



**2020 Manual**

# Student Attendance Accounting Manual

California Community Colleges Chancellor's Office | Eloy Ortiz Oakley, Chancellor



# STUDENT ATTENDANCE ACCOUNTING MANUAL

This edition of the Student Attendance Accounting Manual, issued in September 2020, includes format changes to improve referencing to sources of authority, along with updates to various sections reflecting legislative developments affecting student attendance accounting and reporting for the California Community Colleges.

The following are reference material acronyms used throughout this manual:

- SAAM            Student Attendance Accounting Manual
- CCFS-320      Apportionment Attendance Report
- CCFS-321      Apprenticeship Attendance Report
- T5 #####     Title 5 (California Code of Regulations) Section #####
- EC #####     Education Code Section #####
- GC #####     Government Code Section #####
- LC #####     Labor Code Section #####
- PC #####     Penal Code Section #####
- FY - ##        Legal Opinions and Advisories (Fiscal Year – Number)

## INTRODUCTION

The Student Attendance Accounting Manual is published in accordance with Education Code provisions, including Sections 66700, 68044, 70901 and 78401, and is distributed as part of the California Community Colleges Board of Governors' responsibility to administer state support programs, including prescribing minimum conditions entitling community college districts to receive state aid for support of community colleges.

In line with Section 58003.4 of Title 5 of the California Code of Regulations, the purpose of the Student Attendance Accounting Manual (SAAM) is to clarify provisions of Title 5, the Education Code, and other statutes in the area of attendance accounting and reporting for apportionment purposes, including those relating to student residence classification and academic calendars.

The guidelines, rules, and instructions in this manual do not restate all the provisions. For a full understanding of the legal requirements, these guidelines must be read in conjunction with applicable regulations or statutes themselves, as well as local district policies. In the event of a conflict between the material in this manual and applicable regulations or statutes, the regulations or statutes will prevail. However, please immediately bring any suspected conflict to the attention of the Chancellor's Office, describing the suspected conflict in detail, prior to acting in a manner that is inconsistent with these guidelines.



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# CHAPTER 1 GENERAL REQUIREMENTS

## ACADEMIC CALENDAR

### College (Fiscal) Year

The college (fiscal) year for California community colleges begins on July 1 of each calendar year and ends on June 30 of the following calendar year.

*Reference: T5 55701*

### Academic Year – The 175 Day Rule

The academic year is the portion of the college year during which the regular (day) college is maintained for not less than 175 days of instruction and/or evaluation in order to qualify for full apportionment from the State School Fund. The academic year does not include summer or other intersessions. The academic calendar must include at least 32 weeks of instruction (inclusive of days of final examination) during the primary terms of the academic year. A district may not adopt an academic calendar that would result in fewer hours of instruction per unit of credit awarded than required by California Code of Regulations, Title 5, Section 55002.5 (Credit Hour).

*Reference: T5 557012, T5 58120, T5 55002.5*

### Regular (Day) College

All programs and courses of credit or noncredit instruction offered by a community college regardless of time of day offered. Programs and courses offered by an “evening” or “adult” college may be separately established by the district governing board pursuant to Education Code, Sections 78401 and 78402.

*Reference: EC 8500, EC 78401, EC 78402*

### Traditional Calendar

Until November 14, 1996, when the Board of Governors approved a change in Title 5, Section 58120, all districts operated with a “traditional” calendar with two semesters averaging 17.5 weeks each or 3 quarters averaging 11 2/3 weeks each, comprising the traditional 35-week academic year for the California Community Colleges. Only three colleges are currently on the quarter system.

### Compressed Calendar

Title 5, Section 58120, as modified in 1996, permits districts to count any day that includes at least three hours of courses of instruction, including Saturday and Sunday, towards the 175-Day Rule. As a result, primary terms can be shorter than the average of 17.5 weeks since more days can now be counted towards the 175-Day Rule.

Districts that have received Chancellor’s Office approval to shorten, or compress, their primary terms have transitioned from the 35-week academic year to a 32-week academic year, or two 16-week primary terms. In all cases, a commitment was made to retain the integrity of the “credit hour” (that the student would continue to receive the specified number of hours of instruction previously provided under the traditional 35-week academic year).

Important information concerning course scheduling and related topics for districts with a compressed calendar is contained in the [Addendum Concerning Academic Calendars, Course Scheduling, and Related Topics](#).

*Reference:* T5 55700-55702

## **Flexible Calendar**

A community college district governing board may offer, subject to the approval of the Chancellor's Office and in accordance with rules and regulations adopted by the Board of Governors, courses under a flexible calendar. The sum of the days in the academic year of a district operating pursuant to a flexible calendar shall be at least 175 days, and at least 160 of these days must meet or exceed the standards for counting a day prescribed by the Board of Governors pursuant to California Code of Regulations, Title 5, Sections 58120 and 58142.

Districts may designate any time during the fiscal year an amount of flexible time for an instructor. Not more than 8.57% of an instructor's contractual obligation for hours of apportionment eligible classroom instruction in the academic year, exclusive of any intersessions, may be designated by a district to conduct staff, student, and instructional improvement activities (the actual maximum percent of "flex" release will correspond to the number of approved flex days of particular college). The time designated for these activities shall be known as flexible time. (For Flexible Calendar Operations, - including related reporting guidance for the Apportionment Attendance Report-CCFS-320, see Chapters 3 and 4).

Important information concerning course scheduling and related topics for districts with a flexible calendar is contained in the [Addendum Concerning Academic Calendars, Course Scheduling, and Related Topics](#).

*Reference:* EC 84890 ; T5 55720-55732, T5 58120, T5 58142

## **Semester**

Common usage has designated a semester as being a period of instruction and examination one-half of the required 175 days of instruction for an academic year.

## **Quarter**

Common usage has designated the quarter as being a period of instruction and examination one-third of the required 175 days of instruction for an academic year.

## **Primary Term**

The governing board of each community college district shall establish, for each of its colleges, a single primary term length of not less than ten weeks. Primary terms are semesters or quarters only.

Credit courses scheduled coterminously with the primary term are those courses scheduled to meet each week of the primary term (including weeks with varying final examination scheduling and legal holidays)

*Reference:* EC 79020; T5 58003.1 (b), T5 58004



## Intersessions

A community college district may maintain intersessions (including summer or winter intersessions) in accordance with rules and regulations adopted by Board of Governors.

*Reference: T5 55701, T5 55702*

## Change in Academic Year Terms

Prior to any change in academic year configuration, including the addition, deletion, shortening or lengthening of any primary term, the district governing board shall request and obtain approval of the Chancellor's Office.

*Reference: T5 55702*

## Census Week

The census week (Weekly Student Contact Hour Procedure) is the week nearest one-fifth of the number of weeks in the primary term and applies only to credit courses scheduled regularly with respect to the number of hours the course meets in each scheduled week, and scheduled coterminously with the college's primary term. This also applies to Alternative Attendance Accounting Procedure-Weekly Census courses (including those delivered by distance education) for the purpose of identifying the census week of such courses scheduled coterminously with the primary term.

To identify the census week, multiply the number of weeks the courses are scheduled to meet by 0.2 (using standard rounding rule), with the exception that regardless of the primary term length (not less than 10 weeks), the census date may not be earlier than Monday of the third week. The calculation based on this administrative decision will result in the census week being the third or fourth week, depending on the number of weeks in the term.

*Reference: T5 58003.1 (b) T5 58004*

To be counted as a week of the primary term in determination of the census week, a week must include at least three days of student instruction or examination (Saturday or Sunday instructional days would likely not be countable towards this requirement). (See Weekly Student Contact Hour (WSCH) Procedure, Chapter 3 for more information.)

*Reference: T5 58004*

## Census Date

For credit courses scheduled coterminously with the primary term, the census date is Monday of census week. If the census date falls on a holiday, the next succeeding instructional day is designated as the census date. (See Weekly Student Contact Hour (WSCH) Procedure, Chapter 3, for more information.)

Instructors are required to clear the rosters of inactive enrollments on the business day immediately preceding the Census Date. See "Drop Date" below.

*Reference: T5 58003.1(b)*

## Census Day (See Daily Student Contact Hour Procedure, Chapter 3.)

The census day concept is applicable only to credit courses scheduled to meet five or more times, and scheduled to meet for the same number of hours on each scheduled day, and not scheduled coterminously with a primary term. This also applies to Alternative Attendance Accounting Procedure-Daily Census courses (including those delivered by distance education) for the purpose of identifying the census day). For Daily Census courses, only those days on which a course is actually scheduled to meet, including the day of the final examination if one is scheduled, are counted for attendance accounting purposes. Holidays are excluded.

Daily Census courses may be scheduled at any time of the college year. Summer or other intersession credit courses of five or more days in length and scheduled regularly (same number of hours each meeting day) are also included in this category.

Census for these courses is taken on the scheduled day of the course that is nearest one-fifth (0.2) of the number of days for which each course is scheduled to meet. This is in contrast to Weekly Census procedure courses for which the Census Date cannot be earlier than the third week.

Instructors are required to clear the rosters of inactive enrollments on the business day immediately preceding the Census Day. See “Drop Date” below.

**Note:** For short-term Daily Census courses where the census would fall on the first day of the course, the enrollment count is to reflect the active enrollments as of the end of the first day, and the census is taken on the second day.

The standard rule for rounding decimal fractions is to be applied as follows:

Examples:

Scheduled Number of Census Day Course Sessions:

20 meetings	x	0.2	=	4.0	Census Date	4th meeting
19 meeting	x	0.2	=	3.8	Census Date	4th meeting
18 meeting	x	0.2	=	3.6	Census Date	4th meeting
17 meeting	x	0.2	=	3.4	Census Date	3rd meeting
16 meeting	x	0.2	=	3.2	Census Date	3rd meeting
15 meeting	x	0.2	=	3.0	Census Date	3rd meeting
14 meeting	x	0.2	=	2.8	Census Date	3rd meeting
13 meeting	x	0.2	=	2.6	Census Date	3rd meeting
12 meeting	x	0.2	=	2.4	Census Date	2nd meeting
11 meeting	x	0.2	=	2.2	Census Date	2nd meeting
10 meeting	x	0.2	=	2.0	Census Date	2nd meeting
9 meeting	x	0.2	=	11.8	Census Date	2nd meeting

8 meeting	x	0.2	=	1.6	Census Date	2nd meeting
7 meeting	x	0.2	=	1.4	Census Date	2nd meeting*
6 meeting	x	0.2	=	1.2	Census Date	2nd meeting*
5 meeting	x	0.2	=	1.0	Census Date	2nd meeting*

\* For courses that meet seven or fewer days, where the census would fall on the first day, reported enrollment is to reflect the active enrollment as of the end of the first day, and the census is taken on the second day.

Holidays do not factor into determining the census date for these courses since they are not scheduled to meet on holidays.

For Alternative Attendance Accounting Procedure-Daily Census courses, the census day is determined by counting all calendar days (including Saturdays and Sundays), except legal holidays, from the starting to ending date of the course and calculating as explained above.

*Reference:* T5 58003.1 (c), (f)(1)

## **Saturday/Sunday**

For apportionment purposes community colleges may count classes conducted on any day of the week including Saturday and Sunday, except on legal holidays. A Saturday or Sunday may be counted toward the “175-Day Rule” only if it is a regular college day with course offerings for a minimum of three hours during the period of between 7 a.m. and 11 p.m. (See “Academic Year – The 175-Day Rule” on Page 1.01.)

*Reference:* EC 79020, T5 58120, T5 58142

## **Drop Date – Attendance Accounting**

The drop date, the date used to clear the rolls of students not actively enrolled for attendance accounting purposes, shall be no later than the end of business of the day immediately preceding the beginning of the Census week Date for weekly census procedure courses, or the day immediately preceding the Census Day in daily census procedure courses.

*Reference:* T5 58004

## **Residence Determination Date**

The day immediately preceding the opening day of instruction of the quarter, semester, or other session as set by the district governing board, during which the student proposes to attend a college. Enrollments in late starting classes within a term are subject to this uniform residence determination date (each term only has one residence determination date). See Chapter 2 for more information.

*Reference:* EC 68023, T5 54002

## Legal Holidays

Throughout this manual, the term “Legal Holidays” refers to the ten mandated holidays and the two optional holiday that are prescribed by Education Code Section 79020.

All colleges must be closed on the following holidays:

January 1	New Year’s Day
Third Monday in January	Dr. Martin Luther King Day
February 12	Lincoln Day
Third Monday in February	Presidents’ Day
Last Monday in May	Memorial Day
July 4,	Independence Day
First Monday in September	Labor Day
November 11	Veterans Day
Fourth Thursday in November	Thanksgiving Day
December 25	Christmas Day

A college MAY also close on March 31, known as “Cesar Chavez Day,” and the fourth Friday in September, known as “Native American Day.”

Generally, if any of these dates falls on a Saturday, the preceding Friday is the holiday; if any falls on Sunday, the succeeding Monday is the holiday.

These days do not count towards the required 175 days of instruction and evaluation. Also, student contact hours generated on these days may not be claimed for state funding.

There may be specific allowances for observance flexibility for Veterans Day or Lincoln Day. Please refer to the Chancellor’s Office memorandum released periodically concerning “Mandated Holidays” for additional observance options. This memorandum is provided to assist districts in establishing future academic calendars.

*Reference: EC 79020*

## Other (Local) Holidays

The district governing board may determine and must declare which other holidays it will observe and on what days it will observe them. Any holiday for which a college is closed cannot count toward the required days of instruction and examination (175-day Rule). Although “Friday after Thanksgiving” is not technically a legal holiday, for attendance accounting and reporting purposes it is treated as having the same standing for these. It has been administratively institutionalized for many years as being an informal extension of the official Thanksgiving holiday. It is the only local holiday that is treated in this manner and as a result districts that observe this local holiday do not have an adverse impact in terms continuing to apply the Weekly Census attendance accounting procedure to affected Friday courses that do not meet on that day (e.g., it would not mean that Friday courses are

no longer regularly scheduled as required for the Weekly Census attendance accounting procedure). Since no other local holidays has this standing or is treated in this manner, it is important for a district to first consult with the Chancellor's Office before a district governing board adopts any other local holiday as there may be negative attendance accounting and reporting ramifications.

For example, if a district approves a local holiday on a Tuesday, all weekly census courses that meet on Tuesdays would no longer be eligible to use the weekly census procedure because this procedure requires that a course meets the same number of hours each week. Instead, the district would have to use the daily census procedure to calculate the FTES for these courses and would therefore not get credit for the legal holidays, which are counted under the weekly census method.

Another example is adopting a local holiday on the Wednesday before Thanksgiving Day. This change has an even bigger impact on attendance accounting and apportionment. First, the district would no longer be able to use the weekly census procedure for any courses that meet on Wednesdays because of the scenario mentioned above. Additionally, this would result in a reduction of the district's term length multiplier (TLM) by one week since a week must have at least three days of instruction in order to be a countable week for the purpose of determining the TLM. If the district previously had a TLM of 17.5 weeks, it would be reduced to 16.5 weeks if it were to declare a holiday on the Wednesday before Thanksgiving. The district would lose credit for an entire week of instruction for all courses utilizing the weekly census procedure. This would result in a significant loss of FTES for the district. The impact of this change is demonstrated below:

Calculation of FTES for Weekly Census/Weekly Student Contact Hour (WSCH) classes:

$$\text{FTES} = [(\text{No. of students actively enrolled at census}) \times (\text{No. of hours per week}) \times \text{TLM}] / 525$$

$$30 \text{ students} \times 3 \text{ hours} \times 17.5 \text{ weeks} = 1575 / 525 = 3.00 \text{ FTES}$$

$$30 \text{ students} \times 3 \text{ hours} \times 16.5 \text{ weeks} = 1485 / 525 = 2.83 \text{ FTES}$$

Still another example of a negative attendance accounting ramification would occur if a district decided to hold day classes on the Wednesday before Thanksgiving but cancel all evening classes on that day. Such a practice would require that every Weekly Census evening class that meets on Wednesdays be changed to Daily Census, with a corresponding decrease in FTES for each such class.

College classes held on high school campuses, whether under a CCAP or non-CCAP agreement, must follow the college calendar with respect to start/end dates and holidays if they are to be scheduled as Weekly Census classes. Differences between college and high school calendars may require classes to be scheduled as Daily Census or Positive Attendance classes.

Another important consideration when deciding whether to adopt a local holiday is the impact on the hours of instruction. Pursuant to Title 5, Section 55002.5, one credit hour of community college work (one unit of credit) requires a minimum of 48 hours of lecture, study, or laboratory work. In considering the implementation of a local holiday, the district must look at the total instructional hours for the course and verify that reducing the hours to allow

for the local holiday would not cause the total hours of instruction to fall below the required threshold to award a unit of credit. It is advised that districts take a prudent approach and maintain a level of instructional hours that is well above the minimum to allow for any unplanned closures due to emergency or unforeseen circumstances.

*Reference:* EC 79020

## ADMISSION AND ENROLLMENT

The Education Code provides that the district governing board shall or may admit certain persons to the college(s) under its jurisdiction. In the following list it is presumed that an appropriate college official, acting within the policy of the district, shall or may admit students in accordance with the following provisions.

The district **shall** admit any California resident, and **may** admit any nonresident, possessing a high school diploma or equivalent, such as a Certificate of Proficiency by the State Board of Education or California High School Equivalency Certificate (GED). (Ed. Code, § 76000)

*Reference:* EC 76000

### 1. Certificate of Proficiency

May be awarded to any person 16 years of age or older who has enrolled in the tenth grade for at least one academic year and passes a proficiency examination established by the Department of Education and shall be the equivalent to the high school diploma.

*Reference:* EC 48412

### 2. California High School Equivalency Certificate (GED)

May be awarded to persons who are at least 18 years of age, or younger as provided in Education Code Section 51420, and have passed a general education development test approved by the Department of Education and shall be deemed equivalent to the high school diploma for purposes of public employment requirements. (Ed. Code, § 51425)

*Reference:* EC 51425, EC 51420

## Provisional Student

The district **may**, by rule, determine whether there shall be admitted, as a provisional student, any other person over the age of 18 who is capable of profiting from the instruction offered.

*Reference:* EC 76000

## Apprentice Student

The district **may** admit any apprentice as defined in Labor Code section 3077 who is capable of profiting from the instruction offered.

## Special Admission Student

Minors (those under 18 years of age) who are California residents and who have received a high school diploma or equivalent (e.g., Certificate of Proficiency from the Board of Education or the California High School Equivalency Certificate) are guaranteed admission to a community college pursuant to Education Code Section 76000. However, minors without high school diplomas or equivalent may be admitted to a community college as special admission students if the statutory requirements governing such admissions are followed. Special admission students may take credit, noncredit, and community service courses at a community college. (Note: students who have reached the “age of majority” and still enrolled in high school may be admitted as special admission students (see Dual Enrollment Legal Advisory 16-02 - Question 5).

*Reference:* EC 76001

## Special Part-Time Student

The district **may** admit to a regular term as a special part-time student any student whose admission is pursuant to either Education Code Section 76001, 76003, or 76004.

A special part-time student who is enrolling in a Non-CCAP program (EC 76001 and 76003), may enroll in up to, and including, 11 credit units in the district per term in accordance with EC 76001(d).

A special part-time student enrolling in a CCAP program (EC 76004) may enroll in up to 15 credit units in the district and those units may not constitute more than four community college courses per term in accordance with Education Code section 76004(p).

*Reference:* (EC 48800, 48802, 76001, 76004, 76300; [Legal Opinion 16-02](#))

## Special Full-Time Student

The district **may** admit to a regular term as a special full-time student any student upon a parent or guardian’s petition to, and authorization by, the governing board of the school district in which the student is enrolled. Such students are required to undertake courses of instruction of a scope and duration sufficient to satisfy the requirements of law. Any student who attends as a special full-time student under Education Code, section 48800.5 is exempt from compulsory school attendance.

*Reference:* EC 48800.5(a), 76001 et seq.; [Legal Opinion 16-02](#)

## Special Part-Time or Full-Time Student Not Enrolled in a Public School

The district **may** admit as a special part-time or full-time student a student who is not enrolled in a public school upon a parent or guardian’s petition to, and authorization by, the President of a community college, based on the fact that the student would benefit from advanced scholastic or vocational course(s). Any student who attends as a special full-time student under Education Code, section 48800.5 is exempt from compulsory school attendance.

*Reference:* EC 48800.5 (a), 76001 et seq.; [Legal Opinion 16-02](#)



## Special Part-Time Student – Adult Student Pursuing a High School Diploma or Certificate

Beginning on January 1, 2020, a district **may** admit as a special part-time student, during any session or term, a student pursuing a high school diploma or a high school equivalency certificate upon recommendation of the administrator of the student's adult school or noncredit program of attendance. A special part-time student may enroll in up to, and including, 11 units per semester, or the equivalent thereof, at the community college.

The attendance of special part-time students in this category may be reported for apportionment funding provided that no school district has received reimbursement for the same instructional activity.

Reference: EC 52620, 52621, 76001, 76002

## Special Part-Time Student – Summer Intersession

The district **may** admit to a summer intersession, as a special part-time student, any student with parental consent:

- a. whose admission is recommended by the high school principal.
- b. who has demonstrated adequate preparation in the discipline to be studied.
- c. who has availed himself or herself of all opportunities to enroll in an equivalent course at his or her school of attendance.

The number of such persons recommended shall not be in excess of five percent of the total number of students who have completed a particular grade immediately prior to the time of recommendation. It is the responsibility of the K-12 district to ensure that the five percent limit is honored. Pursuant to Education Code Section 48800(d)(3), certain students shall not be included in the 5% limitation if enrollment is for a community college course that meets specific criteria indicated that section.

The student shall receive credit for courses as determined to be appropriate by the school district or community college district.

Reference: EC 48800(d); [Legal Opinion 16-02](#)

## Students Who Are Inmates of City, County, or City and County Jail, Road Camp, or State or Federal Correctional Facility

The district **may** admit students who are inmates of any city, county, or city and county jail, road camp, farm, state, or federal correctional facility (open course provisions in statute or regulation are waived for "closed" courses the district provides to inmates of these facilities). The attendance hours of such students are to be counted for apportionment of state funds, if all requirements of statute and regulations are met. Attendance accounting procedures to be applied shall be as appropriate for the particular course section and funding will be at the corresponding rate for credit, noncredit, or career development and college preparation (CDCP) noncredit courses as applicable.

Districts shall not claim, for purposes of state apportionment, any courses where the district



has received full compensation for its direct education costs for the conduct of the course or where a public or private agency, individual, or group of individuals that has contracted with the district for the conduct of the course has received from another source full compensation for the costs the district incurs under that contract or agreement. In reporting attendance hours for apportionment purposes for closed courses for inmates as described here, the district shall report any partial compensation it receives from any of these sources for the conduct of the courses during the period for which the claim is made. The Chancellor's Office will subtract the amount of any partial compensation received from the total apportionment to be paid to the district.

*Reference: EC 70901, 84810.5, CCFS-320, SB 1391 Stats. 2014*

### **Students Who Are Prison Inmates, Wards, and Parolees**

The district **may** admit students under the jurisdiction of the Department of Corrections and the Department of the Youth Authority in accordance with Education Code section 71029.

*Reference: ECS 71029*

### **Nonresident Students**

The district **may** admit nonresidents students.

Apportionment Eligibility of Nonresident Students for Credit and Noncredit Coursework:

**Credit:** The attendance hours of nonresident students shall not be counted for apportionment of state funds for enrollment in credit courses, except as permitted by statute, including pursuant to Education Code Sections 68017, 68122, 68074, 68075.6, 68075.7, 68130.5 (AB 540), 76140(j).

**Noncredit:** The attendance of nonresident students may be counted for apportionment of state funds for enrollment in noncredit courses if they are living in California during the period of attendance. A former requirement that they have been lawfully admitted to the United States is no longer in effect.

See Chapter 2 for additional guidance concerning the admission of nonresidents.

*Reference: EC 68075.7, 68130.5, 76140, 76380, 84757; T5 58003.3, 58025, 58050, 58160*

## **CLASSIFICATION BY ENROLLMENT STATUS**

### **Enrolled Student**

A student who has been admitted to the college and who is officially enrolled in one or more courses.

### **No Show (Student)**

An enrolled student who has not attended one or more courses at any time.

*Reference: T5 58004(c)(1)*

## **Drop (or Dropped) Student**

An enrolled student who has canceled enrollment in a course or for whom such disenrollment has been initiated by the instructor or other college authority in accordance with California Code of Regulations, Title 5, Sections 55003(o) and 58004(c)(3) and college policy.

*Reference:* T5 55003(o), 58004, 58508

## **Student Withdrawal (from a course)**

A withdrawal in this context has the same meaning as a drop (as indicated above) initiated by the student.

*Reference:* T5 55024

## **Withdrawal (from college)**

An enrolled student who (a) has initiated action to cancel enrollment in all courses or (b) has had such action initiated by authorized college personnel in accordance with college policy.

