to establish residence, it is necessary that there be a union of act and intent. The act necessary to establish legal residency is physical presence in California. While intent may be subjective, there are many possible indications of one's intent to maintain legal residency in California. 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. The burden is on the student to demonstrate clearly both physical presence in California and the intent to establish California residence.

## Residency Determination of Student

The following items are pertinent to community colleges and are quoted from specific sections of the Education Code:

### Legal Requirement

California state law requires that each student enrolled in or applying for admission to a California community college provide such information and evidence as deemed necessary by the Governing Board of the Southwestern Community College District to determine his/her residency classification.

### Statutes

The statutes regarding residency determination are found in Sections 68000–68090 and 76140 of the Education Code, Sections 54000–54082 of the California Administrative Code, and Regulations of the Southwestern Community College District. These regulations are available in Admissions and are subject to the interpretation of the College.

### Online Class Restrictions

In accordance with federal regulations, Southwestern College may not permit students residing outside of California to enroll in online classes.

### Rules of Residency

Adults over 19 years of age (i.e., over 18 years old as of one year before the residency determination date) and married minors may establish California residency. A California resident, for purposes of postsecondary education, is defined as a person who has not only lived in the state for a minimum of one year prior to the residency determination date for the semester or summer session to which the student is applying but can also verify clear intent to become a permanent resident of the state. (The residency determination date is the day immediately preceding the first day of instruction for the semester).

**NOTE:** It must be understood that no one factor is controlling and the burden of proof to establish residency is upon the student.

One item from each area is needed to prove residency.

#### a. Physical Presence

- Rental / lease agreement
- Utility bills
- Employment paystubs
- Establishing and maintaining active California bank accounts

#### 2. Intent

- Paying California state income tax as a resident
- Registering to vote and voting in California
- Possessing valid California driver license and/or ID card
- Possessing California resident motor vehicle license plates and registration
- Maintaining California as legal state of residency on Leave and Earnings Statement (LES) while in the armed forces for one year prior to enrollment
- Registering for Selective Service in California
- Obtaining license from California for professional practice
- Other forms of documentation as may be required on a case-by-case basis

## Conduct Inconsistent with a Claim for California Residence

Conduct inconsistent with a claim of California residency includes, but is not limited to:

- Maintaining voter registration in another state.
- Being a petitioner for a divorce in another state.
- Attending an out-of-state institution as a resident of that state.
- Declaring oneself to be a nonresident for state income tax purposes.
- Retaining a driver's license and/or keeping a vehicle registered in another state during the time period for which California residency is claimed.
- Paying as a resident state income tax in another state.
- Having an alien status which is precluded by the Immigration and Nationality Act from establishing a residence in the United States.

For a listing of precluded visas or statuses, contact any Southwestern College Admissions Office or visit [www.swccd.edu/residency](http://www.swccd.edu/residency) (<https://www.swccd.edu/admissions-and-financial-aid/residency-requirements/>).

## Rules of Residency, Married Minors

A married student under 18 years of age may establish residency in the same manner as an adult.

## Rules of Residency, Unmarried Minors

These conditions apply unless the minor is precluded by the Immigration and Nationality Act from establishing residency in the United States:

An unmarried student under 18 years of age derives residency from the parent with whom he or she is residing. If the student lives with neither parent, residency is derived from the parent with whom he or she last lived. The student may be classified as a resident if the parent has been a legal resident of California for more than one year immediately proceeding the semester of admission. For more information, please contact Admissions (<https://www.swccd.edu/admissions-and-financial-aid/>).

## Other Residency Options

A student is also entitled to residency classification under the following circumstances:

- Student is over 19 years of age and has resided in California as a permanent resident more than one year prior to the semester of admission.
- Student is under 19 years of age and has resided with parent(s) as permanent resident(s) more than one year prior to the semester of admission.
- Student is a full-time employee of a public school district in a position requiring certification.
- Student is an apprentice as defined in Section 3077 of the Labor Code and enrolling in apprentice or related classes only.
- Student has earned livelihood primarily by performing agricultural labor for hire in California for at least two months per year in each of the two years preceding the semester of admission.
- Student has lived with parent(s) who is/are agricultural laborer(s) as specified above and is claimed as a tax dependent.
- Minor student has been under continuous care and control of adult(s), not a parent, for more than two years prior to the semester of admission. Such adult(s) must have been a California resident during

the most recent year and claim student as dependent on previous two years of state taxes.