## **CONDITIONS AFFECTING APPORTIONMENT**

### **General Requirement**

Units of full-time equivalent student (FTES) are to be reported for State apportionment if all requirements of statute and regulation are met, whether or not funding is available.

### **Required Days of Instruction and Evaluation (175-Day Rule)**

1. All community college districts must maintain a minimum of 175 days of instruction in an academic year, including districts with approved flexible calendar operations.

*Reference:* ECS 79020; T5 55700-55732, T5 58120, T5 58142

A flexible calendar district must still meet the minimum day requirements of instruction and/or examination for at least 160 days of the academic year (i.e., considering a maximum of 8.57% release time for faculty). The required number of days of instruction depends on the approved number of days, or percentage of flex time, allowed under a district's flex calendar configuration. (See Flexible Calendar Operations, Chapter 3)

*Reference:* EC 79020; T5 55700-55732, 58120, 55720, 58142, 55724

2. For any district which fails to meet the required minimum days of instruction and examination, the Board of governors shall withhold from the district the product of 0.01143 times the district's apportionment, times the number of days the district is short the required days of instruction.

*Reference:* EC 79020; T5 58142

## Conditions for Inclusion as One of the Required 175 Days of Instruction

1. For a day to count towards meeting the requirements of California Code of Regulations, Title 5, Section 58142, the total hours of course offerings scheduled during the regular college day must be offered for a minimum of three hours during the period of 7 a.m. and 11 p.m.

*Reference:* EC 79020; T5 58120, T5 58142.

2. Days of final examination may be counted toward meeting the requirements of California Code of Regulations, Title 5, section 58142, provided that the following:
  - a. Such examinations are administered under the immediate supervision and control of an appropriately qualified instructor who is an employee of the district; and
  - b. Not more than fourteen days of final examinations are counted for any academic year.

*Reference:* T5 58120(b)

Registration and commencement activities cannot be included as part of the minimum day requirement.

Holidays cannot be counted.

## Immediate Supervision and Control

1. Immediate supervision and control is one of the requirements of the California Code of Regulations for a course to generate FTES eligible for State apportionment. Immediate supervision or presence is characterized by all of the following:
  - a. The academic employee is able, in terms of physical proximity and range of communication, to provide immediate instructional supervision and control; and
  - b. The academic employee is in a position to provide the supervision and control necessary for the protection of the health and safety of students; and
  - c. As a general rule, faculty must be physically present in the classroom or lab or within line-of-sight of the students. Even when instruction is offered through a learning assistance center where an instructor (learning center director/coordinator) is available at all times as well as classified staff, the instructor who meets the minimum qualifications pertaining to the assigned instruction needs to observe the line-of-sight requirement (may be a different faculty member than the primary course instructor). This faculty member needs to be able to respond immediately when students are scheduled in the lab. If not in the lab, he/she needs to be in an area adjacent to the lab where the students are located. Faculty members could view the classroom or lab through a window or use two-way video connection under certain circumstances, but even in this situation, the faculty

member needs to be adjacent to the classroom or lab where the students are located.

- d.** The academic employee is not to have any other assigned duty during the instructional activity for which attendance is being claimed.

*Reference:* T5 55002(b)(4), 58050, 58051(a)(1), 58055, 58056, 58058

- 2.** The criteria are to be applied in recognition of the fact that the need for immediate supervision will vary according to the course being offered, as well as with the design or mode of instruction of such course or program.
- 3.** In computing the FTES of a district, attendance is included of students enrolled in approved courses or programs of independent study, who are under the supervision, control, and evaluation but not necessarily in the “immediate presence” of an academic employee of the district. A district may also include the attendance of students enrolled in approved distance education courses or programs conducted as distance education where regular and effective contact between the instructor and students is maintained in accordance with California Code of Regulations, Title 5, Section 55204 and guidelines issued by the Chancellor’s Office.
- 4.** Immediate supervision in work experience education programs is outlined in the training agreement, coordinated by the district under a state-approved program, wherein the employer and academic employee of the district share the responsibility for on-the-job supervision.
- 5.** In clinical activities for allied health (dental lab, nursing programs, etc.) immediate supervision means student participation in such programs wherein the person to whom the student is required to report for training, counseling, or other prescribed activity shares the responsibility for the supervision of the students with an academic employee of the district. In all such cases the person to whom the student is required to report and who is not an academic district employee shall possess a valid certificate or license to practice a healing art in California.

*Reference:* T5 58055(a), 58056(b)(3)

- 6.** Immediate supervision in educational programs sponsored by the California Firefighter Joint Apprenticeship Program means in the context of classes conducted at the workplace, student participation in classes instructed by a person who is qualified by means of education or experience, as a journey person, and shares the responsibility for supervision of the students participating in the classes with an academic employee of the district.

*Reference:* T5 58055(b)

7. Immediate supervision in early childhood education programs means student participation in such programs wherein the person to whom the student is required to report for training, counseling, or other prescribed activity shares the responsibility for the supervision of the students in student teaching activities with academic personnel of the district. In all such cases the person to whom the student is required to report and who is not an academic district employee shall possess at a minimum a Master Teacher Child Development Permit issued by the California Commission on Teacher Credentialing, or the equivalent.

*Reference:* T5 58055 (c)

## Instructional Aides

1. Instructional aides are classified employees who are employed to assist classroom teachers and other academic employees of the district. Instructional aides may not be assigned a class and shall not be deemed an academic employee for apportionment purposes. Therefore, where an instructional aide is assigned a class (is the “instructor of record”), the contact hours generated in such a class do not qualify for apportionment purposes.
2. Attendance may qualify under the following limited circumstances:
  - a. The assistant or aide functions under the exclusive direction of the academic employee of the district, assigned to that educational activity, and not independently; and,
  - b. The assistant or aide performs only those duties specifically authorized by law.
  - c. The academic employee of the district is able, in terms of physical proximity and range of communications, to provide necessary supervision and control of students.

*Reference:* EC 72401, 88240; T5 55002(b)(4), 58051(a)(1), 58056(c)

## Learning Assistance

1. California Code of Regulations, Title 5, Section 58172 permits learning assistance to occur in open entry/ open exit courses that offer optional assistance, without requiring the participation of all students enrolled in the primary/parent course or courses. Attendance in such courses generates FTES on a positive attendance basis. Apportionment may also be claimed for learning assistance provided as a required component of a course or through separate courses in which all students are required to enroll, such as occurs in corequisite lab courses that are linked to primary courses.
2. Apportionment for supplemental learning assistance may be claimed for credit supplemental courses in support of primary/parent credit courses, or for noncredit supplemental courses, in any of the ten noncredit eligible areas outlined in Education Code Section 84757 and Title 5, Section 55151, in support of primary/parent noncredit courses.

3. Only in limited circumstances, such as English as a Second Language (ESL) and basic skills, may colleges offer noncredit supplemental learning assistance courses in support of credit courses. Also, in occupational areas, colleges may establish supplemental noncredit short-term vocational courses in support of credit occupational courses.
4. All supplemental courses need to be approvable as credit or noncredit courses on their own merit and, at the same time, address skills and/or concepts covered in the primary/parent courses that they support. In order to be approved on their own merit, noncredit short-term vocational courses (one of the ten categories for noncredit) need to prepare students for employment.

Reference: T5 58160 and 58172; [Supplemental Learning Assistance and Tutoring Regulations and Guidelines; CCC Program and Course Approval Handbook \(PCAH\)](#)

## **Tutoring**

Attendance may be claimed for individual student tutoring under the following circumstances:

1. In order for a college to collect noncredit apportionment for students providing tutorial assistance to other students, the tutoring must be conducted through a designated learning center under the supervision of a qualified faculty member who has earned a Master's Degree in one subject matter being tutored or in education/instructional psychology/ or other disciplines with an emphasis in adult learning theory, as detailed in California Code of Regulations, Title 5, Section 53415. Primarily, students who conduct tutoring are those who have received instruction in tutoring methods and who may use appropriate mediated instructional college materials.
2. Academic credit and apportionment for coursework used to train tutors in tutoring methods is limited to two semester units of credit (three quarter units of credit), or 96 non-credit course hours. Prospective tutors with advanced degrees and equivalent training are not required to complete additional training preparation, although faculty from the discipline or disciplines in which the tutoring is needed must approve all tutors, irrespective of their prior education or experience.
3. All students receiving tutoring are enrolled in a noncredit course entitled "Supervised Tutoring" following normal registration procedures consistent with California Code of Regulations, Title 5, Section 58108, after referral by the student, a counselor, or an instructor on the basis of an identified learning need. The amended regulation allowing self-referral by students became effective on November 9, 2019.
4. Through 2018, the Chancellor's Office provided guidance that supervised tutoring apportionment could be claimed only for students seeking help in basic skills courses because it is one of the nine categories of noncredit courses eligible for apportionment funding. In 2019, the Chancellor's Office determined that colleges may collect apportionment for non-credit supervised tutoring hours in which students are

strengthening basic skills even if they are seeking support for such skills in transfer-level courses. However, the apportionment can only be claimed for the following: communication/literacy skills, quantitative reasoning skills, and critical thinking skills.

5. Attendance in such courses generate FTES on a positive attendance basis. A tutorial center may offer tutoring assistance between a tutor and tutee when they are separated by distance and are using on-line or other synchronous “real time” technologies such as videoconference, web conference, audio conference, etc. When the tutor and tutee are separated such that one or the other is not physically present in the tutoring center, the supervisor must be able to monitor the communication and a mechanism must be in place to accurately track positive attendance hours. If both the tutor and tutee are not physically present in the tutorial center, the district must ensure and be able to document, if audited, that the supervisor was actually able to, and did, monitor the interaction of the tutoring session.
6. An administratively approved exception to the 50-minute minimum class session requirement applies to Positive Attendance courses in which students work at their own pace, such as some Open Entry/Open Exit credit classes and noncredit Supervised Tutoring courses. In such cases, the minutes attended by an individual student can be added together and the total divided by 50 to calculate the hours of attendance to be reported for that student.
7. No state apportionment shall be claimed for tutoring services being paid for by state categorical funds.

Reference: T5 58003.1(e), 58168, 58170; [\*Program and Course Approval Handbook; Supplemental Learning Assistance and Tutoring Regulations and Guidelines; Memorandum AA 19-05 from Laura Hope issued January 14, 2019\*](#)

## Employee of the District

1. A person is an employee of the district if:
  - a. The district has the primary right to control and direct the person’s activities during the time such person is serving the district; and,
  - b. A contract exists between the person and the district, which may include provisions which specify the terms and conditions of work, salary and other compensation, work to be performed, and employment classification; and,
  - c. The district compensates the person according to an adopted salary or wage schedule which complies with the provisions of Education Code Section 87801 et seq.
2. A district also may contract for instruction to be provided by a public or private agency. Such contracts shall specify that the district has the primary right to control and direct the activities of the person or persons furnished by the public or private agency during the term of the contract. In addition, the district shall enter into a separate written



contract with each person furnished by the public or private agency. In this manner an individual employed will continue to be an employee of a public or private agency, while at the same time qualifying as an employee of the district.

3. As it relates to the applicable employment qualifications (i.e., serving pursuant to a valid, unrevoked credential, or pursuant to minimum qualifications adopted by the Board of governors, or equivalencies pursuant to California Code of Regulations, title 5, section 53430), the employee of the district also must meet the following requirements relative to the activity for which attendance is being claimed:
  - a. It must authorize the holder to provide instruction in the particular subject matter or matters; and
  - b. It must authorize the holder to provide that instruction during the period in which the holder is providing it.

*Reference:* EC 87801 et seq.; T5 53400, 58051(a)(1), 58058, 58060; [Contract Guide for Instructional Service Agreements between College Districts and Public Agencies](#)

## Approved Courses Eligible for Apportionment Purposes

Attendance for apportionments shall not be reported unless:

1. The course was approved by the governing board of the community college district and is in an educational program that has been approved by the governing board of the community college district in accordance with the provisions of Subchapter 2 (Sections 55100 et seq.) of Chapter 6 of the California Code of Regulations, Title 5; or
2. The course itself was approved by the governing board of the community college district in accordance with the provisions of Subchapter 2 (Sections 55100 et seq.) of Chapter 6 of the California Code of Regulations, Title 5.

*Reference:* EC 70902(b); T5 55100 et seq.; [CCC Program and Course Approval Handbook](#)

## Reporting Attendance Hours for Students Who Drop Courses

### 1. Credit Courses

Hours of attendance for a student who has dropped a course may be claimed only if the student receives a grade or a “W” or one of the other non-evaluative symbols identified in Title 5, Section 55023. Attendance of a student who drops a course before the deadline to drop without a “W” cannot be reported for apportionment funding.

Title 5, Section 55000(n) indicates that an “enrollment” in a credit course occurs when a student receives an evaluative or nonevaluative symbol pursuant to Section 55023. Considering what constitutes an enrollment and the provisions of Section 58161 (Apportionment for Course Enrollment), only those credit enrollments that meet this definition are eligible to be claimed for state apportionment. In other words, districts cannot claim FTES for students who were not in the class long enough to require them to be assigned an evaluative or nonevaluative symbol.



## **2. Noncredit Courses**

For noncredit courses using the Actual Hours of Attendance (Positive Attendance) procedure, apportionment may be claimed for the actual hours attended before the student drops the course.

For noncredit distance education courses using the two-census attendance accounting procedure, the attendance of a student who drops the course before first census cannot be reported for apportionment.

## **Open Enrollment**

- 1.** Attendance in courses which are not open to the general public shall not be reported for apportionment. Exceptions are made for CCAP classes held on closed high school campuses, special noncredit classes for disabled adults, for credit and noncredit courses for inmates of any city, county, or city and county jail, road camp, farm for adults, or state or federal correctional facility, for those in state hospitals, and for apprenticeship classes.
- 2.** Every community college district shall provide access to its services, courses, and programs without regard to ethnic group identification, national origin, religion, age, sex or gender, race, color, ancestry, marital status, sexual orientation, genetic information, medical condition, or physical or mental disability.
- 3.** The governing board of a community college district shall adopt by resolution the following or a comparable statement: “The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to section 55003 of division 6 of title 5 of the California Code of Regulations.”
- 4.** A statement regarding the adopted district board policy referred to in the paragraph above shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which FTES is reported for State apportionment.
- 5.** The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda. The description may indicate that the course is designed to meet certain specialized needs, but must indicate the course is available to all qualified students. Additionally, for all courses offered, colleges are required to make available to students through college publications certain facts concerning the courses as prescribed by California Code of Regulations, Title 5, Section 55005. No group or individual shall receive notice prior to the general public for purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.
- 6.** All courses shall be open to enrollment by any student who has been admitted to the college, except that students may be required to meet prerequisites pursuant to

California Code of Regulations, Title 5, Section 55003.

In addition, districts may limit enrollment in a course based on:

- a.** Health and safety considerations,
  - b.** Facility limitations,
  - c.** Faculty workload,
  - d.** The availability of qualified instructors,
  - e.** Funding limitations,
  - f.** Constraints of regional planning, or
  - g.** Legal requirements imposed by statute, regulations or contracts.
- 7.** The governing board shall adopt policies identifying any such limitations and requiring fair and equitable procedures for determining who may enroll in affected courses or programs. Such procedures, subject to challenge by a student, shall be consistent with one or more of the following approaches:
- a.** Limiting enrollment to a “first-come, first-served” basis or using other nonevaluative selection techniques to determine who may enroll; or
  - b.** Limiting enrollment using a registration procedure authorized by Title 5, Section 58108; or
  - c.** In the case of intercollegiate competition, honors courses, or public performance courses, allocating available seats to those students judged most qualified; or
  - d.** Limiting enrollment in one or more sections of a course to a cohort of students enrolled in one or more other courses, provided however, that a reasonable percentage of all sections of the course do not have such restrictions; or
  - e.** Limiting enrollment using any selection procedure expressly authorized by statute; or
  - f.** With respect to students on probation or subject to dismissal, the governing board may, consistent with the provisions of Title 5 Sections 55031 and 55032, limit enrollment to a total number of units or to selected courses, or require students to follow a prescribed educational plan.
- 8.** Registration as an indentured apprentice in a program approved by the Division of Apprenticeship Standards of the Department of Industrial Relations is an acceptable prerequisite to enrollment in a class of related and supplemental instruction.
- 9.** All courses conducted must be clearly described in the official general catalog and/or addenda and listed in the schedule of classes.

- 10.** Announcement of course offerings must be reasonably well publicized and not limited to a specialized clientele.
- 11.** No registration procedures shall be used that result in restricting enrollment to a specialized clientele.
- 12.** The following registration procedures are permissible: special registration assistance to the disabled or disadvantaged students as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established by the local governing board.
- 13.** Students will not be required to participate in any pre-registration activity not uniformly required; nor shall nonacademic requisites be placed or enforced as barrier to enrollment in or to successful completion of a class.
- 14.** With respect to accessibility to off-campus sites and facilities, no student is to be required to make any special effort not required of all other students in registering in or attending any course or course section. Once enrolled in the course, all students must have equal access to the site.
- 15.** Each community college shall keep and submit such records and reports concerning its courses and offerings as may be required by the Chancellor to fulfill statutory requirements.

*Reference: T5 51006, 58051.5, 58051.6, 58102, 58104, 58106, 58108, 59300,; EC 262.3, 66270, 72011,; LC 3074.3, 3077; GC 11135*

## **Courses Not Eligible for State Support**

The following courses cannot be reported for State support:

- 1.** Community service classes
- 2.** Noncredit classes in:
  - a.** Recreational physical education;
  - b.** Recreational dancing; or
  - c.** Any noncredit course or class which is not set forth in Education Code Section 84757 or California Code of Regulations, Title 5, Section 58160.
- 3.** Any course in which the district receives full compensation for direct educational costs from any public or private agency, individual or group of individuals. See [Q&A Concerning Compliance with California Code of Regulations, Title 5 Section 58051.5](#) for important details on the interpretation of this restriction.

*Reference: EC 78300, 84757; T5 58050(a)(4), 58050(a)(5), 58051.5, 58130*

## Apprenticeship Courses

Beginning in 2018-19, attendance of apprentices in credit courses offered in conjunction with an apprenticeship program sponsor, pursuant to Section 3074 of the Labor Code, may be reported on a positive attendance basis on the CCFS-320 Apportionment Attendance Report if such attendance is not reported on the CCFS-321 Apprenticeship Attendance Report. Attendance in classes taught by an apprenticeship instructor other than a community college faculty member cannot be reported on the CCFS-320.

Enrollment in an apprenticeship course or course section reported on the CCFS-320 may be limited solely to apprentices if that course or course section is required for those students as a part of a registered apprenticeship program with the Department of Apprenticeship Standards of the Department of Industrial Relations.

When a college contracts with an apprenticeship program sponsor in the building and construction trades, the sponsor must approve a decision to report attendance on the CCFS-320 rather than on the CCFS-321. A college may not condition its willingness to contract with a sponsor in the building and construction trades, or to grant community college credit for a class, on whether reimbursement may or will be sought through reporting on the CCFS-320 rather than on the CCFS-321.

*Reference: EC 79149.3*

## Apprenticeship Classes of Related and Supplemental Instruction Maintained Pursuant to Labor Code, Section 3074

The attendance of indentured apprentices enrolled in courses of related and supplemental instruction maintained pursuant to Labor Code, Section 3074, may be reported on the CCFS-321 Apprenticeship Attendance Report if it is not reported on the CCFS-320 Apportionment Attendance Report as explained in the above section.

Attendance reported on the CCFS-321 does not generate FTES. Students other than indentured apprentices enrolled in such courses do generate FTES and their attendance is reported on the CCFS-320 on a positive attendance basis.

Attendance of indentured apprentices, in courses other than apprenticeship courses of related and supplemental instruction, is accounted for in the same manner as for other students in such courses.

## Courses and Programs for Students with Disabilities

Attendance for general apportionment purposes in courses for students with disabilities shall qualify under the following circumstances:

- a. The course shall be open to enrollment and participation by any student pursuant to California Code of Regulations, Title 5, Section 58106. Exceptions are made for special courses for disabled adults (noncredit courses).
- b. The course shall include only those scheduled contact hours for instruction and/or laboratory under the direct supervision of a qualified instructor who is an academic employee of the district;

- c. Only the attendance of students taking such courses for the first time, or students making progress on the basis of an Individual Educational Plan (IEP), may be counted.

*Reference: EC 84850; T5 56000, 58108*

## **Field Trips**

State apportionment may be claimed for the attendance of students in courses which include a field trip or excursion pursuant to Title 5, California Code of Regulations, Sections 55220 and 58166.

1. No more attendance may be claimed for a field trip or excursion than if the class were held on campus.
2. No group shall be authorized to take a field trip or excursion if any student who is a member of the identifiable group will be excluded from participation because of his/her lack of sufficient funds.

*Reference: EC 66700, 70901; T5 55220, 58166*

## **Inmate Education**

Attendance of students who are inmates of any city, county, or city and county jail, road camp, farm for adults, state or federal correctional facility, enrolled in credit and/or noncredit courses may be counted for apportionment purposes.

A district cannot claim for apportionment any class for which the district receives full compensation for direct costs of the class from an outside source, and must report any partial compensation received, which the Chancellor's Office will deduct from apportionment to be paid.

Such courses conducted under Title 5, California Code of Regulations, Section 58051.6 shall conform to the criteria and standards adopted under Education Code Section 70901(b)(1)(D) and shall be submitted to the Board of Governors for approval as appropriate.

*Reference: EC 79010.5(b) (1) (d), 84810.5; T5 58051.6; CCFS-320*

## **In-Service Training Courses**

Attendance of students in in-service training courses in the areas of police, fire, corrections, and other criminal justice system occupations must be reported separately.

At least 15% of classroom enrollment in in-service fire training courses shall consist of persons who are neither volunteers of, nor employed by, a fire protection or fire prevention agency or association, if the persons are available to attend a course. Full time equivalent student for the course may be reported for state aid. Spaces of such courses must be open to non-service students if they request such enrollment.

Preference in enrollment in criminal justice courses may be given to employed law enforcement trainees who enroll to complete in-service training requirements. At least 15 percent of each class shall consist of non-law-enforcement trainees if they are available. Preference should only be given when the trainee could not complete the course within the

time required by statute, and only when no other training program is reasonably available.

*Reference: PC 832.3(c); T5 58051(c-g)*

## **Intercollegiate Athletics Courses**

Attendance of students in approved courses of intercollegiate athletics may be claimed for apportionment of no more than 350 contact hours per enrolled student for each sport each fiscal year. Of the 350 contact hours per fiscal year, a district may claim no more than 175 contact hours per fiscal year in intercollegiate athletic courses dedicated to the sport and no more than 175 contact hours per fiscal year in intercollegiate course that focus on conditioning or skill development for the sport.

The regulations do not restrict how districts may distribute the 175 contact hours in intercollegiate courses that focus on conditioning or skill development for the support for eligible student throughout the fiscal year, whether in the same semesters as the sport, in a different semester, or in summer, so long as the student does not exceed 175 total hours during the entire fiscal years. However, districts should consult the Bylaws and other rules adopted by the California Community College Athletic Association which further restrict how these hours may be distributed.

Districts must institute controls to truncate contact hours to allowable amounts. This limitation on class hours for apportionment purposes has no bearing on the total number of hours that may be required of a student in a given sport.

*Reference: T5 58162*

## **Open Entry/Open Exit Courses**

Students may enroll in open entry/open exit courses at various times and complete open entry/open exit courses at varying paces.

When an open entry/ open exit course provides learning assistance in support of another course or courses, the outline of record for the supplemental open/open exit course must identify the course or courses it supports, as well as the specific learning objectives the student is to pursue. Determination of student contact hours should be based on a maximum number of hours which the curriculum committee considers reasonably necessary to achieve the learning objectives of the primary course or courses being supplemented. Thus, the supplemental course outline should be prepared in light of the primary course objectives, but the hours for the supplemental outline will then be used on the objectives and related assignments specified in the supplemental course outline.

All open entry/ open exit courses will use actual student contact hours of attendance which is based upon a count of students present at each course meeting. Apportionment may not be claimed for optional attendance at artistic and cultural presentations or events or for using college/district facilities, equipment or resources that are not related to instructional learning objectives and competencies as outlines in course outline of record. There must be instruction that involves objectives and competencies that are in an approved course outline.

Further guidance on open entry/open exit courses is available in the [Supplemental Learning Assistance and Tutoring Regulations and Guidelines](#).

*Reference: T5 58006, 58164*

## Dual Enrollment

### 1. Two Dual Enrollment Tracks: CCAP and Non-CCAP

Prior to the enactment of AB 288 (Holden, 2015), colleges were authorized to provide college courses to high school students and other special admit students through a variety of mechanisms: qualified students on their own accord would enroll in college courses on college campuses, colleges would provide open-access courses at the high schools, and districts would enter into formal agreements with local high schools to provide defined cohort programs such as early college, middle college, or Gateway-to-College.

With the enactment of AB 288 (CCAP - College and Career Access Partnerships with School Districts), colleges are still authorized to continue providing existing dual enrollment programs (or even enter into new formal agreements) outside the statutory framework of AB 288 – that is, the non-CCAP track. AB 288 adds a new Education Code section 76004(x) which states in relevant part:

*“Nothing in this section is intended to affect a dual enrollment partnership agreement existing on the effective date of this section under which an early college high school, a middle college high school, or California Career Pathways Trust existing on the effective date of this section is operated. An early college high school, middle college high school, or California Career Pathways Trust partnership agreement existing on the effective date of this section shall not operate as a CCAP partnership unless it complies with the provisions of this section.”*

In summary, AB 288 offered new dual enrollment options to colleges by eliminating certain fiscal and policy barriers, such as authorizing specified special part-time students to enroll in up to 15 units per term, waiver of certain college fees for those special part-time students, and allowance of closed courses that occur on high school campuses during the regular school day; while requiring that the program be for a specified purpose (e.g., cohort program for underrepresented students) and adherence to delineated state reporting requirements. Courses can be offered on an online platform. Also, charter schools may enter into CCAP partnership agreements with community college districts provided that all applicable requirements are met.

AB 288 specifically stated “notwithstanding Section 76001 or any other law” and therefore, established a second track for dual enrollment of high school students. As a result, starting January 1, 2016, college districts were given two options:

- a.** CCAP track (under AB 288, which is as prescribed by Education Code Section 76004); and/or
- b.** Non-CCAP track (continue to provide dual enrollment opportunities to students individually, or continue or enter into an optional formal partnership agreement)



AB 1729 (Smith), chaptered in 2019, amends Section 48800 of the Education Code and creates a special exemption from the 5% limitation of pupils allowed to be recommended for dual enrollment during summer session for (1) lower division college-level courses within the Intersegmental General Education Transfer Curriculum or general education requirements of the California State University or (2) college-level occupational courses, as specified. Extends the sunset date for these provisions of law from January 1, 2020 to January 1, 2027.

SB 554 (Roth), also chaptered in 2019, amends Sections 76001 and 76002 and adds Section 52620 and 52621 to the Education Code to authorize students pursuing a high school diploma or high school equivalency certificate at a school district adult education program or community college district noncredit program to enroll at a community college as a special part-time student (dual enrollment).

## **2. Apportionment Eligibility**

### **Non-CCAP**

Districts may claim apportionment for FTES generated by resident students and nonresident special part-time students exempted from nonresident tuition pursuant to AB 2364 for courses that are open to the general public. If the course is offered on a high school campus, it shall not be held during the time the campus is closed to the general public.

Special part-time students may enroll in up to 11.00 units per term. District may establish policy to exempt special part-time students from paying enrollment fees pursuant to EC 76300(f).

### **CCAP**

Districts may claim apportionment for FTES generated by CCAP resident students and CCAP nonresident special part-time students exempted from nonresident tuition pursuant to AB 2364 for courses offered on the college campus and on a high school campus. Courses held on a high school campus during the regular school day may be closed to the general public, otherwise must be open to the general public. (EC 76004(o))

Special part-time students may enroll in up to 15 units/4 courses per term. District must exempt students from enrollment fee and other fees specified in EC 76004(q).

Legislation chaptered in 2019 affecting CCAP included AB 30 (Holden), which amends Section 76004 of the Education Code and makes several changes to College and Career Access Pathways (CCAP) partnerships. Specifically, the bill authorizes CCAP with continuation education high schools; removes the requirement for an informational public meeting prior to the adoption of a CCAP; requires CCAP students to receive only one principal recommendation and parental consent form; and authorizes units



earned during a CCAP to count toward the student establishing priority registration. The bill further requires the Chancellor's Office to revise the CCAP application, as specified, by July 31, 2020. This bill extends the sunset date of the law governing the CCAP from January 1, 2022 to January 1, 2027.

Also chaptered in 2019 was SB 586 (Roth), which amends Section 76004 of the Education Code to require a community college district and school district or charter school providing College and Career Access Pathways (CCAP) career technical education pathways, as a condition of and before adopting a CCAP partnership agreement, to consult with local workforce development boards to determine the extent to which the pathways align with regional and statewide employment needs.

### **Both CCAP and Non-CCAP**

The course and FTES generated must comply with all other applicable statutory or regulatory requirements related to claiming attendance, including those specifically referring to Special Admit students. For example, the 50-minute minimum length of a class session must be honored, irrespective of the session lengths of high school classes.

For more information, see [Legal Opinion 16-02](#) (Dual Enrollment and Assembly Bill 288) and [AB 288 Dual Enrollment - March 2016 Partnership Agreement Guidelines for Apportionment Eligibility](#).

*Reference: EC 48800, 76001, 76002, 76003, 76004*

### **Distance Education**

Distance education is defined as instruction in which the instructor and student are separated by distance and interact through the assistance of communication technology.

For apportionment purposes, credit distance education courses can calculate FTES in one of four ways (the requirements to apply the individual procedures would have to be met - see Chapter 3):

- Weekly Student Contact Hours Procedure (Weekly Census)
- Daily Student Contact Hours Procedure (Daily Census)
- Actual Student Contact Hours of Attendance Procedure (Positive Attendance)
- Alternative Attendance Accounting Procedure

In practice, the Alternative Attendance Accounting Procedure is used for most distance education courses because, for distance education courses using the WSCH, DSCH or Positive Attendance procedures, instruction must occur each scheduled class meeting and students and instructor must be able to interact during the class session via some sort of communication technology.

*Reference: T5 58003.1(f), 58007*

## Course Repetition

The general rule is that a district may not permit a student to enroll again in a credit course if the student received a satisfactory grade on the previous enrollment. An enrollment occurs when a student receives an evaluative or non-evaluative symbol in a credit course.

A student receiving an A, B, C or P typically cannot enroll in that course again unless one of the following exceptions applies:

- courses properly designated by a district as repeatable
- a subsequent enrollment due to significant lapse of time
- variable unit courses offered on an open-entry/open-exit basis
- extenuating circumstances
- occupational work experience courses
- students with disabilities repeating a special class for one of the reasons specified in T5 56029
- legally mandated courses
- courses necessary as a result of significant change in industry or licensure standards.

If a student does not receive an A, B, C or P on the previous enrollment for a course not designated as repeatable, district policy may permit the student to enroll in the course again. Students permitted to enroll again in a course are typically limited to the original enrollment plus two more enrollments. However, district policy may permit the student to petition for a fourth enrollment to alleviate a substandard grade, provided apportionment is not claimed for that enrollment.

The apportionment limit on enrollments varies depending upon the applicable exception and is addressed in more detail in the 2013 [Credit Course Repetition Guidelines](#). A few Title 5 regulation changes involving credit course repetition, particularly related to work experience courses, were made in 2015. See the reference link below. However, as a general rule of thumb, if the regulations do not permit district policy to allow a student to enroll in a course again, then the district cannot claim apportionment for the student's attendance in that course more than once.

Reference: T5 55000 et seq.; [Credit Course Repetition Guidelines \(2013\)](#)

## Course Repetition for Students with Disabilities

Course repetition for students with disabilities as defined in Education Code Section 84850 is subject to the course repetition limitation; however, districts are authorized to permit additional repetitions under, but not limited to, the following circumstances:

- a. When continuing success of the student in other general and/or special class is dependent on additional repetitions of a specific class;

- b.** When additional repetitions of a specific special class are essential to completing a student's preparation for enrollment into other regular or special classes; or;
- c.** When the student has a student educational contract which involves a goal other than completion of the special class in question and repetition of the course will further achievement of that goal.

*Reference: T5 56029; EC 84850*

## **Cross Enrollment**

A student enrolled at any of the California Community Colleges, the California State University, or the University of California who meets the requirements specified below may enroll without formal admission in a maximum of one course per academic term at a campus of either of the other systems on a space available basis at the discretion of the appropriate campus authorities on both campuses. This program does not apply to students enrolled at private or out-of-state institutions, nor to students at a California community college wishing to enroll in a single course at another California community college.

"Home campus" means the campus at which the student is matriculated.

"Host campus" means the campus to which the student seeks access.

The residency of a cross-enrolling student is not a matter of concern to the host campus. If the student is a nonresident, he/she will have paid nonresident fees at the home campus.

A student enrolled in a course through the Cross Enrollment program shall be provided access to necessary instructional support services at the host campus in the same manner as students regularly enrolled in the course. Attendance in a course through the Cross Enrollment program is without payment of additional fees, except that the host campus may charge participating students an administration fee not to exceed an amount sufficient for the campus to recover the administrative costs it incurs under this program.

To be eligible to participate in this program, a student must meet each of the following requirements:

- 1.** The student has completed at least one term at the home campus as a matriculated student and is taking at least six units at the home campus during the current term.
- 2.** The student has attained a grade point average of 2.0 (grade of C) for work completed.
- 3.** The student has paid appropriate tuition or fees, or both, required by the home campus for the academic term in which the student seeks to enroll.
- 4.** The student has the appropriate academic preparation, as determined by the host campus, consistent with the standard applied to currently enrolled students, to enroll in the course in which the student seeks to enroll.

Following procedures established by the California Community Colleges, CSU, and UC, students meeting the above requirements can be certified by the home campus as to eligibility, residence, fee, financial aid, and health status. Students enrolled under this

program shall be exempt from participation in matriculation services at the host campus.

The enrollment of a cross-enrolled student at a host campus is NOT reported for FTES apportionment funding calculations. The home campus may count in the calculations only those units for which the student is enrolled at the home campus.

*Reference:* EC 66750-66754

## CHAPTER 2 RESIDENCY REGULATIONS AND REQUIREMENTS

### DEFINITIONS

#### Age of Majority

Eighteen years of age or older.

*Reference: Family Code, Section 6500*

#### Continuous Attendance

For residence determination purposes at a community college, continuous attendance means active, continuous, full-time enrollment for a normal academic year at such institution since the beginning of the period for which attendance is claimed. A student is not required to attend summer intersession or other terms beyond the normal academic year in order to maintain “continuous” attendance.

Details on the limited applicability of this definition requiring full-time enrollment are explained on Page 2.14.

It is important to note that, for local purposes other than residence determination, districts may define “continuous attendance” differently, without requiring full-time enrollment to maintain continuous attendance for those purposes.

*Reference: EC 68016*

#### District

A community college district maintaining one or more community colleges.

*Reference: EC 68012*

#### District Resident

A student who has residence within a community college district in California.

*Reference: EC 68018, 68060*

#### Full Time

Enrollment for 12 or more semester or quarter units of credit.

The standard applying to full time in summer intersession should be established by the district governing board.

*Reference: EC 68016*

#### Institution

Any university or college of the California State University, the University of California, or any California Community College.

*Reference: EC 68011*

## **International Student**

An international student, also referred to as a foreign student, is a citizen of a foreign country, or a resident of a foreign country, or both. Note that this definition is not limited to F-1 visa holders.

*Reference:* EC 76140

## **Nondistrict Resident**

A student who is a resident of California but who does not have residence within a community college district in California, or a student who, (a) was graduated from a high school which is situated in territory not within a district, and (b) whose parent resides in such territory.

*Reference:* T5 54200(c)

## **Nonresident**

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

*Reference:* EC 68018

## **Nonresident Tuition**

Except as otherwise provided in statute, a student classified as a nonresident shall be required to pay a nonresident tuition fee in addition to other fees required.

A district may exempt a student who is a resident of another state from the mandatory nonresident tuition fee requirement (or reduce the fee) under certain limited conditions, and the student may be considered a resident for apportionment purposes as prescribed under EC 76140 (i), (j), and (k).

*Reference:* EC 68050, 76140

## **Parent**

The father or mother with whom the minor resides; or, if both parents are deceased, the minor's legal guardian.

*Reference:* EC 68014

## **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 had always intended to return to California and did nothing inconsistent with that intent.

Physical presence within California solely for educational purposes does not constitute the basis for establishing California residence regardless of length of that presence.

*Reference:* EC 68018, T5 54022

## **Residence Determination Date**

The residence determination date is the day immediately preceding the opening day of instruction of the quarter, semester, or other session as set by the district governing board, during which the student proposes to attend a college. Each term only one has one residence determination date. Enrollments in late-starting classes within a term are subject to this uniform residence determination date. Both a student's residence classification and a student's eligibility for an exception to residence determination are based on information as of the residence determination date.

*Reference: EC 68023, T5 54002*

## **Residency Classification**

Every student enrolling in credit courses shall be classified as a California resident or nonresident at the time of application for admission and whenever a student has not been in attendance for a period of more than one semester or quarter. To be clear, if a student misses at least two (not one) semesters or quarters, then he or she must again go through the residence classification process. Summer or other intersessions are not included in this consideration.

It is important to note that districts can, and some do, make new residency determinations for students missing only one semester even though not required by Title 5 of the California Code of Regulations. Whatever is determined by a district in this regard, including a more restrictive policy, should be included in the district's local rules and policies relating to residency determination and should be uniformly administered for all students.

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.

Effective January 1, 2019, under the provisions of Education Code Section 68086 added by AB 3101, students enrolling only in noncredit courses shall not be subject to residence classification requirements.

All students enrolling in credit courses should fill out enrollment and residency forms and be classified as a resident or nonresident for tuition purposes. Nothing in statute or regulations relative to residence determination would allow differential treatment of students. "All students" includes students enrolling in distance education courses, students enrolling in contract education courses, and all special part-time or special full-time K-12 students enrolling in college courses.

A community college district may accept the residency determination of another community college district if the student is cross-enrolling in a course offered through the Online Education Initiative Consortium.

*Reference: EC 68040, 68044, 68062, 68101; T5 54000, 54002, 54010, 54020*

## 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.

*Reference:* EC 68017, 68060, 68062; T5 54020, 54026

## State Agency

An office, department, division, bureau, board or commission of the State of California.

## Student

For purposes of residence determination only, a person enrolled in or applying for admission to a community college.

*Reference:* EC 68015

## Tacking

The term “tacking” refers to the process of adding one period of resident student qualification to another so as to satisfy the one-year waiting period requirement.

Tacking is utilized in the following cases:

- a. Adding the immediate pre-majority derived California residence to the post-majority residence to satisfy the durational requirement.
- b. Shifting derivative residence, as when the derivation shifts from a father, who dies, to the mother.
- c. Shift in residence of a minor from deceased parents to a legal guardian, or if none is appointed, to the minor’s own elected residence.

*Reference:* EC 68072

## COLLECTION OF RESIDENCY DATA

### 1. Signature Requirement

The information on which residency determinations are made is to be certified under oath or penalty of perjury by the applicant. Districts should make it clear to students that if they knowingly provide false information, they may be subject to discipline.

A district may authorize the electronic submission of any form or document and the use of digital signatures for any documents requiring a signature. The technical specifications and standards that must be met in order to use electronic signatures in lieu of manual signatures are specified in Title 5, Section 54300.

### 2. Students Enrolled Only in Distance Education Courses

Students enrolled in distance education courses are subject to the same residence determination requirements and exemptions as traditional students. If a student



enrolling in a distance education course is deemed to be a nonresident, that student is subject to nonresident tuition unless otherwise exempted.

The Chancellor's Office has determined that the AB 540 exemption from payment of nonresident tuition is not available for persons who are absent from California but who are taking distance education courses offered by California Community Colleges.

### **3. Special Part-Time or Full-Time K-12 Students**

Special part-time or full-time students enrolled in community college courses are subject to the same residence determination requirements as traditional students. However, a district must exempt all qualifying nonresident special "part-time" students (other than those with a non-immigrant status, such as those present in the United States on a B Visitor Visa) from the nonresident tuition fee and expressly allows districts to report their attendance as resident FTES for apportionment purposes. See the section on AB 2364 on Page 2.40 for further details.

### **4. Students Enrolled Only in Contract Education Courses**

All students, even via contract education, must have their resident status determined in accordance with Education Code Section 68040. Although resident students who enroll in credit contract education can be exempted from the regular enrollment fee pursuant to Education Code Section 76300(e)(3), there is no express exemption provided for nonresident students from the nonresident tuition fee, even when enrolling in contract education. Community college districts must charge and report nonresident tuition for students enrolled in for-credit contract education courses who are residents of another state or a foreign country.

### **5. Students Enrolled Only in Noncredit Classes**

Effective September 19, 2018, students enrolling only in noncredit classes are not subject to residence classification requirements. They need not be classified as residents or nonresidents.

## **DETERMINATION OF RESIDENCY**

In determining a person's place of residence, the following general statutory rules apply:

- 1.** Every person has, in law, a residence.
- 2.** Every person who is married or 18 years of age or older, and is not precluded by law from doing so, may establish residence in California.
- 3.** In determining the place of residence the following rules are to be observed:
  - a.** A person can have only one residence at a given time.
  - b.** 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.

- c.** A residence cannot be lost until another is gained.
- d.** The residence can be changed only by the union of act and intent.
- e.** A man or a woman may establish his or her residence. A person's residence shall not be derived from that of his or her spouse. Many of the objective manifestations of the two may be shared, but each may have some evidence of intent that is not shared, which may indicate different residences.
- f.** The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of the unmarried minor child. When the minor lives with neither parent, his or her residence is that of the parent with whom he or she maintained his or her last place of abode. The minor may establish his or her residence when both parents are deceased if a legal guardian has not been appointed.
- g.** *Note:* The conditions in (f) apply unless the Immigration and Nationality Act precludes the minor from establishing domicile (residence) in the United States.
- h.** The residence of an unmarried minor who has a living parent cannot be changed by his or her 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 exception (EC 68071) or the Two-Year Care and Control exception (EC 68073 and T5 54047).
- i.** A noncitizen, including an unmarried minor noncitizen, may establish his or her residence unless precluded by the Immigration and Nationality Act from establishing residence in the United States. See Note in (f) above.

*Reference:* EC 68060, 68061, 68062, 68071, 68073; T5 54022, 54045, 54047

## Physical Presence

- 1.** 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.
- 2.** 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.
- 3.** Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of length of that presence.

*Reference:* EC 68017, 68070; T5 54022

## Residence Questionnaire and Supplemental Residence Questionnaire

When a student does not answer all of the questions on the Residence Questionnaire or on the Supplemental Residence Questionnaire, if one is used, and residency cannot be determined, the student may be classified as a nonresident.

Students are required to sign the residency questionnaire manually or electronically. T5 54010(e) requires that the information on which residency determinations are made is to be certified under oath or penalty of perjury by the applicant. Districts should inform students that if they knowingly provide false information, they may be subject to discipline.

Pursuant to T5 54300, a district may authorize the electronic submission of any form or document and the use of digital signatures for any documents requiring a signature. Refer to T5 54300 for the technical specifications and standards that must be met in order to use electronic signatures in lieu of manual signatures.

*Reference: T5 54010, 54012, 54026, 54300*

## Evidence of Intent

Under the Education Code, the general rule is that a student must pay nonresident tuition unless the student can qualify as a resident student or meet the requirements of certain special provisions. Since the concept of residence involves subjective intent, this manual cannot anticipate every question that will arise in connection with determining whether such intent exists.

- 1.** Intent to make California a person's home, for other than a temporary purpose, may be manifest in many ways. No one factor is controlling.
- 2.** 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 paragraph "f" below.
- 3.** 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 paragraph 6 below.
- 4.** A student who does not meet the requirements of paragraph 2 or 3 above shall be required to provide evidence of intent to make California the home for other than a temporary purpose, as specified in paragraph 5 below.
- 5.** Objective manifestations of intent to establish California residence include, but are not limited to:
  - a.** Ownership of residential property or continuous occupancy of rented or leased property in California.

- b.** Registering to vote and voting in California.
  - c.** Licensing from California for professional practice.
  - d.** Active membership in California professional, religious, merchant, service organizations or social clubs.
  - e.** Presence of spouse, children, or other close relatives in the state.
  - f.** Showing California as home address on federal income tax forms.
  - g.** Payment of California state income tax as a resident.
  - h.** Maintaining California motor vehicle license plates/registration. Payment of a vehicle license fee is not required of nonresident military personnel. (An exemption may be filed.) Thus, payment of the fee is some indication of intent to be a California resident.
  - i.** Maintaining a California driver's license or a California Department of Motor Vehicles (DMV) identification card. (Vehicle Code Sections 12502 and 12505 require a resident to obtain a California driver's license within 10 days from date residence is established.)
  - j.** Maintaining permanent military address or home of record in California while in armed forces.
  - k.** Establishing and maintaining active California bank accounts.
  - l.** Being a petitioner of divorce in California.
  - m.** Remaining in California during academic breaks.
  - n.** Registering for the Selective Service in California (indicating a California address).
- 6.** Conduct inconsistent with a claim of California residence includes, but is not limited to:
- a.** Maintaining voter registration and voting in another state.
  - b.** Being the petitioner for a divorce in another state.
  - c.** Attending an out-of-state educational institution as a resident of that state.
  - d.** Declaring nonresidence for California state income tax purposes; paying taxes in another state or country as a resident of that state or country; or not fulfilling tax obligations to the State of California.
  - e.** Filing an income tax return as a resident of another state. A California resident must file a California income tax return on all income, wherever earned. Claiming

an exemption from state income tax as a nonresident is inconsistent with a claim of residency for tuition purposes.

No one factor is controlling in the determination of residence classification. The institution may look for certain objective manifestations of subjective intent on the part of a person asserting that residence status has been established, or has been maintained in spite of an absence from the state.

*Reference:* EC 68041; T5 54020, 54024

### **One-Year Waiting Period**

The one-year period of residence required for classification as a resident does not begin to run until the student is both present in California and has manifested clear intent to become a California resident.

*Reference:* T5 54028

### **Burden on Student**

The burden is on the student to demonstrate clearly, with proof, both physical presence in California and the intent to establish California residence.

*Reference:* EC 68041; T5 54026

### **Absence During Time of Residence**

- 1.** A student who is attempting to establish one year of residence in California but who returns to his or her former residence or to the home of his or her parents in another state or country for periods when the institution is not in session, should be subject to question as to whether he or she has the necessary intent to establish residence in California. Absences by the student from California during this period, or if the student is a minor, absences of the person from whom the student's residence is derived, for reasons of business or vacation may not necessarily indicate lack of intent to establish or maintain residence.
- 2.** For purposes of the nonresident tuition fee, a community college district shall disregard the time during which a student living in the district resided outside the state, if:
  - a.** The change of residence to a place outside the state was due to a job transfer and was made at the request of the employer of the student or the employer of the student's spouse or, in the case of a student who resided with, and was a dependent of, the student's parents, the change of residence was made at the request of an employer of either of the student's parents and,
  - b.** Such absence from the state was for a period of not more than four years and,
  - c.** At the time of application for admission to a college maintained by the district, the student would qualify as a resident if the period of the student's absence from the

state were disregarded.

3. A nonresident tuition fee shall not be charged to a student who meets each of the conditions specified in paragraphs 2 a. to c., inclusive.

*Reference:* EC 76143; T5 54022, 54024

### **Resident Student Elsewhere**

Classification of a student as a resident for tuition purposes by an out-of-state university or college generally establishes the student as a nonresident of California as of that time. Normally the student will have to establish California residence and hold it for a year until he or she is entitled to similar classification in California. However, it is conceivable that his or her classification in the other state was a result of an exception similar to the exceptions provided in California law. If the student can show this, the pertinence of such classification would be overcome. Of course, the student would still have to affirmatively establish that he or she is a resident of California.

*Reference:* EC 76143; T5 54024

### **Change of Residence**

Any student who is classified as a resident, but who becomes a nonresident at any time by virtue of a change of residence, by his or her own action or by the person from whom his or her residence is derived, is obliged to notify the classifying institution at once.

*Reference:* EC 76143

### **Minor Student Who Remains in California After Parents Move Elsewhere**

As a general rule, if a student or the parents of a minor student relinquish California residence after moving from California, one full year of physical presence, coupled with one full year of demonstrated intent to be a California resident, is required to reestablish residence for tuition purposes.

However, a student who remains in California after his or her parent established residence elsewhere shall be entitled to resident classification until he or she has attained the age of 18 and has resided in the state the minimum time necessary to become a resident, so long as, once enrolled, he or she maintains continuous attendance at an institution. This special exception applies only if the parent referred to above was theretofore domiciled in California for at least one year immediately prior to leaving and has established residence elsewhere before the student turned 18 and within one year immediately prior to the residency determination date.

*Reference:* EC 68070; T5 54030

### **Derived Residence, Special Applications**

Because of the language of EC 68062(f) which gives to a minor the residence of the parent, the following rules apply:

1. Where the residence of the student is derived, the California residence of the person or persons from whom it is derived must satisfy the one-year waiting period requirement.

2. A minor adopted by a California resident who has been a resident for at least one year immediately prior to the residence determination date immediately takes that resident status. No waiting period applies.
3. A minor child of permanently separated parents takes the residence status of the parent with whom he or she lives, without any waiting period applying. If the minor lives alone, he or she takes the resident status of the parent with whom he or she last lived. (See Minor Noncitizens, page 2.33.)