- Student is active military stationed in California for other than purely educational purposes.
- A student is entitled to resident classification for the minimum time necessary to become a resident if the following circumstances apply:
  - Minor student in continuous full-time attendance, whose parents had established California residency (one year) and left the state, may be classified as a resident until he/she has attained the age of 18 and can achieve residency on his/her own.
  - Student is a dependent natural or adopted child, stepchild, or spouse of active military service person stationed in California for other than purely educational purposes.
  - Student is a full-time contract/regular employee of the Southwestern Community College District.
  - Student is an adult who has not been a resident for one year and is a dependent child of a California resident.
  - Student is a member of the armed forces who was discharged in any state and is eligible to use the GI BILL®.
  - Student is a member of the armed forces who was honorably discharged in California within 2 years of the residency determination date.
  - Student is entitled to Vocational Rehabilitation and Employment (VR&E) under chapter 31.

(BP & AP 5015 Residence Determination)

## Nonresident Student

A student classified as a nonresident will be required to pay tuition as a condition of and at the time of enrollment in an amount set forth by the Board of Trustees of the Southwestern Community College District. Information regarding tuition fees and refunds is found in the fee section of this catalog (<http://catalog.swccd.edu/student-success-support-program/steps-success-applying-registering/step-pay-fees-request-funds/>). (BP & AP 5020 Non-Resident Tuition)

## Nonresident Fee Exemption (AB 540/SB 68)

Effective January 1, 2002, a new law (AB 540/SB 68) went into effect in the State of California providing an exemption from paying nonresident fees for certain nonresident students. While this exemption allows students to pay resident fees, it does not grant them resident status. To be eligible for this exemption a student must meet *all* the following criteria:

- The student must have:
  - attended a combination of California high school, adult school, and California Community College for the equivalent of three years or more, or
  - 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 combination of elementary, middle, and/or high schools in California for a total of three or more years, and
- The student must have:
  - graduated from a California high school or attained the equivalent prior to the start of the term, or
  - completed an associate degree from a California Community College, or

- completed the minimum requirements at a California Community College for transfer to the California State University or the University of California, and
- The student must file an affidavit with the college or university stating that if the student is a non-citizen without current or valid immigration status, the student has filed an application to legalize immigration status, or will file an application as soon as the student is eligible to do so.

excluded. All debts incurred as a result of falsification must be paid prior to readmission.

For more information on this fee exemption, contact Admissions and Records in person, by virtual chat at [swccd.edu/admissions](https://swccd.edu/admissions) (<https://swccd.craniumcafe.com/group/admissions-and-records-residency/lobby/>), email at [admissions@swccd.edu](mailto:admissions@swccd.edu), or calling (619) 421-6700, ext. 5215 or 5216.

## **Incorrect Classification**

A student incorrectly classified as a California resident is subject to reclassification as a nonresident and to payment of nonresident tuition. If incorrect classification results from false or misleading facts, a student may be subject to disciplinary action.

## **Reclassification**

Reclassification to resident status must be requested by any continuing student. Financial independence during the current year and preceding two years will be considered at the time the student requests reclassification. Information regarding requirements for reclassification is available in Admissions located in the Cesar E. Chavez Student Services Building or online at [swccd.edu/residency](https://www.swccd.edu/admissions-and-financial-aid/residency-requirements/) (<https://www.swccd.edu/admissions-and-financial-aid/residency-requirements/>).

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

## **Limitation of Residency Rules**

The student is cautioned that this summation of rules regarding residency determination is by no means a complete explanation of their meaning. For further information, contact the residency clerk in Admissions (<https://www.swccd.edu/admissions-and-financial-aid/residency-requirements/>). The student should also note that changes might have been made in the statutes and in the regulations between the time this statement is published and the beginning of the semester.

## **Appeal of Residency**

A student may petition and appeal the residency classification decision within three days to the Dean of Student Services or designee.

The determination will be made based on the statement of legal residency, pertinent information contained in the student's file, and student's appeal. Notification will be sent to the student by email.

## **Admission in Error**

Nonresident students subject to payment of nonresident fees who have been admitted to a class or classes in error without payment of the required fees, shall be excluded from such class or classes upon discovery pending payment of the fees.

## **Admission by Falsification**

Falsification of information submitted on the application for admission will be grounds for exclusion from the College. Students excluded shall not be readmitted during that session or semester from which they were