*Reference:* EC 68062(f), (h), (i)

## **Deceased Parents**

1. When both parents are deceased and no legal guardian has been appointed, a minor may establish his or her own residence. Until the minor does so, his or her residence remains that of the last parent to die. The one-year waiting period runs from the date of arrival or one year from the date of the parent's death. If the last parent to die was a California resident, the minor's derived residence may be tacked to the newly established residence.
2. If a guardian is appointed for a minor any time after the death of the minor's parents, the minor takes the residence of the guardian. If that be California, the one-year waiting period runs from the date of appointment, subject to applicable tacking. (See Tacking, page 2.05)

*Reference:* EC 68014, 68062

## **Parents of Minor Move to California**

If the parents of a minor move to California leaving the minor behind, the minor takes the parents' California residence status when acquired. If the minor remains outside California after reaching the age of 18 and then comes to California, the minor is to be treated the same as a person possessing California residence who had left California and then returned. The minor should be screened with the objective of determining if he or she had acquired out-of-state residence. One factor to be checked in such a screening would be whether the minor had attended an out-of-state educational institution where resident status for tuition purposes had been granted or denied. (The minor may be eligible for an exception to prior law. See: Adult Dependent Child of California Resident on page 2.32.)

*Reference:* EC 68061, 68062, 68076

## **Financial Independence**

1. A student seeking reclassification as a resident, who was classified as a nonresident in the preceding term, shall be determined financially independent or dependent in accordance with EC 68044 and T5 54032. The law requires that financial independence be "among the factors to be considered" in reclassification and specifies how financial independence should be balanced against other factors, such as the passage of time, parent's residence, and the student's intent to establish residence elsewhere.

2. A student shall be considered financially independent for purposes of this section if the applicant meets **all three** of the following requirements:
- a. has not and will be claimed as an exemption for state and/or 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,
  - b. has not and will not receive more than seven hundred fifty dollar (\$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
  - c. 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.

Relevant documentation to support a finding of financial independence may include tax returns from the student to verify the student's income and tax returns from parents to verify that the student was not included as a dependent. Additional documents that may be useful include Form W-2 wage and tax statements, apartment rental/lease contracts, and bank statements involving loans, trusts, etc., to verify the sources of the student's income/savings.

In terms of appropriate tax returns to use in review, request the latest returns available. For example, for the 2012-2013 academic year, including spring term reclassification, you would at a minimum expect to be provided with tax returns for 2009, 2010 and 2011.

There is no minimum amount of income that a student needs to earn to be considered financially independent. Each student's circumstances will be different in terms of the documents needed to demonstrate that the student has supported him/herself with his/her own resources.

EC 68044 focuses on parental support aspects of financial independence, but also permits district governing boards to define other factors which may be considered in making residency reclassifications, such as support from family members other than parent(s). Pertinent statutes and regulations do not differentiate between in-country and out-of-country parental support.

The intent of the financial independence provisions is to determine if the student has supported him/herself independently through resources such as employment, commercial/institutional loans in student's name only, financial aid and savings from earnings, all of which require official documentation. In making a financial independence determination, the district should follow the criteria listed in EC 68044 and any other factors that have been established by the local governing board for purposes of making that determination.



A student who is not working but has savings in a bank may be considered to be financially independent if the district is able to verify the source of the student's savings. If the savings include more than \$750 per year determined to have come from a parent, the student would not be considered financially independent.

3. A student who has established financial independence may be reclassified as a resident if the student has met the requirements of T5 54020. The student must manifest the union of act and intent to establish California residence for one year prior to the residence determination date.
4. In determining whether the student has objectively manifested intent to establish California residence, financial independence shall weigh in favor of finding California residence and financial dependence shall weigh against finding California residence.
5. Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than shall financial dependence in earlier 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. T5 54023(d) permits a district to disregard a finding of financial dependence where there is not intent to establish (or maintain) residence in another state.
6. The ultimate question is whether the student has demonstrated intent to become a California resident. Financial status is only one factor to be considered and districts may wish to require some further documentation showing the student's objective intent to become a California resident.

*Reference: EC 68044; T5 54020, 54032*

## **Continuous Attendance**

A student whose resident classification is predicated upon one of the two exceptions requiring "continuous attendance" must be reclassified as a nonresident for the following term if the student drops below the minimum units for full time enrollment and is not otherwise entitled to resident classification.

The first exception to which this definition applies is under EC 68070 (Minor Student Who Remains in California After Parent Moves Elsewhere, Page 2.11) and the second is under EC 68076 (Adult Dependent Child of California Resident, Page 2.32). EC Section 64043 also makes reference to "continuous attendance," but it is only in the context that nonresident students shall not gain resident status solely by maintaining such "continuous attendance."

Title 5 Section 54010 has a different provision related to students who have "not been in attendance for more than one semester or quarter," but this provision applies only to situations where a student must have his/her residency classification re-affirmed after ceasing all attendance at an institution beyond the permitted period of time. This requirement is not the same as the "continuous attendance" criterion that is applicable when evaluating whether a student qualifies for the residency exceptions under EC Sections 68070 and 68076

as noted above.

*Reference: EC 68016*

## **Students under Jurisdiction of a California Juvenile Court**

- 1.** Minor students, under placement by order of a juvenile court, in a foster home or with adults other than their natural parents are subject to the normal rules of residence for minors. If, however, the order of the court goes to a determination of parental rights — a determination that the parent is no longer entitled to the rights as a parent — then the facts should be reviewed for indicia of emancipation, self-support, or perhaps the two year care and control exception.
- 2.** The review of any court order should be done in consultation with the district's legal counsel if rules other than the normal reference to the natural parent are to be employed.
- 3.** See "Foster Youth" under "Exceptions to the General Residency Determination Rules" on page 2.35 for an exception applicable to a student who currently 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.

*Reference: ECS 68062(f), (g), ECS 68071, ECS 68073, ECS 68085; Family Code Section 7050; T5 54040, 54047*

## **Student Appeals Procedure**

- 1.** The college district shall notify each student of the student's residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student's application for admission, whichever is later.
- 2.** Any student, following a decision on residence classification by the college, may make written appeal of that decision. Each college district shall establish procedures for appeals of residence classifications.
- 3.** The Chancellor will advise college districts on issues of residence classification. However, the student shall have no right of appeal to the Chancellor.

*Reference: T5 54070*

## **Refunds**

Each district governing board shall adopt rules providing for refund of the following nonresident tuition fees:

- 1.** Those collected in error.

2. Those refundable as a result of a reduction of the educational program for which the fees have been paid.
3. Those refundable as a result of the student's reduction of units or the student's withdrawal from an education program for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the district governing board.

Reference: T5 54070

## Students who Transfer to CSU or UC

The California State University (CSU) and University of California (UC) make residence determinations for all their students, including transfer students.

The basic laws governing residency determination are generally the same for all three systems of public higher education. However, because CSU and UC have their own regulations and are subject to some different laws, students who were considered residents at a community college or who did not pay nonresident tuition at a community college may find that they must pay nonresident tuition at CSU or UC, often due to the financial independence requirement.

For example, UC-Santa Barbara notifies its students that *“University residence regulations require that students who will not reach 24 years of age by December 31st of the calendar year of the term for which classification as a resident is requested, and who are not dependent upon a California resident parent, demonstrate financial independence in addition to the 366 day physical presence and intent requirements.”* It should be noted that this requirement makes it extremely difficult for most undergraduates who are not dependent on a parent whose principal place of residence is California, including transfer students from community colleges and other post-secondary institutions, to qualify for classification as a resident at a University of California campus.”

## RESIDENCY OF MILITARY PERSONNEL AND DEPENDENTS

### General Rule

1. **Military Personnel:** Students who are members of the armed forces of the United States domiciled or stationed in California on active duty are entitled to resident classification for purposes of determining the amount of tuition and fees for the duration of their attendance at a community college as long as they remain on active duty as of the residence determination date. If that member of the armed forces of the United States who is in attendance at an institution is thereafter transferred on military orders to a place outside this state where the member continues to serve in the Armed Forces of the United States, he or she shall not lose his or her resident classification so long as he or she remains continuously enrolled at that community college.

Exclusions or limitations from residency classification for active duty military students related to students “seeking a graduate degree” or “members of the armed forces

who were assigned for educational purposes to state-supported institutions of higher education” are no longer applicable under the current statute and federal law.

Service in the California National Guard does not constitute being a member of the armed forces of the United States in the interpretation of EC 68074 and 68075.

If a military person who is a California resident is transferred on military order out of the state or country later returns to California and enrolls at a community college, that person would have remained a California resident if his “Leave and Earnings Statement” continued to indicate California as the residence and the person has done nothing while out of state to relinquish California residence.

Members of the military who are stationed out of California are automatically exempt from payment of California state taxes for the time they are absent from the state if the military income is the sole income earned. If the military person has income from other sources, that income is subject to California taxes wherever it is earned.

- 2. Dependents of Active Duty Military Personnel:** A student who is a natural or adopted child, stepchild, or spouse of, and is a dependent of, a member of the armed forces of the United States domiciled or stationed in California on active duty is entitled to resident classification for the purposes of determining the amount of tuition and fees. There is no limitation on the length of the resident classification.

If the member of the armed forces whose dependent is in attendance at, or has been admitted to, a community college is thereafter transferred on military orders to a place outside California where the member continues on active duty or is thereafter retired as an active member of the armed forces of the United States, the student dependent shall not lose his or her resident classification so long as he or she remains continuously enrolled at that community college.

Requires:

- a.** Student must be spouse or natural or adopted child or stepchild of the armed forces member stationed in California or military person outside of California on active duty on residence determination date; or that the military person has, after the residence determination date, retired as an active member of the armed forces.
- b.** Student must be a dependent for income tax purposes of that member of armed forces, and
- c.** Student dependent is given a waiver for the minimum time necessary to establish California residence, beginning from the time the military person was stationed outside of California; or, from the date of retirement.
  - 1) For adults, this is one year.
  - 2) For minors, this is one year after attaining age 18.

*Note:* The spouse of a member of the military may become a California resident even if the military spouse has not taken steps to change his/her residence. Two people who are married do not always have the same residence. Each student's residence must be independently determined. If the student came to California in the company of his/her spouse, who is in the military, transferred to this state, there is a presumption that the student is a nonresident.

### **3. Continuing Exceptions Under Prior Law**

#### **a. Discharged Members of the Armed Forces**

A student who was a member of the armed forces of the United States stationed in California on active duty for more than one year immediately prior to being discharged shall be exempt from paying nonresident tuition for up to one year if he or she files an affidavit with the community college stating that he or she intends to establish residency in California as soon as possible.

This one year exemption shall be used while the student lives in this state and within two years of being discharged. (Effective January 1, 2013, AB 2478 amended Education Code Section 68075.5 to give the student two years to start the one-year exemption period as the student may need to temporarily to return to his/her home state after discharge and may not be able to immediately start education in California.)

A former member of the armed forces of the United States who received a dishonorable or bad conduct discharge is not eligible for this exemption.

*Reference: EC 68075.5; TS 54041*

#### **b. Nonresident Veterans and Other “Covered Individuals” under the VACA Act - SB 81 (2015) and SB 85 (2017)**

In August 2014, the Veterans Access, Choice, and Accountability Act of 2014 (VACA Act) was signed into federal law and was updated in 2016 by Public Law 114-315. This required the U.S. Department of Veterans Affairs (VA) to disapprove programs of education under the Montgomery GI Bill-Active Duty (MGIB-AD) and Post-9/11 GI Bill education benefit programs (Chapters 30 or 33, respectively, of Title 38, U.S. Code) at public institutions of higher learning if the school charges qualifying nonresident veterans and other qualifying individuals (“covered individuals”) tuition and fees in excess of the in-state rate for resident students for terms beginning after July 1, 2015.

California Community Colleges proceeded to implement “in-state” rates for “covered individuals” effective for academic terms beginning after July, 1 2015 as required by EC 68075.7 (SB 81, 2015; SB 85, 2017). For the specific criteria for determining eligibility for “covered individual status” and other VACA Act

implementation guidance, refer to the Chancellor's Office VACA Act Memorandum issued on August 4, 2017.

In September, 2018 the VACA Act was further amended by Pub.L. No 115-251 to add a new category of "covered individuals" eligible for an exemption to nonresident tuition. The new category includes individuals eligible for rehabilitation under 38 U.S. Code § 3102 pursuing a course of education with education assistance from the Training and Rehabilitation for Veterans with Service-Connected Disabilities (Chapter 31) education benefits program. This change is effective for courses provided during a quarter, semester, or term beginning after March 1, 2019.

The Chancellor's Office is currently working to amend Education Code section 68075.7 to mirror federal law and include the new category of "covered individuals". In the meantime, districts should refer to the federal statute (38 U.S.C. 3679(c)) to ensure all qualifying individuals ("covered individuals") under the VACA Act are granted an exemption to nonresident tuition. Failure to grant an exemption to any "covered individual" will result in course disapproval by the Secretary of Veterans Affairs.

### **c. Limited Effect of Military Resident Classification**

The resident classification granted under EC 68074 and 68075 is restricted to tuition and fee purposes. A student could not, for example, qualify to serve as a student governing board member under EC 72023.5 (which requires that student members of a governing board be California residents) unless the student otherwise met residency standards.

*Reference:* EC 68074, 68075, 68075.5, 68075.7; T5 54041, 54042; [Legal Opinion 10-05](#)

## **Servicemember's Civil Relief Act of 2003**

The Servicemember's Civil Relief Act of 2003 (SCRA), formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA), is a federal law that gives all military members some important rights as they enter active duty.

For purposes of providing evidence as to the discharged military person's intent for California residence, in addition to the objective manifestations asked of other students, further information is needed as to intent, i.e., including the changing of the home of record in military records, changing the permanent home address in military records, and not taking advantage of the exemption from payment of California income tax and/or personal property taxes contained in the Soldiers' and Sailors' Civil Relief Act of 1940.

This act was reauthorized in 2003 by Public Law 108-189 and renamed the Servicemembers Civil Relief Act of 2003 (SCRA).

### **1. Home of Record and Permanent Home Address**

A military "home of record" is a historical fact. It is the place recorded on official

military documents as the military person's home upon being commissioned, reinstated, appointed, reappointed, enlisted, reenlisted, inducted, or ordered into active duty.

The home of record may be changed only at the time one of the above events occurs, although it is subject to correction at any time for bona fide error.

A change in home of record to California is persuasive evidence of an intent to become a California resident, if coupled with military legal residence being California (DD 2058, DD 214). Similarly, the occurrence of changing the legal residence to that of another state is persuasive evidence that the military person does not intend domicile in California.

Less persuasive, but still evidence to be considered, is a listing of California as a "permanent home address" in military records. This can be done during the interim between occurrences of the above listed events. However, once one of those events occurs, failure to change the home of record eliminates the "permanent home address" as an item of proof of intent to be considered. In fact, as just noted, such failure is persuasive evidence of a lack of intent to establish California as the state of residence.

## **2. State Income Tax**

Personal income from military service is exempt from state income tax levied by a state of which a military person is not a resident (Servicemember's Civil Relief Act of 2003). Members of the military who are stationed out of California are automatically exempt from payment of California state taxes for the time they are absent from the state if the military income is the sole income. If the military person had income from other sources, the person is subject to California taxes, on all other income wherever earned.

In view of the above, if a military person pays income tax on his military income to the State of California, such payment would tend to indicate he or she considered himself or herself a resident of California at the time the payment was made.

Credit is allowed against California income tax for taxes paid by military persons to other states (Rev. and Tax. Code Section 17067) by a taxpayer temporarily out of the state, as, for example, a California resident in military service stationed in another state.

## **3. Personal Property Tax**

Payment of California personal property tax is required of all persons having personal property in the State of California on the assessment date, with the exception of nonresident military personnel. The latter are given immunity to personal property tax by the Soldiers' and Sailors' Civil Relief Act of 1940. That act, in pertinent part, provides:

"For the purposes of taxation in respect of any person, or of his personal property, income, or gross income, by any State, Territory, possession, or political subdivision of any of the foregoing, or by the District of Columbia, such person shall not be deemed



to have lost a residence or domicile in any State, Territory, possession, or political subdivision of any of the foregoing, or in the District of Columbia, solely by reason of being absent therefrom in compliance with military or naval orders, or to have acquired a residence or domicile in, or to have become resident in or a resident of, any other State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia, while, and solely by reason of being, so absent.

For the purposes of taxation in respect of the personal property, income or gross income of any such person by any State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia, of which such person is not a resident or in which he is not domiciled, compensation for military or naval service shall not be deemed income for services performed within, or from sources within, such State, Territory, possession, political subdivision, or District of Columbia, and personal property shall not be deemed to be located or present in or to have a situs for taxation in such State, Territory, possession, or political subdivision, or District of Columbia.

Where the owner of personal property is absent from his residence or domicile solely by reason of compliance with military or naval orders, this section applies with respect to personal property, or the use thereof, within any tax jurisdiction other than such place of residence or domicile, regardless of where the owner may be serving in compliance with such orders: Provided, that nothing contained in this section shall prevent taxation by any State, Territory, possession or political subdivision of any of the foregoing, or the District of Columbia in respect of personal property used in or arising from a trade or business, if it otherwise has jurisdiction....”

#### **4. State Income Tax – Active Military Who are Residents of California**

Active military who are residents of California stationed in California are required to pay California income tax on their military or other income sources.

Active military who are residents of California stationed outside the state are not required to pay California income tax on their military income. However, military persons are required to pay income tax on all other income sources.

If the military person has been out of California for any length of time and has not paid income tax, to determine whether California residence has been maintained, evidence would be the home of record in military documents, and/or the Defense Finance and Accounting Service (DFAS) Military Leave and Earnings Statement (LES) (Form 702). The LES indicates the military person’s home of record, and if it indicates California, the military person is subject to California taxes.

Reference: [Legal Ruling Number 300, 1965, California Franchise Tax Board](#)



## **5. Entry into Service After Establishing California Residence but Before Having that Residence for a Full Year**

A person who moves to California with the intention of establishing residence here, and who enters the military service before a year has elapsed, may still be classified as a California resident if he or she has, at the residence determination date, otherwise met the durational requirement, and has not in the interim, established residency elsewhere. In other words, if he or she arrived in California with intent to establish residence in this state, subsequent absences will not preclude the residence-for-a-year from being realized, if he or she did not establish residence elsewhere during the absence.

*Reference:* EC 68074, 68075; T5 54022, 54028

## **RESIDENCY OF NONCITIZENS OF THE UNITED STATES**

### **General Requirements**

A noncitizen, including an unmarried minor noncitizen, may establish his or her residence in California for community college tuition purposes unless precluded by the Immigration and Nationality Act [8 U.S.C. § 1101, et seq.] from establishing domicile in the United States, provided that the student has resided in California for more than one year prior to the residence determination date for the semester, quarter or other session for which attendance at the college is proposed.

In general, a noncitizen is precluded from establishing domicile in the United States if he or she entered the United States illegally, or under a visa which requires residence outside the United States, or he or she entered the United States solely for a temporary purpose. Such a noncitizen shall not be classified as a resident unless and until he or she has taken appropriate steps to obtain a change of status from the United States Citizenship and Immigration Services (“USCIS”, formerly known as Immigration and Naturalization Services) to a classification which does not preclude establishing domicile, and has resided in California for more than one year as noted above.

Noncitizen students are not required to provide their Permanent Resident Card (green card) to the admissions staff. However, the burden of proof of status is with the student. The district may indicate what kind of documentation it needs in the way of proof, but it is inappropriate to just ask to see the green card unless the student volunteers to show it. There must be some evidence that the student is legally in the United States. This means the person should have documents from the USCIS showing that he/she was admitted legally and/or has applied for permanent status (and will probably voluntarily show the “green card”).

*Reference:* ECS 68062(h) (i), T5 54045, [8 U.S.C. §1101\(a\)\(15\) and Regents of the University of California v. Superior Court \[Bradford\], 225Cal.App.3d 972\(1991\)](#)

### **Visa/ Immigration Statuses Precluded From Establishing Domicile in the United States**

A noncitizen is precluded from establishing domicile in the United States if the noncitizen entered the United States illegally, or under a visa which requires that the noncitizen have

residence outside the United States, or that he or she entered the United States solely for a temporary purpose. A noncitizen is precluded from establishing domicile in the United States and shall not be classified as a resident of this state if he or she holds a visa of the following types:

B-1, B-2	Visitor for business or pleasure
C1-C4	Noncitizen in transit
D-1, D-2	Noncitizen crew member
F-1, F-2, F-3	Academic student, spouse and children (F-3 students are border commuter students who maintain actual residence and place of abode in the country of nationality)
H-1B1	Temporary Worker nonimmigrant visa for citizens of Singapore and Chile. Spouses and/or children on derivative H-4 may not establish residence.
H-2A, H-2B,	Temporary Workers (Agricultural; skilled and unskilled) and Noncitizen trainee. H-3, H-4
	<i>Special Note for H-4 (Spouse or child of H-1B, H-1B1 H1-C, H2-A, H-2B, and H-3): Only a spouse or child of H-1B and H-1C visa holders may establish residency. A spouse or child of H-1B1, H-2A, H-2B, and H-3 visa holders may not establish residency.</i>
J-1, J-2	Exchange visitor, spouse and children
M-1, M-2, M-3	Nonacademic or vocational student, spouse and children (M-3 students are border commuter students who maintain actual residence and place of abode in the country of nationality)
O-2, O-3	Noncitizen with extraordinary ability in the sciences, arts, education, business or athletics (arrives with O-1, but is not related). The spouse or child of an O-2 visa holder may not establish US residence.
P-1	Internationally recognized athlete or entertainer
P-2	Artist or entertainer entering the United States to perform under a reciprocal exchange program
P-3	Artist or entertainer entering the United States to perform under a program that is culturally unique
P-4	Spouse or child of P-1, P-2, or P-3 noncitizen
Q-1 to Q-3	International cultural exchange program
S-5, S-6, S-7	Informant of criminal organization; informant of terrorism information (S-7 is a derivative “S” classification for a noncitizen spouse, married or unmarried son or daughter or parent of a noncitizen witness or informant under an S-5 or S-6 visa)

TN,TD Business persons and professionals who are citizens of Canada & Mexico under the North American Free Trade Agreement (NAFTA)

TWOV Transit Without Visa (Passenger/Crew)

Noncitizens under an “Order of Supervision” are not able to establish California residency for tuition purposes. Noncitizens are released from custody under an “order of supervision” when they are subject to a “final order of removal” that the USCIS is unable or unwilling to execute. Noncitizens who are subject to an order of removal are those who have been determined inadmissible or removable according to various provisions of the Immigration and Nationality Act.

With the exceptions of “advance parole” for individuals with a pending I-485 (*Application to Register Permanent Residence or Adjust Status*), noncitizens on “parole” status are admitted only on a temporary basis and as such are not eligible to establish California residency.

Visitors possessing a Border Crossing Card (BCC), Bering Straits (BE agreement entrants, Visa Waiver Program (VWP) entrants under nonimmigrant categories WB and WT are not eligible to establish California residency.

Any noncitizen whose very presence is unlawful, or who overstays his/her visa or authorization to remain in the United States (Undocumented or Out-of-Status) is not eligible to establish California residency.

*Reference: Immigration and Nationality Act, [8 U.S.C., 1101\(a\)\(15\)](#), as amended by Immigration Act of 1990, Public Law 101-649, Carlson v. Trustees (1/4/99)*

## Undocumented Noncitizens

An undocumented noncitizen is one who entered the country illegally and has not applied for legalization pursuant to the Immigration Reform and Control Act (IRCA), or other provisions of federal immigration law. Undocumented noncitizens cannot become California residents because they are precluded by federal law from establishing domicile in the United States. (See item 4., below.).

In order to become capable of establishing domicile, undocumented noncitizens must take steps to obtain a change of status from the United States Citizenship and Immigration Services to a status which does permit establishing domicile (See item a., below.)

*Reference: EC 68062(h),(i); T5 54045; Regents of the University of California v. Bradford*

## Residence Requirements for Noncitizens Who are Undocumented or Holding Visas Precluding the Establishing of Domicile in the United States

A noncitizen student holding one of the visas listed under “Visa/ Immigration Statuses Precluded from Establishing Domicile in the United States” on page 2.21, or who is undocumented, shall not be classified as a resident unless and until:

1. He or she has taken appropriate steps to obtain a change of status from the United States Citizenship and Immigration Services to a classification which does not preclude establishing domicile, by:

- a. Applying for permanent resident status.
- b. Applying for and being granted a change of status to a visa category that permits establishing domicile

*Note:* See special nonresident tuition exemption provisions for Special Immigrant Visa (SIV), T visa, and U visa holders under “Students Considered Eligible to Establish Residence”

- c. Applying for and being granted “Deferred Action for Childhood Arrivals” (DACA) status
- d. Applying for asylum
- e. Apply for refugee status

*Note:* A refugee may be entitled to an immediate exemption from the nonresident tuition fee if, upon entry to the United States, the refugee first settled in California, pursuant to the provisions of EC 68075.6 (effective January 1, 2018). This exemption is only granted for the length of time he or she lives in this state up to the minimum time necessary to become a resident (one year and one day).

- f. Applying for the Family Unity Program
- g. Applying for Temporary Protected Status
- h. Applying for VAWA Self-Petition, available for battered spouses or children of U.S. citizens or lawful permanent residents, authorized under the immigration provisions of the Violence Against Women Act (VAWA).

Applying for the Family Unity Program, LIFE Act (LIFE Legalization), and LIFE Act Family Unit Provisions

- i. Applying for “withholding of removal” (formerly called “withholding of deportation”) under the Immigration and Nationality Act (INA 241(b)(3)) or under the Convention Against Torture (“CAT”). CAT protections relate to the obligations of the United States under Article 3 of the United Nations Convention Against Torture.
2. He or she must meet the requirements of one year of physical presence, coupled with intent to make California home for other than a temporary purpose. The one-year durational period may not begin until the application has been made for a change of status as discussed in 4.a., above.
  3. Noncitizens seeking a change to a visa category that permits establishing residency under (a)(2) or seeking DACA status under (a)(3), above, cannot be classified as a resident until the application for a new visa or DACA status, as the case may be, has been granted. Once the application has been granted, the one-year durational

requirement may be counted from the date of application.

- 4.** Evidence that a noncitizen is in the process of adjusting his or her status to either permanent resident or to a visa category other than those listed under “Visa/ Immigration Statuses Precluded From Establishing Domicile in the United States” on page 2.24, includes, but is not limited to, one of the following:
  - a.** A Petition to Classify a Noncitizen Relative, stamped as filed with USCIS (I-130);
  - b.** A Petition for Immigrant Worker, stamped as filed with USCIS (I-140);
  - c.** An approved application for a visa category that permits establishing domicile (A-1, A-2, A-3, E-1, E-2, E-2C, E-3, G-1, G-2, G-3, G-4, G-5, H-1B, H-1C, H-4 (if spouse or child of H-1B or H-1C), I, K-1, K-2, K-3, K-4, L-1A, L-1B, L-2, NATO 1-7, N-8, N-9, O-1, O-3 (if spouse or child of O-1), and R-1, R-2, Special Immigrant Visa (SIV), T-1, T-2, T-3, T-4, T-5, T-6, U-1, U-2, U-3, U-4, U-5, V-1, V-2, V-3).
  - d.** An USCIS stamped Request for Asylum in the United States (I-589);
  - e.** An application for Lawful Temporary Residence (I-687 or I-700);
  - f.** An application for the Family Unity Program (I-817);
  - g.** An application for Temporary Protected Status (I-821 or I-104);
  - h.** Other appropriate documentation from USCIS indicating that an application for change of status has been filed.
  - i.** An employment authorization document (I-766)
- 5.** In October 2009, the Department of Homeland Security (DHS) announced that the following I-688 EAD’s had expired and that they would no longer verify the noncitizen information found on these forms:
  - I-688 (Temporary Resident Card)
  - I-688A (Employment Authorization Card)
  - I-688B (Employment Authorization Card)

Therefore, the I-766 EAD is currently the only EAD card issued by USCIS. It is issued to noncitizens who have been granted temporary permission to work in the United States, and was designed to replace the I-688B. It allows the recipient to remain and work in the United States, but does not grant any other benefits. In addition to other noncitizen information displayed on the EAD card, the I-766 includes immigration the category/code allowing the noncitizen to work in the United States, which may or may not be eligible to establish residency for tuition purposes. If the district is not able to readily determine whether the indicated immigration category/code is capable

of establishing residency for tuition purposes, a request by the admissions office for further information substantiating the person's status would be in order.

**Note:** Be aware that in many instances a person submitting an application by mail may not receive any acknowledgment from USCIS. Districts may wish to develop policies for permitting alternative methods for documenting that an application has been filed (e.g., an affidavit from an attorney).

*Reference:* EC 68062(h),(i); T5 54045; [Regents of University of California v. Bradford](#)

## Out-of-Status Noncitizens

A noncitizen is considered out-of-status if he/she is a visa holder who violates his or her visa status by not following the visa requirements, staying longer than the expiration date of the visa and/or I-94, becoming 21 (aging out), or engaging in activities not permitted for the visa.

Students should not be allowed to establish residence only by showing that they have violated the terms of their visa or stayed in this country beyond the period permitted by law. Out-of-status students also have to comply with the requirements specified under "Residence Requirements for Noncitizens Who are Undocumented or Holding Visas Precluding the Establishing of Domicile in the United States" on page 2.23.

Once the above requirements have been met, a person must demonstrate both physical presence in California for one year coupled with intent to make California the permanent home

**Note:** A noncitizen who is in one of the categories that precludes him or her from establishing domicile and has not taken steps as prescribed in "Residence Requirements for Noncitizens Who are Undocumented or Holding Visas Precluding the Establishing of Domicile in the United States" on page 2.23, may be classified as a resident if he or she fits into one of the limited exceptions authorized by law. Those exceptions relate to: (1) minors who are self-supporting; (2) minors who reside with and are supported by California residents, other than their parent for at least two years; (3) minors whose parents were California residents who moved elsewhere within the year prior to the time the minor enters the college; and (4) minors who lived out-of-state, and returned to California as adults (and have not been in the state for a year), but are dependent children (natural or adopted) of a California resident. (EC 68070, 68072-68082, 68100)

*Reference:* EC 68062(h),(i); T5 54045; [Regents of the University of California v. Bradford](#)

## Deferred Action for Childhood Arrivals (DACA)

On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several guidelines may request consideration of deferred action for a period of two years, subject to renewal. They are also eligible for work authorization. Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time. Deferred action does not provide lawful status.

Students approved for the "Deferred Action for Childhood Arrivals" (DACA) program are eligible to establish California residence for tuition purposes

The DACA program was established by the U.S. Department of Homeland Security (DHS) in June 2012. Under this program, individuals meeting specified requirements can apply to have a deportation action deferred for two years, subject to renewal for an additional two years. Students under DACA status are considered by DHS to be lawfully present in the United States during the period of deferred action (DACA approved students will receive an I-821 Approval Notice indicating dates through which DACA status is valid).

On June 5, 2014, the United States Citizenship and Immigration Services (USCIS) updated its Frequently Asked Questions regarding Consideration of Deferred Action for Childhood Arrivals (DACA). Of significance, the USCIS clarified that “individuals granted deferred action are not precluded by federal law from establishing domicile in the U.S.” (Frequently Asked Questions, #5.) Based on this clarification, we have concluded that students who have been granted DACA status have taken appropriate steps to obtain a change of status from the applicable federal agency to a classification which does not preclude establishing domicile. (T5 54045(c).) Thus, for residency determinations made for terms starting on or after June 5, 2014, if the student otherwise meets the requirements of California law related to physical presence and the intent to make California home for other than a temporary purpose, the student can be classified as resident for purposes of assessing tuition, awarding Promise (formerly known as Board of Governors) Fee Waivers, and determining eligibility for services that require California residency.

While DACA status is conferred for only two years, subject to renewal, as a general rule residency classification will not be impacted by the renewal requirement. Once a student has been classified as a resident, colleges are not required to determine the student’s classification again unless the student has not been in attendance for more than one semester or quarter. (T5 54010(a).)

See section titled “Residence Requirements for Noncitizens Who are Undocumented or Holding Visas Precluding the Establishing of Domicile in the United States” above for the specific steps that must be taken by DACA approved students and other noncitizen students to be classified as a resident.

Note 1: According to a February 17, 2015 USCIS statement, the existing DACA program discussed above was not affected by a federal District Court’s temporary injunction issued February 16, 2015, which only pertained to the “DAPA” [Deferred Action for Parents of Americans and Lawful Permanent Residents] and the “expanded” DACA programs. Ultimately, this temporary injunction was made permanent after the U.S. Supreme Court split 4-4 in a case appealing a nationwide injunction on the DAPA and “expanded” DACA programs. Thus, for the existing and still-in-effect DACA program, individuals may continue to request an initial grant of DACA or renewal of DACA under applicable federal guidelines.

Note 2: On September 5, 2017, the Department of Homeland Security (DHS) issued a memorandum on the rescission of DACA. It is important to note that DACA was not immediately terminated – a six month window was created by the administration, ostensibly for Congress to put the program into legislation. For the time being, individuals with DACA status continue enjoy the benefits



of the DACA program, including deferred action and work authorization. As of the date of this revision, due to federal court orders, the USCIS has resumed accepting requests to renew a grant of deferred action under DACA. See [Consolidated DACA Information](#) for current details.

Approval under DACA does not preclude students from qualifying for the AB540 nonresident tuition fee exemption. [Legal Advisory 07-01](#) provides the following concerning the AB 540 Nonresident Tuition Fee exemption:

*“This benefit is available to all U.S. citizens, permanent residents of the U.S., and noncitizens who are not nonimmigrants (including those who are undocumented), who meet all other eligibility criteria.”*

Undocumented students who are granted “Deferred Action” under the DACA program are not being granted “nonimmigrant” status. (“Nonimmigrant” status refers to individuals who are permitted to enter the U.S. on a temporary basis, whether for tourism, business, temporary work, or study). Instead, the USCIS DACA FAQs webpage indicates that “Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion” and that “Deferred action does not confer a lawful immigration status.” Therefore, being approved for DACA does not preclude a student from qualifying for the AB 540 nonresident tuition fee exemption because they do not gain “nonimmigrant” status through DACA approval. For additional information concerning AB 540, please refer to the section titled “Mandatory Exemptions from Payment of Nonresident Tuition” on page 2.37.

## **Students Considered Eligible to Establish Residence**

The following citizenship/immigration statuses ALLOW a student to establish residency as long as the student also meets the criteria regarding physical presence and intent to make California home for other than temporary purposes.

- U.S. Citizens
- Permanent Resident Noncitizens, including conditional permanent residents, and applicants for permanent resident status or to adjust status (Form I-485)
- Applicants for legalization pursuant to Immigration Reform and Control Act (IRCA)
- Asylees and asylum applicants
- Refugee applicants (*Note: A refugee may be entitled to an immediate exemption from the nonresident tuition fee if upon entry to the United States, the refugee first settled in California pursuant to the provisions of EC 68075.6, effective January 1, 2018. This exemption is only for the length of time he or she lives in this state up to the minimum time necessary to become a resident.*)
- Applicants for “withholding of removal” (formerly called “withholding of deportation”) under the Immigration and Nationality Act (INA 241(b)(3)) or under the Convention Against Torture (“CAT”). CAT protections relate to the obligations of the United States under Article 3 of the United Nations Convention Against Torture.



- Applicants for the Family Unity Program, LIFE Act (LIFE Legalization), and LIFE Act Family Unity Provisions
- Legalized noncitizens (lawful temporary residents, or “amnesty students”)
  1. Special Agricultural Workers (SAW) status - Immigration and Nationality Act (INA), Section 210
  2. Temporary Resident status - INA, Section 245A
  3. Cuban/Haitian status - Immigration and Control Act (IRCA), Section 202
- Spouses and unmarried children of legalized noncitizens who have been granted a temporary stay of deportation and work authorization - Family Unity Program - Immigration Act of 1990, Section 301
- Applicants for Temporary Protected Status
- Applicants for VAWA Self-Petition - Battered spouse or child of U.S. citizens or lawful permanent residents with pending or approved self-petition (Form I-360). Authorized under the immigration provisions of the Violence Against Women Act (VAWA) passed by Congress in 1994.
- Persons from Guam or Puerto Rico (Trust Territories), the Federated States of Micronesia, Palau, Kofrae, Ponape, Truk, Yap, Marshall Islands, American Samoa, and Tonga do not have visas, but are eligible to establish residence, unless they have applied for an F-1 (Student visa), which would preclude establishing domicile in the United States.
- Under the “Jay Treaty,” American Indians born in Canada have the right to pass and re-pass into the United States. They are subject to regulations of the United States United States Citizenship and Immigration Services. Only Indians who possess at least one-half degree of American Indian blood can take advantage of the border crossing provision of the Treaty. (Canada does not recognize this Treaty and considers American Indians to be subject to the provisions of their Immigration Act.)
- Students granted the “Deferred Action for Childhood Arrivals” (DACA) status
- Noncitizens admitted to the United States on an immigrant visa status would be considered eligible to establish residence even if a particular visa number/category is not listed below.

Students with the following visa statuses MAY establish residency:

A-1 to A-3      Foreign government officials, employees, family and servants

E-1, E-2, E-2C, E-3      E-1 and E-2 relate to treaty trader and treaty investor, spouse and children and E-2C relates to long-term foreign investors in

the CNMI (Commonwealth of Northern Mariana Islands). The E-3 visa program is for Australian nationals that work in the U.S. in “specialty occupations” and in terms of provisions for presence in the United States is similar to that of the E-1 and E-2 visa types.

G-1 to G-5	Representatives of foreign government, officers, and employees of international organizations
H-1B, H-1C, H-4*	Temporary worker/trainee (Special Note for H-4 [Spouse or child of H-1B, H-1B1, H-1C, H-2A, H-2B, and H-3]: Only spouse and child of H-1B and H-1C may establish residency. Spouse and child of H-1B1, H-2A, H-2B, and H-3 may not establish residence.)
I	Foreign information media, spouse and children
K-1, K-2, K-3, K-4	Fiancé and fiancée of U.S. Citizen; Spouse and children of a U.S. Citizen (LIFE Act)
	L-1A, L-1B, L-2 Intra-company transferee, spouse and children
N-8, N-9	Parent of a special immigrant child (Classified SK-3) and Child of a special immigrant (Classified N-8, SK-1, SK-2, SK-3)
NATO 1 to 7	NATO representatives, staff, family, expert employees and civilians accompanying NATO members
O-1, O-3*	Noncitizen with extraordinary abilities in science, arts, business, athletics, spouse, and children (Special note for O-3 [spouse or child of O-1 or O-2]: Only spouse and child of O-1 may establish residence. Spouse or child of Visa O-2 may not establish residence)
	R-1, R-2 Religious workers; spouse or child
SIV	Special Immigrant Visa (SIV) Special immigrant Afghanistan or Iraq national who worked with the U.S. armed forces as a translator; Special immigrant Iraq national who was employed by or on behalf of the U.S. government; and Special immigrant Afghanistan national who was employed by or on behalf of the U.S. government or in the International Security Assistance Force (ISAF) in Afghanistan. (Note: May be entitled to an immediate exemption from the nonresident tuition fee if upon entry to the United States, the SIV visa holder first settled in California pursuant to the provisions of EC 68075.6 (effective January 1, 2018). This exemption is only for the length of time he or she lives in this state up to the minimum time necessary to become a resident.)
T-1 to T-6	Victims of a severe form of trafficking in persons; spouse or child; parent of T-1 if T-1 victim is under 21 years of age. (Note: May be entitled to an immediate exemption from the nonresident tuition fee if upon entry to the United States, the T visa holder first settled in California pursuant to the provisions of EC 68075.6 and 68122 (effective January 1, 2018). This exemption is only for the length of time he or she lives in this state up to

the minimum time necessary to become a resident.)

- |               |  |
|---------------|--|
| U-1 to U-4    | Victims of certain crimes; spouse or child; parent of U-1 victim if U-1 is under is 21 years of age. (Note: May be entitled to an immediate exemption from the nonresident tuition fee if upon entry to the United States, the U visa holder first settled in California pursuant to the provisions of EC 68075.6 and 68122 (effective January 1, 2018). This exemption is only for the length of time he or she lives in this state up to the minimum time necessary to become a resident.) |
| V-1, V-2, V-3 | Spouse/child/derivative child of a Lawful Permanent Resident who is the principal beneficiary of a family-based petition (Form I-130) which was filed prior to Dec. 21, 2000, and has been pending for at least three years;   |

\*Even though dependent children holding an H-4 or O-3 visa are not precluded, their residence is derived from that of their parents. (See Minor Noncitizens on the next page.)

*Note:* Noncitizens admitted to the United States in an immigrant visa status would be considered eligible to establish residence even if a particular visa number is not listed above.

*Reference:* Immigration and Nationality Act, [8 U.S.C., 1101\(a\)\(15\)](#), as amended by Immigration Act of 1990, Public Law 101-649, 11/29/90

## Website Notice Requirement

Education Code Section 68075.65 requires each community college campus to post on its website a notice indicating that a student who has a special immigrant visa that has been granted a status under Section 1244 of Public Law 110-181, under Public Law 109-163, or under Section 602(b) of Title VI of Division F of Public Law 111-8, or is a refugee admitted to the United States under Section 1157 of Title 8 of the United States Code, and who, upon entering the United States, settled in California, shall be exempt from paying the nonresident tuition fee required by Section 76140 for the length of time he or she lives in this state up to the minimum time necessary to become a resident.

## Minor Noncitizens

1. An unmarried minor noncitizen (if not precluded by the Immigration and Nationality Act from establishing residence in the United States) derives residence from his or her parents, pursuant to EC 68062(f).
2. An unmarried minor noncitizen on a visa that precludes establishing domicile does not derive residence from a parent who is a California resident. Generally, the residence of an unmarried minor noncitizen may be immediately derived from his/her parents. However, minors who are in this country on visas that preclude establishing domicile or are undocumented, are residents of their country of origin as a matter of federal law. Since there can only be one residence, such noncitizen minors cannot be residents of California, even though state law would otherwise permit them to derive residence from their parents. Once steps are taken to change their status to one that allows residence, they would derive the parent's residence status immediately (no waiting period).

3. A minor noncitizen, whose parent is precluded from establishing domicile pursuant to “Visa/ Immigration Statuses Precluded From Establishing Domicile in the United States,” page 2.24, may be eligible for residency if the parent has taken appropriate steps to obtain a change of status from the United States Citizenship and Immigration Services to a classification which does not preclude establishing domicile; and, the parent has met the requirements of one year of physical presence coupled with the intent to make California a home for other than a temporary purpose.
4. The minor children of noncitizens who are precluded from establishing domicile, are allowed to establish residence separately from their parents if the children were born in the United States and are United States citizens, and otherwise meet applicable California residence requirements. (Note: These individuals are entitled to the full rights that United States citizenship brings.)

*Reference: EC 68062 (f),(h),(i); T5 54045*

### **Amnesty Students**

An amnesty student is a previously undocumented noncitizen who has applied for legalization pursuant to the Immigration Reform and Control Act (IRCA). These students are eligible to establish residence in California.

### **Enrollment of B Visitor Visa Students**

As indicated in Legal Advisory 07-01 (Q&A 34), please note that federal immigration law provides that: “An noncitizen who is admitted as, or changes status to, a B-1 or B-2 nonimmigrant on or after April 12, 2002, or who files a request to extend the period of authorized stay in B-1 or B-2 nonimmigrant status on or after such date, violates the conditions of his or her B-1 or B-2 status if the noncitizen enrolls in a course of study.” (8 C.F.R. § 214.2(b)(7).) Colleges should consult their legal counsel about the ramifications of the federal restrictions on the admission and enrollment of students who enter the United States in visitor status.

### **Persons from Guam or Puerto Rico (Trust Territories), the Federated States of Micronesia, Palau, Kofrae, Ponape, Truk, Yap, Marshall Islands, American Samoa, and Tonga**

Persons from these geographic areas do not have visas, but are eligible to establish residence, unless they have applied for an F-1 (Student visa), which would preclude establishing domicile in the United States.

### **EXCEPTIONS TO THE GENERAL RESIDENCY DETERMINATION RULES**

A resident student is a person who has had residence in California for more than one year immediately preceding the residence determination date as established by the district governing board. However, the Education Code grants residence classification to certain persons without the need to prove that they have met the durational or intent requirements usually associated with establishing residence. Of course, if a student claims to fall within one of these exceptions, he or she must be able to provide proof of eligibility.

As discussed below, districts also have the option of granting residence classification in some circumstances. The Education Code also contains statutes that either require or permit districts to exempt certain nonresident students from the payment of nonresident tuition. Full information on these matters is beyond the scope of this document; districts should also be familiar with all applicable statutes and regulations that cannot be fully covered in this format. Student residency classification and nonresident tuition exemption matters are primarily addressed in EC 68000 et seq. and 76140 et seq. and T5 54000 et seq. and 58000 et seq. Follow-up questions on these areas can be submitted to the Chancellor's Office Fiscal Services Unit at [AttendanceAcct@cccco.edu](mailto:AttendanceAcct@cccco.edu).

*Reference:* EC 68017, 68023, 68060, 68062

### **Exceptions Limited to the Minimum Time Necessary to Become a Resident**

The time necessary to become a resident for tuition purposes is one year and one day. Those exceptions where duration is “the minimum time necessary to become a resident” should be granted only for the period of time a student needs to otherwise establish the one year.

For example, a student who is entitled to an exception whose term is “for the minimum time necessary to become a resident” who arrives in California on January 1, 2018 and enrolls in the Fall term, should be granted the resident classification under the exception only until January 1, 2019. For minors, the exception is for one year from the date the student becomes 18 years of age (to age 19).

*Reference:* EC 68070, 68071, 68073, 68075.5, 68075.6, 68076, 68078, 68079; T5 54046, 54047

### **Adult Dependent Child of California Resident**

A student who has not been an adult resident of California for more than one year and is the dependent child of a California resident parent shall be entitled to resident classification until the student has resided in California the minimum time necessary to become a resident so long as continuous attendance is maintained at the college. Thereafter, such student must meet the requirements for establishing residency.

Requires:

1. The student must be an adult natural or adopted child of a California resident who has satisfied the one-year waiting period requirement;
2. The student is a dependent for income tax purposes of that California resident, or evidence is provided that the student is currently dependent on parent who is a California resident, even if the student had previously been claimed for income tax purposes by a parent who resided outside of California;
3. The student must not have lived in California for more than one year; and
4. The student must maintain continuous attendance at the college.

*Reference:* EC 68076

## **Agricultural Employment**

A district may classify a student as a resident if he or she lives with a parent who earns a livelihood primarily by performing agricultural labor for hire in California and other states if: (1) the parent has performed such labor in this state for at least two months per year in each of the two preceding years, and (2) the parent lives within the district which maintains the community college attended by the student, and (3) the parent claims the student as a dependent on his or her state or federal personal income tax returns if he or she has sufficient income to have a personal income tax liability.

*Reference: EC 68100; T5 54048*

## **Apprentices**

A student claiming resident status as an apprentice shall provide evidence such as a card or certification from the Joint Apprenticeship Committee or the student's employer, evidencing such apprenticeship status.

The student must be at least 16 years of age and have entered into a written agreement called an "apprentice agreement," with an employer or his or her agent, an association of employers, or an organization of employees, or a joint committee representing both and which meets the requirements of Labor Code Section 3077.

Resident status granted to a nonresident apprentice is only applicable to courses that are part of the apprentice's required related and supplemental instruction. Payment of nonresident tuition would be required for all other coursework.

*Reference: EC 76350; LC 3077*

## **Employees of Public Schools**

A student holding a valid public school 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 such student meets any of the following requirements:

1. Holding of a provisional public school credential and enrollment at an institution in courses necessary to obtain another type of credential authorizing service in the public schools.
2. Holding a public school credential issued pursuant to EC 44250 and enrollment at an institution in courses necessary to fulfill the credential requirements.
3. Enrollment at an institution in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of EC 44259.

*Reference: ECS 68078, T5 54046*

## **Foster Youth**

EC 68085 permits the California Community colleges, and other California public postsecondary segments, to classify a foster youth student as a resident for tuition purposes

until he or she has resided in the state for the minimum time needed to become a resident, if the student meets the following requirements:

1. The student currently resides in California.
2. The student is 19 years of age or younger.
3. The student is currently a dependent or ward of the state through California's child welfare system, or was served by this system and is no longer being served either due to emancipation or aging out of the system.

As it relates to determining student eligibility for the foster youth residency exception, and as required for numerous other residency exceptions, districts will need to rely on actual documentary evidence, and not self-certification, that the student is or was a dependent or ward of the state through California's child welfare system (e.g., standardized documentation currently given to foster youth by county welfare departments as evidence of this transition for financial aid or other purposes, including "Ward of the Court" letters or "Proof of Dependency" cards). Note that the form of documentation may vary by county, but should include certain essential information, such as "Youth Name," "Date of Birth," "Current Mailing Address and ILP Contact Number," "County Identification Number" or "Probation Identification Number," and "Dependency/Wardship Start Date." The form of documentation provided to emancipating youth by each county can vary. However, a laminated, wallet-sized card is the State Department of Social Services recommended form of dependency verification.

For students who have not emancipated or aged out of care, similar foster care verification can also be obtained from the county welfare departments by the applying student. Districts permitting this residency exception may want to revise their local residency questionnaire to help identify potentially eligible students.

*Reference: EC 68085; FC 7050*

### **Graduate of School Operated by Bureau of Indian Affairs**

A student who, prior to enrollment in a community college, graduated from any school located in California that is operated by the United States Bureau of Indian Affairs, is entitled to resident classification, so long as continuous attendance is maintained at the college.

*Reference: EC 68077*

### **Nonresident Employees and/or Their Dependents**

A person who is a full-time employee of an institution or of any state agency, or a student who is a spouse or child of a full-time employee of an institution or of any state agency who is assigned to work outside California (the requirement to work outside the state does not apply to employees of an institution), may be entitled to resident classification until he or she has resided in California the minimum time necessary to become a resident. See definitions of institution (page 2.5) and state agency (page 2.7).



Requires:

1. The student must be a full-time employee of a California Community College, California State University or Colleges, the University of California, or the California Maritime Academy; or the parent or spouse of the student must be such an employee.

OR

2. The student is a child or spouse of a person employed full time by any state agency (an office, department, division, bureau, board or commission of the State of California ) and which person is assigned to work outside of California
3. Whether the student qualifies under 1. or 2. above, the student must not have lived in California for more than one year since arriving or since attaining age 18, whichever came later.

*Reference:* EC 68079

### **Nonresident Minor Whose Parent Left California**

A student who remains in this state after his or her parent, who was theretofore domiciled in California for at least one year immediately prior to leaving and has, during the student's minority and within one year immediately prior to the residency determination date, established residence elsewhere, shall be entitled to resident classification until the student has attained the age of majority and has resided in the state the minimum time necessary to become a resident, so long as, once enrolled, the student maintains continuous full-time attendance at an institution.

Requires each of the following:

1. Parent must have been domiciled in California for at least one year prior to leaving.
2. Parent must have left California to establish domicile elsewhere within one year of the residence determination date.
3. Student once enrolled maintains continuous full-time attendance at an institution.
4. Student is under age nineteen and in process of becoming a resident as defined on page 2.7.

*Reference:* EC 68070

### **Self-Support**

A student under age 19 on the residence determination date who has been entirely self-supporting and actually present in California for more than one year immediately preceding the residence determination date, with the intention of acquiring California residence, shall be entitled to resident classification until he or she has resided in the state the minimum time necessary to become a resident.



A student claiming application of the self-supporting exception must provide **evidence** to the admissions officer such as:

1. Documentation, including W-2 forms or a letter from employer, showing earnings for the year immediately preceding residence determination date of attendance.
2. A statement that the student was actually present for said year (short absences from the state for business or pleasure will not preclude the accumulation of time), and
3. A statement showing all expenses of the student for said year.

A loan made by a bank to the parent who turns over the proceeds to the minor negates self-support.

A loan made by a bank to the student without the parent co-signing or endorsing the student's note indicates self-support. Co-signing or endorsement by parent negates self-support, since the student is then being supported by parent's credit.

A loan made by parent to the student negates self-support.

If the evidence items a. and b. above are satisfactorily submitted, the student is treated as having the capacity to establish his or her own residence, and he or she would be screened as an adult would be screened.

*Reference: EC 68071, T5 54040*

## **Students Employed by a Public Agency for Purposes of Peace Officer Employment**

A student who has been hired by a "public agency" may be classified as a resident for enrollment in and completion of police academy training courses.

"Public agency" as defined for this section means the state or any city, county, district, or other local authority or public body of or within the State of California.

Requires:

1. Student has passed all other requirements of the public agency, and
2. Written assurances by the public agency that it intends to classify the student as a peace officer upon successful completion of the police academy training course.

Note: The provisions as stated above are intended to apply to all classes of persons defined as "peace officers." The term "police academy training" is interpreted to cover peace officer training at a college or academy.

*Reference: EC 76140.5; GC 811.2*

## **Two-Year Care and Control**

A student shall be entitled to resident classification if, immediately prior to enrolling at an institution, he or she has lived with and been under the continuous direct care and control of any adult or adults, other than a parent, for a period of not less than two years, provided

that the adult or adults having such control have been domiciled in California during the year immediately prior to the residence determination date. This exception shall continue until the student has attained the age of majority and has resided in California the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.

Requires:

1. The student has lived under the direct care and control of an adult or adults, other than a parent, two years immediately preceding the residence determination date, and
2. Such adult or adults have, for the year immediately preceding the residence determination date, had California residence, and
3. Continuous enrollment by the student.

*Reference:* EC 68073, T5 54047

## MANDATORY EXEMPTIONS FROM PAYMENT OF NONRESIDENT TUITION

In addition to those instances when districts are required or permitted to grant resident status, there are circumstances when districts are required or permitted to exempt certain nonresident students from the payment of nonresident tuition. Some of these required and permitted exemptions are listed in this and the following section.

Full information on all of these matters is beyond the scope of this document. [Legal Advisory 18-02](#) issued on January 30, 2018, provides information regarding exemptions to nonresident tuition, including changes to the law enacted by the California Legislature in 2017, and effective January 1, 2018. This advisory provides an update on new laws affecting residency, as well as new legislation on student immigrant visas and military dependents. It includes a section of Questions and Answers.

The district **MUST** exempt students in the following categories from payment of nonresident tuition:

### 1. AB 540 (Firebaugh, 2001)

One major exception from the payment of nonresident tuition is often referred to as the “AB 540” exemption. Assembly Bill 540, effective January 1, 2002 added EC 68130.5., established this exemption for certain nonresident students. In 2014 and again in 2018, the criteria for this exemption were broadened.

Nonimmigrant noncitizens (visitors to the US who have a form of temporary lawful status but who do not intend to establish residency) are not eligible for this exemption, with the exception of holders of T and U nonimmigrant visas, who are eligible for this exemption if they meet the requirements outlined below.

This exemption is not available for students who are absent from California and are taking distance education classes from California community colleges.

Reflecting the 2018 changes pursuant to SB 68, the eligibility requirements for this exemption are as follows:

#### Requirement 1 - Attendance at California Schools

This requirement may be met in either of the following two ways:

- a.** Total attendance (or attainment of credits earned) in California equivalent to three or more years of full-time attendance at California high schools, California adult schools, campuses of the California Community Colleges, or a combination of these; or
- b.** Three or more years of full-time California high school coursework, and a total of three or more years of attendance in California elementary schools and/or California secondary schools.

*Note:* Attendance in credit courses at a California community college counted toward this requirement shall not exceed a total of two years of full-time attendance.

#### Requirement 2 – Completion of a Course of Study

This requirement can be met in any of the following ways:

- a.** Graduation from a California high school or equivalent; or
- b.** Attainment of an associate degree from a California community; or
- c.** Fulfillment of the minimum transfer requirements established for the University of California or the California State University for students transferring from a California community college

#### Requirement 3 – Registration

Requires registration as an entering student at, or current enrollment at, an accredited institution of higher education in California.

#### Requirement 4 – Affidavit of Student without Lawful Immigration Status

Students without lawful immigration status must file an affidavit stating that the student has either filed an application to legalize his/her immigration status, or will file an application as soon as he/she is eligible to do so.

Students who previously held a valid nonimmigrant visa (such as a B visitor visa) and have overstayed their visa are determined to be out-of-status even if their passport has not expired. Students who are out-of-status at the time of execution of the affidavit are eligible for the AB 540 exemption.

Nonimmigrant alien students (other than “T” or “U” nonimmigrant visa holders in accordance with Education Code section 68122 and effective January 1, 2013

pursuant to AB 1899 of 2012), as defined by federal law, are not eligible for the AB 540 exemption. Students who are exempt from the payment of nonresident tuition under Education Code section 68130.5 may be reported by a community college district as a full-time equivalent student for apportionment purposes. Although these students are exempted from paying nonresident tuition, they remain nonresidents until such time as they change their immigration status to one that allows establishing a domicile in the United States.

The Chancellor's Office has issued updated guidelines ([Legal Advisory 18-02](#)) which supersede those in the previously issued ([Legal Advisory 07-01](#)). This advisory includes guidance on the implementation of Education Code section 68130.5, which was recently revised to reflect the newly enacted SB 68 (Lara, 2017). Legal Advisory 18-02 also includes guidance on AB 1899 which allows "T" and "U" visa holders to be eligible for AB 540, and AB 130 and 131 (2011-the "California Dream Act,") which allows AB 540 eligible students to apply for and receive student financial aid from publicly administered student financial aid sources. The guidelines provide a greater level of detail and address specific issues that may arise under the section and may be useful to districts in meeting their responsibilities.

The Board of Governors' regulations require community college districts to use a "questionnaire form prescribed by the Chancellor" to determine eligibility for the exemption. The [FORM](#) was developed in cooperation with the University of California and the California State University systems, and is required to be completed by all students applying for this exemption.

Students who are exempt from nonresident tuition under the AB 540 exemption may be reported as FTES for apportionment purposes. Although these students are exempted from paying nonresident tuition, they remain nonresidents until such time as they change their immigration status to one that allows establishing a domicile in the United States.

Reference: EC 68130.5; Legal Advisory 18-02

## **2. AB 343 (McCarty, 2017)**

Assembly Bill 343, effective January 1, 2018 added EC 68075.6. This section grants an immediate Nonresident Tuition fee exemption to eligible SIV visa holders and refugee students admitted to the United States under [Section 1157 of Title 8 of the United States Code](#). SIV Visa holders include Iraqi citizens or nationals (and their spouses and children) who were employed by or on behalf of the United States Government in Iraq, and who meet certain criteria, and also translators (and their spouses and children) who worked directly with the United States Armed Forces, and who meet certain criteria. SIV Visa holders also include Afghanistan nationals who were employed by or on behalf of the U.S. government or in the International Security Assistance Force (ISAF) in Afghanistan.

Eligibility for this exemption includes the requirement that “upon entering the United States, [the Student] settled in California”. This exemption is only granted for the minimum time it would take for the student to establish residence. For minors, the exception is for one year from the date the student becomes 18 years of age (to age 19).

This nonresident tuition exemption is intended for all refugees, not just those admitted under the SIV program. It is also important to note that eligible T and U Visa holders are eligible for this immediate exemption based on the provisions of EC 68122, which ties their exemption status to that of refugees.

Districts are authorized to claim state apportionment for FTES generated by nonresident students exempted under this provision and their attendance should be reported as resident FTES for state apportionment purposes.’

*Reference:* EC 68075.6

### **3. AB 2364 (Holden, 2016)**

Pursuant to AB 2364 (Holden, Chapter 299, Statutes of 2016; EC 76140) and effective January 1, 2017, a district must exempt all qualifying nonresident special “part-time” students (other than those with a non-immigrant status, such as those present in the United States on a B Visitor Visa) from the nonresident tuition fee and expressly allows districts to report their attendance as resident FTES for apportionment purposes. Under an AB 288 (Holden, Chapter 618, Statutes of 2015) College and Career Access Pathways Partnership (CCAP) dual enrollment agreement with a school district, qualifying special part-time student status permits enrollment up to 15 credit units and the units may not constitute more than four community college courses per term in accordance with EC 76004(p). Under non-CCAP dual enrollment, qualifying special part-time student status permits enrollment up to 11.00 credit units per term in accordance with EC 76001(d). Please refer to [Legal Opinion 16-02](#) for more information on the two types of dual enrollment.

Please note that the AB 2364 provisions described above modified the provisions of previously approved SB 150 (Lara, Chapter 575, Statutes of 2013). SB 150 provided that the nonresident tuition exemption applicable to eligible special part-time students was permissive, which under AB 2364 has now been modified to be mandatory. Additionally, under SB 150 the attendance generated by exempted students was not eligible to be reported for apportionment purposes, but under AB 2364 attendance generated by exempted students is eligible to be reported for apportionment purposes.

The Chancellor’s Office has determined that nonresident special part-time students that hold a “T” or “U” non-immigrant visa should NOT be excluded from this required nonresident tuition fee exemption and that eligible special part-time students must reside in California during the period of attendance.

Districts are authorized to claim state apportionment for FTES generated by nonresident students exempted under this provision and their attendance should be reported as resident FTES for state apportionment purposes.

Reference: EC 76140

#### **4. SB 141 (Correa, 2013)**

Pursuant to SB 141 (Correa, Chapter 576, Statutes of 2013) and effective January 1, 2014, districts are required to exempt from nonresident tuition a nonresident student who is a U.S. citizen and who resides in a foreign country, if that student meets all of the following requirements:

- Demonstrates a financial need for the exemption.
- Has a parent or guardian who has been deported or was permitted to depart voluntarily under the federal Immigration and Nationality Act.
- Moved abroad as a result of the deportation or voluntary departure.
- Lived in California immediately before moving abroad.
- Attended a public or private secondary school in California for three or more years.
- Upon enrollment, will be in his or 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 community college stating that he or she intends to establish residency in California as soon as possible.
- Documentation shall be provided by the student as required by statute as specified in EC 76140(a)(5).
- A student receiving a nonresident tuition exemption under SB 141 is not classified as a resident for the purpose of fees or financial aid. These students do not qualify for the California College Promise Grant or any other state financial aid until they establish California residency. As citizens, SB 141 students may apply and qualify for federal financial assistance such as Pell grants, FSEOG, and federal student loans.
- Districts are authorized to claim state apportionment for FTES generated by nonresident students exempted under this provision and their attendance should be reported as resident FTES for state apportionment purposes.

Reference: EC 76140(a)(5)

## **5. Dependents of 9/11 Victims**

Another important exemption from the payment of nonresident tuition is for dependents of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center in New York City, the Pentagon building in Washington, D.C., or the crash of United Airlines Flight 93 in southwestern Pennsylvania. The exemption applies if the dependent meets the financial need requirements for the Cal Grant A Program under EC 69432.7 and either the dependent was a resident of California on September 11, 2001, or the individual killed in the attacks was a resident of California on September 11, 2001.

Districts are authorized to claim state apportionment for FTES generated by nonresident students exempted under this provision and their attendance should be reported as resident FTES for state apportionment purposes.

Reference: EC 68121, 76300(j)-(l)

## **6. Students Taking Noncredit Courses**

Districts are required to exempt students taking noncredit courses from payment of nonresident tuition for those noncredit courses.

Districts are authorized to claim state apportionment for FTES generated by nonresident students exempted under this provision and their attendance should be reported as resident FTES for state apportionment purposes to the extent permitted by applicable Title 5 regulations.

In May 2018, the Board of Governors approved a change to Title 5, Section 58003.3 that eliminated the requirement that students be lawfully admitted to the United States in order for districts to claim apportionment for nonresident students in noncredit courses.

Effective September 19, 2018, students enrolling only in noncredit classes are not subject to residence classification requirements. The attendance of students taking noncredit courses who have not been classified as residents or nonresidents should be reported as resident FTES for state apportionment purposes to the extent permitted by applicable Title 5 regulations.

Reference: EC 68086, 76380; T5 58003.3, 58007, 58025

## **7. Apprentices**

Districts are required to exempt apprentices taking classes of related or supplemental instruction from payment of nonresident tuition. A student claiming an exemption as an apprentice should provide documentation such as a card or certification from the Joint Apprenticeship Committee, or the student's employer, evidencing apprentice status. This exemption applies only to the apprentice student's enrollment in required classes of related or supplemental instruction.

Reference: EC 76350

## 8. Special Part-time Students Enrolled Only for High School Credit

Special part-time students who are enrolled only for high school credit should not be charged nonresident tuition because they are covered by the “free school” provisions of the California constitution.

Districts are authorized to claim state apportionment for FTES generated by nonresident students exempted under this provision and their attendance should be reported as resident FTES for state apportionment purposes.

*Reference: EC 76140*

## PERMISSIVE EXEMPTIONS FROM PAYMENT OF NONRESIDENT TUITION

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. Districts are not authorized to claim state apportionment for FTES generated by these students. Their attendance must be reported as nonresident FTES.
2. All students taking six or fewer units. Exemptions under this provision cannot be made on an individual basis. Districts are not authorized to claim state apportionment for FTES generated by these students. Their attendance must be reported as nonresident FTES.

*Reference: EC7614*



## CHAPTER 3 ATTENDANCE ACCOUNTING AND REPORTING

### ATTENDANCE

#### General Requirement

Only the attendance of persons who have been admitted to the college and are enrolled in one or more approved courses may be counted for apportionment purposes.

*Reference:* EC 84500; T5 58050

#### Auditors

Hours generated by a student not enrolled in, or not carrying out the instructional activities required of all students in a class, may not be claimed for apportionment purposes. Such students are defined as “auditors.”

*Reference:* EC 76370

#### Apportionment for Course Enrollments

For purposes of enrollment limits, Title 5, Section 55000(n) indicates that an “enrollment” in a credit course occurs when a student receives an evaluative or nonevaluative symbol pursuant to Section 55023. Considering the definition of what constitutes an enrollment and the provisions of Title 5, Section 58161 (Apportionment for Course Enrollment), only those credit enrollments that meet this definition are eligible to be claimed for state apportionment.

Specifically, under this apportionment restriction for enrollment in credit courses, students who are determined to be actively enrolled as of the census point for purposes of claiming apportionment in Weekly or Daily Census courses, but who end up dropping the course prior to the point where they would be assigned a “W” withdrawal (typically between the 20 and 30 percent point of the course for colleges that start their withdrawal with a “W” period at 30% of a term), are not eligible to be claimed for apportionment because there would be no notation (“W” or other) recorded for those students per Title 5, Section 55024(a)(3). Credit courses on the positive attendance accounting procedure are similarly affected. In other words, districts are not able to claim FTES for students who were not in the class long enough to require them to be assigned an evaluative or nonevaluative symbol.

To mitigate the potential apportionment impact from this type of course drops, districts may wish to review their deadline for “W” withdrawals, as permitted by Title 5, Section 55024(a)(3).

It is important to be aware that adopting an earlier start of the withdrawal with a “W” period has some effect on students receiving federal financial aid, and for district obligations under the Return of Title IV federal financial aid repayment requirements. Consultation with those responsible for financial aid satisfactory academic progress policies and for business office operations is recommended so those potential impacts can be taken into consideration.

#### Students Actively Enrolled At Census

For courses for which FTES is computed pursuant to California Code of Regulations, Title 5, Section 58003.1(b), (c), and (f) (census procedure), contact hours of enrollment shall not be

counted for a student who is a “drop,” “no-show,” or a “withdrawal” at the cutoff point for the census day or date (not later than the end of business of the last college day immediately preceding the census day or date). Each college must establish an official procedure for ensuring that data computed for the census day or date includes only students who are actively enrolled as of that date.

*Reference: EC 84501, T5 58004*

## **COURSE SCHEDULING AND CONTACT HOUR COMPUTATIONS**

### **Start and End Times**

Class meetings must begin and end at times on the five-minute cycle (e.g., 0800, 0805, 0810, 0815, etc.). Classes must not be scheduled to begin or end at other times (e.g., 0823, 0858, etc.)

### **Class Hour**

The “class hour” is the basic unit of attendance for computing full-time equivalent student (FTES). It is a period of not less than 50 minutes of scheduled instruction and/or examination. There can be only one “class hour” in each “clock hour,” except as provided for multiple class-hour classes. A class scheduled for less than a single 50-minute period is not eligible for apportionment. For purposes of computing full-time equivalent student (FTES), a class hour is commonly referred to as a “contact hour” or “Student Contact Hour” (SCH).

*Reference: EC 84501; T5 57001(e), 58023*

### **Clock Hour**

A “clock hour” is a 60-minute time frame which may begin at any time, for example, 0800 to 0900, 0810 to 0910, 0820 to 0920.

*Reference: T5 58023*

### **Passing Time/Break**

Each clock hour is composed of one 50-minute class hour segment and a 10-minute segment referred to as “passing time” or “break.” No additional attendance may be claimed for this 10-minute segment, except as provided for a “multiple hour class.”

**Note:** The 10-minute break time permitted in each clock hour may not be accumulated during a multiple hour class to be taken at end of the class and be counted for FTES apportionment.

*Reference: T5 58023*

### **Partial Class Hour**

A “partial class hour” is the fractional part of a class hour at the end of a class scheduled for more than one clock hour.

*Reference: T5 58023*

## Multiple Hour Class

1. A multiple hour class is any period of instruction scheduled continuously for more than one clock hour.
2. In multiple hour class scheduling, each 50 minutes exclusive of breaks (formal or informal) is a class/contact hour. However, the partial class hour (the fractional part of a class hour beyond the last full clock hour) may be counted for apportionment, starting from and including the 51st minute of the last full clock hour.

The divisor for this fractional part of a class hour shall be 50.

There shall be no class break in the last full clock hour or the partial class hour.

The sum of class hours cannot exceed the total number of elapsed clock hours for which the class is scheduled. For this rule, “clock hours” is interpreted to mean the total whole number (an integer) of clock hours, each being a 60-minute time frame. For example, in a class scheduled from 0800 to 1125, the total class hours (contact hours) would be 3.7 (see table below) and are within the maximum number of class hours for the four-clock-hour period from 0800 to 1200.

Multiple Hour Class  
Class Scheduled from 0800 to 1125 (with two 10-minute breaks)

Time	Contact Hour	Minute Breaks
0800-0900	1.0 contact hour	50 minutes of instruction plus 10-minute break
0900-1000	1.0 contact hour	50 minutes of instruction plus 10-minute break
1000-1050	1.0 contact hour	50 minutes of instructions
1050-1125	0.7 contact hour	35-minutes of instruction $35/50 = 0.7$
<b>Total</b>	<b>3.7 contact hours</b>	<b>N/A</b>

3. There is some flexibility in scheduling breaks. For a common example, in a 3-contact hour class (e.g., 7:00 – 9:50 pm) an instructor can combine two 10-minute breaks into a single 20-minute break near the middle of the class period.
4. The actual meeting of the class must begin at the scheduled and published start time of the class and must continue until the scheduled and published end time of the class. Break time cannot be used to compensate for starting a class late or ending a class early.
5. There is no requirement to schedule and publish a lunch break in a multiple hour class that extends for several hours. However, it is possible to schedule two separate class meetings, separated by a lunch break, if so desired.
6. The number of 10-minute breaks to be taken in any class meeting is specified in the Contact Hours Computation Table (see reference link below).

7. If a long multiple hour class is scheduled as a single class meeting (e.g., from 9:00 am to 4:50 pm – a total of 8 contact hours), the instructor can decide on the best use of the total break time (in this example, 70 minutes – 7 ten-minute breaks). One possibility for this example class would be to take a 15-minute break sometime during the morning, a 40-minute lunch break near the middle of the class, and a 15-minute break sometime during the afternoon.

Reference: T5 58023, [Calculating Class Hours \(Student Contact Hours\) Guidelines and Computation Table](#)

## Hours to be Arranged (TBA Hours)

Some courses with regularly scheduled hours of instruction have some “hours to be arranged” (TBA) as part of the total contact hours for the course. The TBA portion of the course uses an alternate method for scheduling a credit course for purposes of applying either the Weekly or Daily Census Attendance Accounting Procedure. In certain situations the entire course might be scheduled with TBA hours. (Note: The terms TBA hours or “hours to be arranged” have the same meaning as “HBA” or “hours by arrangement” or any other local college term used to designate these hours.)

The following policies and procedures apply to courses scheduled with any TBA hours as part of the total contact hours for the course:

1. Conduct of Course
  - a. The official course outline of record must include the number of TBA hours and the specific instructional activities/learning outcomes for TBA hours expected of all students enrolled in the course.
  - b. The TBA hours must provide instruction that is not homework and the student work completed during TBA hours must be evaluated. In this regard, colleges may not include within TBA hours unsupervised activities such as attendance at plays and concerts. Apportionment may not be claimed for such activities.
  - c. For Weekly Census courses, the TBA hours per week required for the course must be scheduled for the same number of hours per week and must also be included in the published class schedule, whether printed, online, or in an addendum to the original schedule. For Daily Census courses, the TBA hours/day must be similarly published. The district has the option of printing some kind of notice concerning the TBA hours in the published catalog. A potential message could be “Some or all of the class hours for courses may be offered using the “To Be Arranged” (TBA) course scheduling option. Please refer to the class schedule listing for sections of courses for specific TBA weekly or daily class hour requirements that may apply.”
  - d. The designated location for the TBA hours must be specified in a way that appropriately informs students.

- e. All students enrolled in a course with TBA hours must be required to fulfill the hours and other conditions for TBA. Colleges must ensure that all student participation is recorded and documented.
- f. TBA hours may not be claimed for apportionment for individual student tutoring.
- g. Colleges must track student attendance in TBA hours carefully and ensure that they do not claim apportionment for TBA hours for students who have documented zero hours of attendance in TBA hours as of the census point for the particular course.

## 2. Immediate Supervision and Control

- a. An instructor who meets minimum qualifications in the discipline being taught must be available, in physical proximity and range of communication to provide instruction and ensure the safety of students during the hours by arrangement. If the instructor responsible for the TBA hours is not the primary course instructor, follow-up is required by the primary course instructor (instructor of record) to ensure that students are meeting instructional objectives and fulfilling the TBA requirement.

*Note:* An instructional aide may assist the instructor in working with students, but a qualified instructor must also be available, in physical proximity and in range of communication with the students. In cases when an instructional aide assists the instructor in providing instruction to students, consult Title 5, Section 58056(c) and Education Code Section 88240 et seq. Additional relevant information is in Title 5, Sections 58050(a)(6), 58051, and 58056.

- b. Instructors need to provide the supervision and control necessary for the protection of the health and safety of students and may not have any other assigned duty during this instructional activity. See Title 5, Sections 58055, 58056(a)(2), and 58056(a)(3). As a general rule, faculty must be physically present in the classroom or lab or within line-of-sight of the students. Even when TBA and supplemental learning assistance are offered through a learning assistance center where an instructor (learning center director/coordinator) is available at all times as well as classified staff, the instructor who meets the minimum qualifications pertaining to the assigned TBA or supplemental learning assistance course needs to observe the line-of-sight requirement (but may be a different faculty member from the primary course instructor).

This faculty member needs to be able to respond immediately when students are scheduled in the lab. If not in the lab, he/she needs to be in an area adjacent to the lab where the students are located. (Faculty members could view the classroom through a window or use a two-way video hookup under certain circumstances, but even in this situation, the faculty member needs to be adjacent to the classroom or lab where the students are located.)

### 3. Attendance Accounting and Reporting

- a.** For Weekly Census courses, students must participate for the required number of TBA hours each week of the primary term for the duration of the course, and documentation must demonstrate weekly student participation. Districts have the flexibility to individually schedule these regular weekly TBA hours or may allow students to fulfill their weekly TBA obligation at a time of their choosing each week of the term. The key factor here is the students must participate for the same number of TBA hours each week of the primary term for the course in question to qualify for the Weekly Census attendance accounting procedure. For Daily Census courses, districts would also have the same scheduling flexibility as appropriate for the Daily Census attendance accounting procedure. In other words, students could choose their daily TBA times, but would still have to participate for the same number of TBA hours per meeting day for the course in question to qualify for the Daily Census Attendance Accounting procedure.
- b.** Colleges need to track individual student attendance carefully and ensure that they do not claim apportionment for TBA hours for students who have documented zero hours as of the census point of the particular course. Supporting documentation, such as actual attendance rosters or electronic attendance tracking records, to verify compliance with this requirement must be retained by the district as Class 3 records basic to audit as required by Title 5, Sections 59020 et seq.
- c.** Pursuant to Title 5, Section 55002, the course outline of record must specify the number of contact hours for the course as a whole, including TBA contact hours. Contact hours claimed for apportionment must be consistent with the number of contact hours specified in the course outline of record. (See Title 5, Sections 55002(a)(3), 55002(b)(3), and 58050(a)(5).)
- d.** Students must be informed of their responsibility to adhere to the applicable TBA schedule and to complete the tasks assigned. In order to inform students, instructors should indicate in the syllabus or in another required assignment document both the objective and purpose of the TBA hours and the requirement that all enrolled students in the course adhere to the designated TBA schedule. The syllabus or other document should be distributed in class so that all students have the information needed regarding TBA. (See Title 5, Sections 58003.1(b) and 58003.1(c).)
- e.** If TBA hours are not scheduled as indicated above, the attendance for the entire course must be reported as positive attendance. (See Actual Student Contact Hours of Attendance Procedure, Title 5, Sections 58003.1(d) and 58006.)
- f.** Documentation supporting compliance with the above requirements must be kept on file as Class 3 records basic to an audit as required by Title 5, Sections 59020 et seq.

#### **4. General Provision Applicable To TBA Hours**

- a.** The awarding of course credit shall be as prescribed by Title 5, Section 55002.5, which provides that “One credit hour of community college work (one unit of credit) shall require a minimum of 48 semester hours of total student work or 33 quarter hours of total student work, which may include inside and/or outside-of-class hours.” This section provides specific direction on the standards for this calculation. Please also refer to the California Community College Program and Course Approval Handbook for additional guidance on this area.
- b.** It is not permissible to approve credit courses with zero units of credit.

#### **5. Technology Mediated Instruction (Title 5, Section 58050(a)(5))**

- a.** Where TBA involves student use of college computers or interactive multi-media equipment (technology mediated instruction), some activity needs to occur which involves an instructor being present and facilitating student learning.
- b.** The computer or other equipment will serve as a tool for teaching and evaluating student work. For example, the instructor, rather than providing direct instruction, may complement interactive computer software or multi-media instruction by clarifying explanations and/or directions, checking for understanding of concepts and skills, keeping students on task, providing constructive feedback and answering questions.
- c.** The role of the instructor using technology mediated instruction should be well thought out and clear to the students.
- d.** Student use of college computers or equipment that is not for educational activities specified in the course outline of record and that does not require some level of interaction between an instructor and student does not qualify as hours by arrangement activity and is not eligible to be claimed for state apportionment.

#### **6. Procedures, Guidelines, and Training.**

- a.** The district should establish procedures, guidelines, and faculty/administrator training necessary for the proper provision of TBA hours, with special emphasis on attendance accounting requirements and retention of related support documentation that will enable an independent determination regarding the accuracy of contact hour tabulations and FTES claimed for state apportionment.
- b.** Faculty should receive as much detailed guidance as possible, either through these guidelines or through “faculty handbooks” or other official documents, that speaks to faculty responsibilities related to course scheduling rules, documentation of student TBA attendance, and record retention requirements. The district should assure that it provides ongoing training for new and current faculty relative to these and other important attendance accounting topics.



- 7. District Attendance Accounting Procedures Required by Title 5, Section 58030**
  - a.** District TBA procedures and guidelines related to attendance accounting and support records must be established and incorporated into the district's official attendance accounting procedures adopted pursuant to Title 5, Section 58030 and must be uniformly applied at all of the district's colleges.
  - b.** As required by Section 58030, such support documentation procedures must provide for accurate and timely attendance and contact hour data and shall be so structured as to provide for internal controls. In this regard, districts should be aware of the following:
    - i.** The procedures will need to address or specify the systems of internal control that will provide reasonable assurance regarding the reliability of attendance and contact hour data, safeguarding of records (physical records as well as information system data files and applications), and compliance with applicable laws and regulations.
    - ii.** Procedures or policies concerning internal control systems should be as specific as possible and should also indicate which group or department head will provide campus/district leadership for ensuring that effective internal control and accountability practices are in place, including ongoing monitoring activities designed to assess internal control effectiveness over time.
    - iii.** The district should make special mention of internal controls applicable to information systems, which are designed to maintain the integrity and availability of information processing functions, data files, and associated application systems. These controls also ensure that data processing diagnostics and errors are noted and resolved, applications and functions are processed according to established schedules and reporting periods, file backups are taken at appropriate intervals, recovery procedures for data processing failures are established, and actions of computer operators and system administrators are reviewed.
- 8. Classification, Retention, and Destruction of Records as Required by Title 5, Section 59020**
  - a.** The attendance accounting procedures required by Section 58030 should also speak to the proper classification, retention, and destruction of records as required by Section 59020 et seq. and other applicable statutes or regulations related to records retention (e.g., primary and support records relating to student attendance, student residence determination, course section contact hour tabulations, and FTES reported for the calculation of state apportionment). See Chapter 4 Audit (Accountability) for more information on this area.



## 9. Other Options For Possible Consideration

- a. For courses across disciplines, it is acceptable to include TBA hours that specify student learning objectives focused on reading, writing, and math skill development that are related to the content area of the course. In this case, the instructor providing immediate supervision and instruction should meet minimum qualifications in reading, writing and/or math. For example, for a history course, it could be desirable to specify learning outcomes focused on research and writing within the history discipline. Students may be assigned to a learning center to meet those objectives where such instruction can be appropriately provided by a faculty member who meets minimum qualifications in writing. In this case, the college should reference “team teaching” as a means of addressing the student outcomes related to writing for TBA hours on the course outline.
- b. If TBA hours are problematic for various reasons including availability of facilities to accommodate the students who need to complete TBA hours or availability of instructors who meet minimum qualifications for the area where TBA hours are scheduled, districts might examine the possibility of offering hybrid courses instead of courses with TBA hours. In this way, some of the contact hours could be offered in the classroom and others could be provided online as Distance Education (DE) hours. This type of offering may be subject to the Alternative Attendance Accounting Procedure as provided by Title 5, Sections 58003.1 (f) and 58009.
- c. Foreign Language Labs and TBA Hours (Alternate “Hybrid Course” Option):  
With regard to Foreign Language labs, per current Title 5 language, if students completing requirements for several foreign language courses are scheduled in the lab during the same hour, foreign language instructors meeting minimum qualifications in each of those languages need to provide immediate supervision. Since meeting this requirement may not be possible for most colleges, it is suggested that colleges consider offering foreign language courses as “hybrid” courses (i.e., regular face-to-face contact combined with distance education) permitting the colleges to follow the distance education (DE) regulations for the distance education portion of the course instead of the regulations applicable to TBA. The DE requirements that hybrid courses must meet include the definition of distance education in Section 55200, the regular, effective contact requirement in Section 55204, and the requirement for separate review and approval by the curriculum committee in Section 55206. By offering the foreign language lab hours of the course as distance education, colleges are exempt from the immediate supervision requirement for that portion of the course although the students may still access the instruction through the on-campus labs.

Although hybrid courses are coded as non-distance education because they likely don’t meet the 51% reporting standard specified in Title 5, Section 55210 (which is

for MIS reporting purposes only), hybrid courses with less than 51% of instruction offered through DE are still considered distance education for curricular purposes and need to meet the DE requirements and quality standards. Title 5, Section 55204 clearly indicates that the regular, effective contact requirement applies to all distance education instruction (not just courses that provide 51% or more of instruction through DE).

Finally, it is necessary to use the Alternate Attendance Accounting Procedure described in Title 5, Sections 58003.1(f) and 58009 if the entire course as a whole does not qualify for either the basic Weekly or Daily Census attendance accounting procedure. Since hybrid courses qualify as distance education, they are eligible for this procedure. Colleges will not lose apportionment for those lab hours by doing so except for a small amount of FTES if they have a compressed academic calendar. Colleges can offer DE using the basic Weekly or Daily Census attendance accounting procedures, but they would need to schedule and conduct the DE hours in a synchronous manner in order to do so.

*Reference:* T5 58000 et seq., [Legal Advisory 08-02; To Be Arranged \(TBA\) Hours Follow-up Memorandum, January 26, 2009; Second To Be Arranged \(TBA\) Hours Follow-up Memorandum, June 10, 2009; Third To Be Arranged \(TBA\) Hours Follow-up Memorandum, March 8, 2013](#)

## ENROLLMENT LIMITATIONS AND RESTRICTIONS

### Course Repetition

The governing board of each community college district is required to adopt and publish policies and procedures pertaining to the repetition of credit courses. (Title 5, Section 55040(a)1) The general rule is that district policy may not permit a student to enroll again in a credit course (also referred to as repeating or re-enrolling in a credit course) if the student received a satisfactory grade on the previous enrollment. An enrollment in a credit course occurs when a student receives an evaluative or non-evaluative symbol (Title 5, Section 55023). Evaluative symbols include A, B, C, D, F, P, NP and for those districts who provide the use of it FW.

There are a few exceptions to the general rule that permit districts to adopt policies which allow a student receiving a satisfactory grade to enroll in the same course again. Those exceptions to the general rule are as follows:

- courses properly designated by the district as repeatable,
- a subsequent enrollment due to significant lapse of time,
- variable unit courses offered on an open-entry/open-exit basis,
- extenuating circumstances,
- cooperative work experience education courses,

- students with disabilities repeating a special class for one of the reasons specified in Title 5, Section 56029
- legally mandated courses, and
- courses necessary as a result of significant change in industry or licensure standards.

For more detailed guidance see [Credit Course Repetition Guidelines, November 2013](#),

*Reference:* T5 55000(n), 55023, 55040, 55041, 55042, 55043, 55044, 55045, 55046, 58161

## **Enrollments Following Course Withdrawals**

A student's attendance in a course counts as an enrollment even if the student withdrew from a course, provided that the student received a W or other evaluative or nonevaluative symbol. District policy may permit the student to enroll again in that course (and the enrollment can be reported for apportionment) as long as the student's total enrollments in the course do not exceed three, or until a lower applicable limitation is reached, such as receiving a satisfactory grade in a course not designated as repeatable.

District policy may permit a student to enroll in the same course after having previously received the authorized number of W symbols (not exceed three times) in that course pursuant to a petition filed by the student, but the district may not claim apportionment for that additional enrollment.

For more detailed guidance see [Credit Course Repetition Guidelines, November 2013](#).

*Reference:* T5 55024, 55000 (n)

## **Enrollment in Two or More Sections of the Same Credit Course during the Same Term**

A district may not permit a student to enroll in two or more sections of the same credit course during the same term unless the length of the course is such that a student may enroll in two or more sections of the same course during the same term without being enrolled in more than one section at any given time. Students needing additional instruction in the subject matter while enrolled in a course may be referred for individualized tutoring pursuant to Title 5, Section 58170 or supplemental learning assistance pursuant to Title 5, Sections 58172 and 58164.

*Reference:* T5 55007(a)

## **Enrollment in Courses with Overlapping Meeting Times**

A district may not permit a student to enroll in two or more courses where the meeting times for the courses overlap unless the district has established and incorporated into its attendance accounting procedures adopted pursuant to Title 5, Section 58030, a mechanism for ensuring that the following requirements are satisfied:

1. The student provides a sound justification, other than mere scheduling convenience, of the need for the overlapping schedule;

2. An appropriate district official approves the schedule;
3. The college maintains documentation describing the justification for the overlapping schedule and showing that the student made up the hours of overlap in the course partially or wholly not attended as scheduled at some other time during the same week under the supervision of the instructor of the course.

The issue of overlapping enrollment will continue to be of interest to the Chancellor's Office. An audit finding of an unsubstantiated overlap will result in the overlap time of one or the other course to be deducted.

*Reference: T5 55007(b)*

## ATTENDANCE ACCOUNTING PROCEDURES

### List of Procedures

The procedure employed to compute FTES for apportionment purposes is determined by the type of course (including those delivered by distance education pursuant to Title 5 Section 55200 et seq.), the way the course is scheduled, and its length. The attendance accounting procedure must be applied consistently for any course section (i.e., only one attendance accounting procedure can be applied per course section).

Every credit or noncredit course section to be reported for apportionment funding must use one of the following attendance accounting procedures to compute FTES:

- a. Weekly Student Contact Hour Procedure (credit courses only, one census point)
- b. Daily Student Contact Hour Procedure (credit courses only, one census point)
- c. Actual Hours of Attendance Procedure – Positive Attendance (credit and noncredit courses, no census)
- d. Alternative Attendance Accounting Procedure – Weekly Census (credit courses only, one census point)
- e. Alternative Attendance Accounting Procedure – Daily Census (credit courses only, one census point)
- f. Alternative Attendance Accounting Procedure – Noncredit (noncredit distance education and noncredit independent study courses, two census points)

*Reference: T5 58003.1, 58004, 58009; CCFS-320*

Districts have the option of computing FTES by the Actual Hours of Attendance Procedure for any credit course, except courses utilizing the Alternative Attendance Accounting Procedure.

The Actual Hours of Attendance Procedure must be used for all noncredit courses other than those offered through distance education.

*Reference: T5 58003.1(d) and (g), T5 58006\*

## Weekly Student Contact Hour Procedure (Weekly Census)

1. The Weekly Student Contact Hour procedure may be applied to any credit course scheduled for the same number of hours (including TBA) for each week of the primary term (at least 3 days of instruction or examination in term length courses), inclusive of varying final examination scheduling, and legal holidays and scheduled coterminously with the primary term.

Note: Although Title 5 Section 58003.1(b) speaks to Weekly Student Contact Hour procedure courses being “scheduled regularly with respect to the number of days of the week and the number of hours the course meets on each scheduled day,” districts are administratively permitted to utilize this more flexible application of regular weekly scheduling, allowing differences in the number of hours the course meets on each scheduled day provided that the number of hours each week remains constant.

Reference: EC 84501; T5 58003.1(b), T5 58004

2. “Weekly Student Contact Hours” (WSCH) means the number of class hours each course is regularly scheduled to meet during a week (including TBA), with the exception of varying final examination scheduling and legal holidays, multiplied by the number of students actively enrolled in the course.

Reference: T5 58003.1(b), 58004

Examples of calculation of Weekly Student Contact Hours:

- a. Class meeting for one contact hour three days per week

MWF 0800-0850

0800 to 0850 = 50 min. = 1 class hour x 3 days = 3.0 WSCH

MWF 0810-0900

0810 to 0900 = 50 min. = 1 class hour x 3 days = 3.0 WSCH

- b. Class meeting for more than one contact hour two days per week

T Th 0800-0915 (with no break)

0800 to 0850 = 50 min. = 1 class hour x 2 days = 2.0 WSCH

0850 to 0915 = 25 min. = 0.5 class hour x 2 days = 1.0 WSCH

Total for week = 3.0 WSCH

- c. Class meeting for two contact hours two days per week

T Th 0800-0950 (with one 10-minute break)

0800 to 0850 = 50 min. = 1 class hour x 2 days = 2.0 WSCH

0850 to 0900 = 10 min. break

0900 to 0950 = 50 min. = 1 class hour x 2 days = 2.0 WSCH

Total for week = 4.0 WSCH

**d.** Class meeting for more than two contact hours two days per week

T Th 0800-1015 (with one 10-minute break)

0800 to 0850 = 50 min. = 1 class hour x 2 days = 2.0 WSCH

0850 to 0900 = 10 min. break

0900 to 0950 = 50 min. = 1 class hour x 2 days = 2.0 WSCH

0950 to 1015 = 25 min. = 0.5 class hour x 2 days = 1.0 WSCH

Total for week = 5.0 WSCH

**e.** Class meeting for three contact hours two days per week

T Th 0900-1150 (with two ten-minute breaks)

0900 to 0950 = 50 min. = 1 class hour x 2 days = 2.0 WSCH

0950 to 1000 = 10 min. break

1000 to 1050 = 50 min. = 1 class hour x 2 days = 2.0 WSCH

1050 to 1100 = 10 min. break

1100 to 1150 = 50 min. = 1 class hour x 2 days = 2.0 WSCH

Total for week = 6.0 WSCH

- 3.** A term length multiplier, assigned by the Chancellor's Office based upon the academic calendar submitted for approval, shall be determined for each primary term by counting each week in which at least three days of instruction and/or examination in term length courses are scheduled (Weekly Census procedure courses). Maximum term length multipliers are 17.5 and 11.67 for semester and quarter length terms, respectively. The minimum value for a term length multiplier is 10.

- a.** As a general rule, the value of a term length multiplier is equal to the length (number of weeks) of the corresponding primary term, subject to the stated limits. The only exception to this rule is in the instance of two (semesters) or three (quarters) "non-flexible calendar" terms of nearly equal length and totaling 35 weeks. If the two terms are scheduled for 18 and 17 weeks (or vice versa), then the term length multiplier applied to each term would be 17.5. For three terms scheduled for 12, 12, and 11 weeks (or any combination thereof) the term length multiplier for each term would be 11.67.

*Reference:* T5 58003.1(b), 58004

- b.** The exception in a., above, does not apply to any other calendar configuration. For example, 35 weeks scheduled as one 19-week term and one 16-week term would result in term length multipliers of 17.5 and 16.0, respectively.
  - c.** For any combination of terms totaling fewer than 35 weeks, each term length multiplier is equal to the length of each corresponding term, subject to the stated lower limit.
  - d.** Only one primary term can be operational during any given period of time. Any courses conducted during that period of time which are not coterminous with that primary term must be accounted for by use of the Daily Census procedure, the Positive Attendance procedure, or by the Alternative Attendance Accounting – Daily Census procedure.
  - e.** Courses in any intersession (including summer) must be on the Daily Census procedure, Positive Attendance, or the Alternative Attendance Accounting – Daily Census procedure.
- 4.** See Chapter 1, sections Census Week and Census Day, for guidance on the determination of the Census Week and Census Day
  - 5.** FTES for an individual course assigned to the Weekly Student Contact Hour procedure is calculated as follows:

$$\text{FTES} = (\text{Census Week WSCH} \times \text{Term Length Multiplier}) / 525$$

For example, for a course that meets for 3.0 contact hours each week (at a college with a traditional academic calendar) and has 30 students actively enrolled at census, the  $\text{WSCH} = 3.0 \times 30 = 90$ .

$$\text{FTES} = (90 \times 17.5) / 525 = 1,575 / 525 = 3.00$$

FTES totals for the Weekly Student Contact Hour procedure are calculated as follows:

Note: CWSCH = Census Week WSCH; TLM = Term Length Multiplier;

P1 = First Period (7/1-12/31); P2 = Second Period (1/1-4/15);

P3 = Third Period (4/16-6/30)

First Period: July 1 – December 31 (exclusive of summer intersession)

$$\text{FTES} = [(\text{CWSCHP1} \times \text{TLM}) / 525] \times \text{P1 Annualizer}$$

Second Period: January 1 – April 15

$$\text{FTES} = [(\text{CWSCHP1} + \text{CWSCHP2}) \times \text{TLM}) / 525] \times \text{P2 Annualizer}$$

Annual Report: April 16 – June 30

$$\text{FTES} = [(\text{CWSCHP1} + \text{CWSCHP2} + \text{CWSCHP3}^*) \times \text{TLM}] / 525$$

\*A census date in P3 is only applicable to Quarter System colleges. All CWSCH for Semester System colleges is recorded in P1 and P2.

Reference: EC 84501; T5 58003.1(b); CCFS-320

### Daily Student Contact Hour Procedure (Daily Census)

1. The Daily Student Contact Hour procedure may be applied to any credit course scheduled to meet for five or more days and scheduled regularly with respect to the number of hours during each scheduled day, but not scheduled continuously with the primary term. A course length multiplier (CLM) must be determined for each course section using the Daily Student Contact Hour procedure. The CLM is the number of days on which the course meets. The minimum meeting value for CLM is 5.

Courses meeting fewer than five days must be assigned to the Actual Hours of Attendance Procedure (Positive Attendance).

Reference: EC 84501; T5 58003.1(c)

2. Daily Student Contact Hours (DSCH) is defined as the number of class hours the course is scheduled to meet on each day, multiplied by the number of students actively enrolled in the course. DSCH at census must be multiplied by the number of days the course is scheduled to meet (CLM) to calculate the total student contact hours before they are reported on the CCFS-320.
3. Census for these courses is taken on the scheduled day of the course that is nearest one-fifth (0.2) of the number of days for which each course is scheduled to meet. The attendance is to include students actively enrolled as of the last business day prior to the Census Day. See Chapter 1 for further details on determination of the Census Day.
4. FTES for an individual course assigned to the Daily Student Contact Hour procedure is calculated as follows:

$$\text{FTES} = (\text{Census Day DSCH} \times \text{Course Length Multiplier}) / 525$$

In the above calculation, note that (Census Day DSCH x Course Length Multiplier) constitutes the Total Student Contact Hours (TSCH) for the course.

FTES totals for the Daily Student Contact Hour procedure are calculated by first calculating the TSCH for each Daily Census course, adding them together to calculate the total TSCH for the reporting period, and using the formulas below:

First Period: July 1 - December 31 (exclusive of summer intersession)

$$\text{FTES} = (\text{TSCHP1} / 525) \times \text{P1 Annualizer}$$



Second Period: January 1 - April 15

$$\text{FTES} = [(\text{TSCHP1} + \text{TSCHP2}) / 525] \times \text{P2 Annualizer}$$

Annual Report: April 16 - June 30

$$\text{FTES} = (\text{TSCHP1} + \text{TSCHP2} + \text{TSCHP3}) / 525$$

Summer Intersessions

$$\text{FTES} = (\text{TSCH} \times \text{CLM}) / 525$$

*Reference: ECS 84501, T5 58003.1(c)*

### **Actual Hours of Attendance Procedure (Positive Attendance)**

The Actual Hours of Attendance procedure (commonly referred to as “Positive Attendance”) is based on an actual count of enrolled students present at each class meeting and is used for the following types of courses:

1. Short Term Credit Courses - Credit courses scheduled to meet fewer than five days
2. Irregularly Scheduled Credit Courses - Credit courses scheduled irregularly with respect to the number of hours the course meets on the scheduled days.
3. Open Entry/Open Exit Courses - All open entry/open exit courses, including distance education credit or noncredit courses taught synchronously.

*Reference: T5 58003.1(d),(e),(g), T5 58164*

4. In-service Training Courses. Such credit courses, regardless of length, for police, fire, corrections and other criminal justice system occupations.

*Reference: T5 58051(c)-(g)*

5. FTES for any credit course, except for independent study and work experience education, may, at the option of the district, be computed using actual hours of attendance procedure.

*Reference: T5 58003.1(g)*

6. Noncredit Courses - All specified noncredit courses, except those computed using the Alternative Attendance Accounting Procedure described in subdivision (f)(2) of Title 5 section 58003.1. Noncredit distance education courses taught synchronously may use this procedure.

*Reference: EC 84757, T5 58003.1(e)*

7. Apprenticeship Courses not reported on the CCFS-321 Apprenticeship Attendance Report.

Beginning in 2018-19, attendance of apprentices in credit courses offered in

conjunction with an apprenticeship program sponsor, pursuant to Section 3074 of the Labor Code, may be reported on a positive attendance basis on the CCFS-320 Apportionment Attendance Report if such attendance is not reported on the CCFS-321 Apprenticeship Attendance Report. Attendance in classes taught by an apprenticeship instructor other than a community college faculty member cannot be reported on the CCFS-320.

The attendance of students other than indentured apprentices enrolled in courses of related and supplemental instruction is reported on the CCFS-320 using the Actual Hours of Attendance procedure even if the attendance of indentured apprentices in those courses is reported on the CCFS-321.

See further details in Chapter 1 under Apprenticeship Courses.

*Reference:* EC 79149.1, 79149.3; Labor Code Section 3074; T5 58006, 58008, 58024

#### **8. Tutoring Courses - Noncredit courses of individual student tutoring.**

*Reference:* T5 58168, 58170

An administratively approved exception to the 50-minute minimum class session requirement applies to Positive Attendance courses in which students work at their own pace, such as some Open Entry/Open Exit credit classes and noncredit Supervised Tutoring courses. In such cases, the minutes attended by an individual student at each session can be added together and the total divided by 50 to calculate the hours of attendance to be reported for that student.

The full-time equivalent student (FTES) for an Actual Hours of Attendance Procedure (Positive Attendance) course is calculated by dividing the total hours of actual attendance by all students enrolled in the course and dividing by 525.

$$\text{FTES} = (\text{Total Student Contact Hours of Actual Attendance}) / 525$$

FTES totals for the Actual Hours of Attendance Procedure are calculated by accumulating the total student contact hours of actual attendance for the reporting period and dividing by 525. FTES annualizers are applied at the First and Second reporting periods to estimate the total annual FTES for the Actual Hours of Attendance Procedure.

The total annual FTES for the Actual Hours of Attendance Procedure is calculated by dividing the total student contact hours of actual attendance in the courses assigned to the Positive Attendance procedure and dividing that total by 525.

*Reference:* T5 58003.4, CCFS-320

### **Alternative Attendance Accounting Procedure – Weekly Census**

This procedure is used for full-term credit distance education courses not using other attendance accounting procedures, as well as for full-term credit independent study and cooperative work experience education courses, that are scheduled during a primary term.

For courses that apply the Alternative Attendance Accounting Procedure – Weekly Census,

one weekly student contact hour is counted for each unit of credit for which the student is enrolled as of the census date or day.

Title 5, Section 58009 provides an exception to the general rule in the paragraph above, which permits weekly student contact hours in distance education or independent study laboratory courses utilizing this procedure to instead be calculated as equivalent to the hours that would be generated for the same student effort in a laboratory course not computed using the Alternative Attendance Accounting Procedure, such as in a lab course offered on campus. The distance education or independent study course in the above exception can be partially or wholly laboratory based.

Weekly student contact hours of enrollment for Alternative Attendance Accounting Procedure – Weekly Census courses are counted as of the census week and date as prescribed by Title 5, Section 58003.1(b) for Weekly Census procedure courses. The term length multiplier is the same as for all other primary term Weekly Census credit courses. FTES for each course and FTES totals are calculated in the same way as for Weekly Student Contact Hour Procedure courses as explained above on pages 3.12, 3.13, and 3.14.

### **Alternative Attendance Accounting Procedure – Daily Census**

This procedure is used for credit distance education courses not using other attendance accounting procedures, as well as for credit independent study and cooperative work experience education courses, that are not scheduled coterminously with a primary term, but are scheduled during a portion of a primary term or during a summer or other intersession.

For courses of independent study and work experience education, and for distance education courses that apply the Alternative Attendance Accounting Procedure – Daily Census, one weekly student contact hour is counted for each unit of credit for which the student is enrolled as of the census date or day.

Title 5, Section 58009 provides an exception to the general rule in the paragraph above, which permits weekly student contact hours in distance education or independent study laboratory courses utilizing this procedure to instead be calculated as equivalent to the hours that would be generated for the same student effort in a laboratory course not computed using the Alternative Attendance Accounting Procedure, such as in a lab course offered on campus. The distance education or independent study course in the above exception can be partially or wholly laboratory based.

Because the student workload is tied to the number of units of credit for the course, despite the fact that a course using this method is scheduled for a shorter number of days than a full-semester, it is presumed that the same total number of hours of academic work is required of the student. For that reason, the FTES generated by a student in courses of a given number of units using this attendance method is the same as for courses of the same number of units using the Alternative Attendance Accounting Procedure – Weekly Census.

Weekly student contact hours of enrollment for Alternative Attendance Accounting Procedure – Daily Census courses are counted as of the unique census day of each course. (See “Census Day” in the Academic Calendar section of Chapter 1 on pages 1.04 and 1.05 for details on determination of the census day of each course.) The term length multiplier is the same as for all primary term Weekly Census credit courses. FTES for each course and FTES totals

are calculated in the same way as for Weekly Student Contact Hour Procedure courses as explained above on pages 3.12 and 3.13.

Reference: EC 84501; T5 58003.1(f)(1), T5 55250, T5 58009

### Alternative Attendance Accounting Procedure – Noncredit

This procedure is used for noncredit distance education courses. It is the only procedure that may be used for noncredit distance education courses taught asynchronously. In order to be counted for apportionment funding, a student must be actively enrolled before the first of the two census dates specified below. Open entry/open exit noncredit courses that permit students to enroll at a later date must be taught synchronously and use the Actual Hours of Attendance (positive attendance) procedure.

1. To derive the WSCH factor used to calculate FTES, determine the number of hours of coursework required for a class by adding together the following:
  - a. The total number of hours of instruction or programming to be received by students in the class.
  - b. The number of hours expected for any outside-of-class work (as noted in the approved class outline), and
  - c. Any instructor contact hours as defined by Title 5, Section 55204 for distance education courses or by Title 5, Section 55234 for independent study courses.
2. Divide the sum total of the hours as determined in (1.), above by 54 (a measure equating to a unit of credit similar to that used in credit distance education). The resulting quotient is the WSCH factor that is multiplied by the number of students enrolled as of the two census dates. The student contact hours thus derived are multiplied by 17.5. The factor of 17.5 is to be used irrespective of the length of the course.
3. Report the student contact hours for the noncredit distance education course as of the two census dates. The average of the contact hours are divided by 525 to calculate FTES

Following is an example of FTES calculation for a noncredit distance education course:

1. Determine the WSCH factor:

5.0 hours/week	instruction
10.0 hours/week	outside study
_.5 hours/week	meeting with instructor
15.5 hours/week*	

\*15.5 hours x 6 weeks (length) = 93 total hours

WSCH factor = 93 hours \* 54 (instructional measure) = 1.722

## 2. Calculate FTES:

24 students actively enrolled at First Census (20% point)

First Census Student Contact Hours =  $1.722 \times 24 \times 17.5 = 723.24$

20 students actively enrolled at Second Census (60% point)

Second Census Student Contact Hours =  $1.722 \times 20 \times 17.5 = 602.70$

The FTES is the average of the Students Contact Hours at First and Second Census, divided by 525:

$FTES = [(723.24 + 602.70) / 2] / 525 = 1.26$

*Note:* In the computation of noncredit distance education course FTES, the 17.5 used above as a multiplier is a calculation factor, not a term-length multiplier. This factor of 17.5 will be applied in the computation of FTES for such courses no matter what length the course may be, or whether a college is on the semester or quarter system or has adopted a compressed academic calendar.

*Reference:* T5 58003.1(f)(2)

## CCFS-320 APPORTIONMENT ATTENDANCE REPORT

### Online Attendance Report Program

Full-time equivalent student (FTES) shall be reported on forms prepared by the Chancellor's Office at such times as required by law or regulation.

*Reference:* EC 84500, 84501; T5 58003.4; CCFS-320

The online CCFS-320 Attendance Report Program is used to enter attendance contact hours for the fiscal year and report period set by the Fiscal Services Unit of the Chancellor's Office. The program will generate the CCFS-320 Apportionment Attendance Report by calculating factored and unfactored attendance Full-Time Equivalent Student (FTES) based on the contact hours, period annualizers, and "F-Factor" data entered by community college districts. For multi-college districts, the program will summarize a district composite from the individual college attendance reports.

The User Instructions and Guidelines contain important details on the use of the online attendance report program, which is accessed through the login page.

Any issues or questions regarding the Online CCFS-320 Reporting System should be directed to [ccfs320adamin@cccco.edu](mailto:ccfs320adamin@cccco.edu).

### Day Courses

Courses scheduled to begin prior to 1630 hours (4:30 p.m.)

### Extended Day Courses

Courses scheduled to begin at or later than 1630 hours (4:30 p.m.)

## Standard Reporting Dates for State Apportionment Reports

1. The “First Period” CCFS-320 report encompasses actual data for July 1 through December 31 and is due in the Chancellor’s Office on or before January 15. This report projects data for January 1 through June 30 based on the annualizer entered into the system, resulting in projected totals for the full fiscal year.
2. The “Second Period” CCFS-320 report encompasses actual data for July 1 through April 15 and is due in the Chancellor’s Office on or before April 20. This report projects data for April 16 through June 30 based on the annualizer entered into the system, resulting in projected totals for the full fiscal year.
3. The “Annual” CCFS-320 report encompasses actual data for July 1 through June 30 and is due in the Chancellor’s Office on or before July 15.
4. If, and only if, revisions to the Annual CCFS-320 report are needed to correct FTES and/or other information reported on the Annual CCFS-320 report, a “Recal” CCFS-320 report should be submitted and is due in the Chancellor’s Office on or before November 1 for the just completed fiscal year. The “Recal” CCFS-320 report encompasses data for July 1 through June 30.

Recal reports submitted by October 1 will be included in the FTES workload report submitted to the State Controller’s Office in mid-October for the just completed fiscal year for lottery revenue allocation purposes. Recal reports submitted after October 1 will be included in the updated FTES workload report submitted to the State Controller’s Office in October of the following year. Note the lottery revenue allocation is based on prior year FTES amounts (e.g., 2016-17 lottery revenue is allocated based on 2015-16 FTES).

*Reference: EC 84500, 84501; T5 58003.4; CCFS-320*

## Reporting Date Procedures

### 1. Census Procedure Courses

For Weekly or Daily Census courses in primary terms, including Alternative Attendance Accounting Procedure courses, the full-time equivalent student (FTES) is to be reported in the period in which the census accounting procedure is completed, even if the course is not completed by the deadline for reporting.

For summer intersession Daily Census courses that cross fiscal years, including Alternative Attendance Accounting Procedure courses, the hours and FTES are to be reported in the fiscal year in which the census date occurs (both census dates for noncredit course sections that apply the Alternative Attendance Accounting Procedure per CCR §58003.1(f)(2)), or when the course ends. These FTES can be selected on a courses-by-course basis.

**2. Actual Hours of Attendance Courses (Positive Attendance)**

For courses for which Actual Hours of Attendance Procedure are reported (Positive Attendance), the full-time equivalent student (FTES) is to be reported in the period in which the course is completed, even if the course overlaps fiscal years.

*Reference: T5 58003.1, 58010*

**Reporting Categories**

Contact hours of the following nondiscrete categories of students must be reported separately for apportionment or other purposes:

**1. Students who are California state residents.**

*Reference: EC 68017*

**2. Students who are not residents of California**

*Reference: EC 68018*

**3. Students enrolled in credit courses.**

*Reference: T5 58003.2, 58161*

**4. Students enrolled in specified noncredit courses.**

*Reference: EC 84757; T5 58003.3, 58007, 58160*

**5. Students enrolled in all in-service training courses in the areas of police, fire, corrections, and other criminal justice system occupations.**

*Reference: Penal Code Section 832.4, T5 58051(c) (d) (e) (f) and (g)*

**6. Students enrolled in intersessions.**

*Reference: T5 58003.1(c),(d),(e),(f)*

**7. Students enrolled in approved courses of independent study**

*Reference: T5 55230, 58003.1(f)*

**8. Students enrolled in cooperative work experience education courses.**

*Reference: T5 55250 et seq., 58003.1(f), 58051(a)(2)*

**9. Students enrolled in courses who are inmates of any city, county, city and county jail, road camp or farm for adults, or federal correctional facility.**

*Reference: EC 84810.5; T5 58051.6*

**10. Students enrolled in basic skills courses.**

*Reference: ECS 84501*

- 11.** Students enrolled in day courses, generally defined as beginning prior to 1630 hours.
- 12.** Students enrolled in extended day courses, generally defined as beginning on or after 1630 hours.

## Student Classifications for Reporting Attendance Hours

### 1. Resident

A resident is 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. (See Chapter 2 for further clarification.)

*Reference:* EC 68017, 68060; T5 54020, 54026

### 2. Nonresident

A “nonresident” is a student who does not have residence in the state for more than one year immediately preceding the residence determination date. (See Chapter 2 for further clarification.)

*Reference:* EC 68018; T5 54000 et seq.

### 3. Nonresidents Enrolled in Noncredit Courses

Actual hours of attendance generated by nonresident students in noncredit courses authorized pursuant to Education Code Section 84757 and Title 5 Section 58160 are to be included for purposes of computing state apportionment. These hours are reported as resident contact hours and FTES on the CCFS-320 Apportionment Attendance Report.

*Reference:* EC 76380, 84757; T5 58003.3, 58160

## Computation of Full-Time Equivalent Student (FTES)

- 1.** Full-Time Equivalent Student (FTES) shall be computed to four decimal places and rounded to two decimal places.
- 2.** Rule for rounding decimals:
  - a.** Retain the correct number of decimal places.
  - b.** If the next decimal place value is 5 or more, increase the value in the last retained decimal place by 1.

*Reference:* EC 84501, T5 58012

## FTES Annualizer

An FTES annualizer is a factor by which a partial-year total is multiplied to estimate the corresponding total for the full fiscal year. The FTES annualizer is a function of the length of



the academic year and the proportion of that year completed during each reporting period in terms of scheduled faculty contact hours of instruction and examination.

Measures other than faculty contact hours may be utilized to derive the annualizer, such as the district/college prior years' experience in the level of FTES generated, current enrollment gains or declines, reduction or increase in the number of courses offered, etc. The measure that is used should closely reflect the number of FTES the district expects to generate as of the final Annual Apportionment Attendance Report.

A separate annualizer must be computed at the first and second reporting periods for each attendance accounting procedure discussed above (other than for summer intersession courses). The annual reporting period annualizer is, of course, 1.0 and need not be computed.

*Reference:* CCFS-320

### **Correction of Attendance Reporting Errors**

Districts are required to correct significant attendance reporting errors that have been found by any means, including special local reports or reruns of attendance data for special purposes. Errors which result in a change of a district's total annual resident FTES of 1.00 FTES or more are considered significant. Factors in the apportionment formula consider all districts in total, and a significant attendance report change in one district could impact all other districts. Every effort must be made to report accurate attendance the first time, with notification to the Chancellor's Office of any significant change in claimed amounts.

### **Procedures for Correcting an Officially Submitted CCFS-320 Report**

Districts may submit corrected CCFS-320 reports as follows:

- 1.** First Period — A corrected report is not required since the Second Period Report will incorporate the corrections.
- 2.** Second Period — A corrected report is not required since the Annual Report will incorporate the corrections.
- 3.** Annual Report -- Submit a CCFS-317 (Annual CCFS-320 Report Application for Adjustment) and a Recal CCFS-320 (due by November 1). The CCFS-317 is completed within the online CCFS-320 Reporting System only during the Recal reporting period and must accompany the Recal CCFS-320 Report. The CCFS-317 requires a separate CEO certification signature. Provide as much detail as possible in the appropriate section of the form as to the reason for the FTES adjustment or correction. Please note that fiscal year reporting designations for Summer Daily Census courses cannot be modified after the close of a fiscal year.
- 4.** If an error resulting in a change of a district's total annual resident FTES of more than 1.00 FTES is discovered after the Recal reporting period for the year has ended, the district should contact the Chancellor's Office promptly for review of the details and direction.

*Reference:* EC 41341 (b); T5 58003.4, 58134, 59116

## Flexible Calendar Operations

The governing board of a district may offer courses under a flexible calendar, subject to approval by the Chancellor's Office.

*Reference: EC 84890; T5 55720 et seq.*

1. The academic year of all districts, including those with flexible calendars, must consist of at least 175 days of instruction or examination, when courses of instruction are offered for a minimum of three hours during the period of 7 a.m. and 11 p.m. Not more than fourteen days of final examinations shall be counted for any academic year, as defined by the district.

*Reference: T5 58120, T5 58142, T5 55720 et seq.*

2. During the 175-day minimum academic year, not more than 8.57% of each instructor's contractual obligation for hours of classroom instruction may be designated for that individual to perform approved flexible-time activities. The percentage of release hours (and substituted hours) are based on the maximum number of hours or days approved in the college's flexible calendar plan. The 8.57% indicated above equates to 15 "flex days" in the academic year.

Flexible Calendar

(A) Flex Days	(B) Instruction Days	(C) F Factor 1.0 ÷ A/B	(D) Release % A /175
0	175	0.0000	0.00%
1	174	0.0057	0.57%
2	173	0.0116	1.14%
3	172	0.0174	1.71%
4	171	0.0234	2.29%
5	170	0.0294	2.86%
6	169	0.0355	3.43%
7	168	0.0417	4.00%
8	167	0.0479	4.57%
9	166	0.0542	5.14%
10	165	0.0606	5.71%
11	164	0.0671	6.29%
12	163	0.0736	6.86%
13	162	0.0802	7.43%

(A) Flex Days	(B) Instruction Days	(C) F Factor 1.0 + A/B	(D) Release % A /175
14	161	0.0870	8.00%
15	160	0.0938	8.57%

Reference: T5 55726

3. These other activities may be conducted at any time during the fiscal year as mutually agreed upon. The substituted hours must equal, at least, the total number of hours an instructor is released from his or her classroom instruction. Flexible .calendar activities may range from individually planned activities to take place at any time outside the individual faculty member's accountable hours to district or campus-wide instruction-free days set aside for the purpose of large-scale, in service activities agreed upon by local shared governance processes
4. The following information is to be reported to the Chancellor's Office via the Apportionment Attendance Report (CCFS-320):
  - a. The total of the instructors' release hours for courses in which the number of apportionment eligible hours of instruction are affected.
  - b. The total contact hours of scheduled instruction (actual teaching time) for the academic year, excluding intersessions, which include the contact hours of all faculty whether or not they have been designated to participate in "flexible time" activities.
5. The units of actual FTES generated in courses (other than those assigned to the Weekly Census procedure) during the academic year, exclusive of intersessions, are adjusted by a computed flexible time adjustment (F) factor so as to generate the same level of FTES as would have been generated had the flexible time not been permitted and regularly scheduled instruction had taken place.

The release (F) factor categories are:

Credit Courses:

- a. Daily Census procedure courses
- b. Positive Attendance courses
- c. Alternative Attendance Accounting Procedure courses (Daily Census)

Noncredit Courses:

- a. Positive Attendance courses

- b. Alternative Attendance Accounting Procedure courses (Noncredit distance education and independent study)

Instruction during the designated days meeting attendance accounting standards may be claimed for apportionment; and, the faculty contact hours shall not be eligible for adjustment.

*Reference: T5 55728, T5 55729; CCFS-320 Faculty Contact Hours Adjustment to FTES Report*

- 6. For Weekly Census procedure courses, an adjustment factor will not be applied to the FTES reported on the CCFS-320. In computing FTES, the weekly student contact hours as of the census date are multiplied by the standard primary term length multiplier that would have been used had there been no flexible time and regularly scheduled instruction had taken place.

*Reference: T5 55729(c)*

## CHAPTER 4 AUDIT ACCOUNTABILITY

### REQUIRED ANNUAL AUDIT

Education Code Section 84040 requires the governing board of each community college district to provide for an annual audit of the financial records of the district. The audit must be made by a certified public accountant or a public accountant licensed by the State Board of Accountancy and performed in accordance with The California Community Colleges Contracted District Audit Manual. A verification of compliance with Education Code and Title 5 attendance accounting regulations is included in the scope of the audit. It is the responsibility of the Chancellor to make any adjustments in apportionments of state funds to correct any discrepancies revealed by the annual audit.

*Reference: EC 84040, T5 59100 et seq.*

### DISTRICT-ADOPTED PROCEDURES

Each district governing board is required to adopt procedures for course enrollment, attendance and disenrollment documentation, including rules for retention of support documentation which would enable independent determination regarding accuracy of data submitted by the district as a basis for state support. Adopted procedures shall be so structured as to provide for adequate internal controls.

When multiple documents are used to support claimed attendance, administrative procedures need to be explained to auditors. Whether multiple documents are used to support claimed attendance or not, the responsibility to document enrollment, attendance, and disenrollment procedures in accordance with this section remains with the district.

*Reference: T5 59100 et seq.*

Each community college district shall maintain an official procedure to ensure compliance with Subchapter 1 (Sections 58000 et seq.) of Division 9 of Title 5 of the California Code of Regulations:

- 1.** Determination of Census Day or Date (See Chapter 1.)

*Reference: T5 58003.1(b),(c)*

- 2.** Determination of Drop Date (See Chapter 1.)

*Reference: T5 58004*

- 3.** Inactive Enrollment in a course, as of each census day or date, is defined as any student who, according to published college regulations, has

- a.** Been identified as a no show, or
- b.** Officially withdrawn from course, or
- c.** Been dropped from course. A student shall be dropped if no longer participating in the course, except if there are extenuating circumstances. Definitions of

nonparticipation shall include, but not be limited to, excessive unexcused absences as specified in procedures adopted by each local governing board pursuant to Title 5 Section 58030 but must relate to nonattendance. (See Note, below)

*Reference:* T5 58004

- 4.** Extenuating circumstances are verified cases of accidents, illness, other circumstances beyond the control of the student, and other conditions defined by the local governing board and published in college regulations.
- 5.** Minimum requirements of the procedure adopted by the local governing board pursuant to Title 5 Section 58030 for adds and drops shall be:
  - a.** Identification of student by name and number
  - b.** Type and date of transaction
  - c.** Documentation of origin of transaction by means of:
    - 1) Signature of student, or
    - 2) Signature or initials of instructor or other authorized person, or
    - 3) Other record identifying originator of transaction.

**Notes:** An earlier decision, regarding one of the conditions of inactive enrollment listed above made by either a student or his/her instructor will determine when the student ceased to be actively enrolled. Title 5 Section 58004(c) gives equal weight to both student withdrawals and instructor drops. Districts cannot give preference to one type of determination.

Deadlines used to submit attendance forms for processing have no effect on drop dates. Determining that students are actively enrolled and submitting that information for processing are two independent activities. Consequently, changing the time period when faculty should submit attendance forms does not change when students become inactive. Districts are responsible for developing the administrative attendance procedures, including when information should be submitted for processing.

*Reference:* T5 58004

## **COURSE DOCUMENTATION**

Suggested information to supplement the required documentation tabulations described below includes the following:

- 1.** Signature of the instructor on all primary attendance accounting documents as a certification of a true and accurate accounting. This includes online or electronically submitted documents where instructors affirm or certify a written statement on the electronic class roster.

2. Documentation supporting the residency determination for each student. (See Chapter 2.)
3. Any pertinent information concerning courses which have atypical characteristics relative to the contact hours claimed (e.g., lab hours, hours to be arranged [TBA], intercollegiate athletics, field trips, etc.).

## REQUIRED DOCUMENTATION TABULATIONS

For each reporting period defined in California Code of Regulations, Title 5 Section 58003.4, a separate tabulation is required for each course section. Requirements vary for each of the following course categories:

1. Weekly and Daily Census Procedures
  - a. Weekly Census: Regularly scheduled credit courses scheduled coterminously with the primary term.  
*Reference: T5 58003.1(b), T5 58004, T5 58020*
  - b. Daily Census: Regularly scheduled credit courses, five or more days in length, and not scheduled coterminously with the primary term.  
*Reference: T5 58003.1(c), T5 58004, T5 58020*
  - c. Alternative Attendance Accounting Procedure: Credit and noncredit distance education courses not computed using other attendance accounting procedures described in Title 5 section 58003.1 and independent study and cooperative work experience education courses scheduled coterminously with the primary term or short term courses.  
*Reference: T5 58003.1(f), T5 58009, T5 58020*
2. Actual Hours of Attendance Procedure courses (FTES generating).  
*Reference: T5 58003.1(d) and (g), T5 58003.2, T5 58006, T5 58022*
3. Apprenticeship Classes of Related and Supplemental Instruction.  
*Reference: T5 58020 et seq., T5 58024, CCFS-320, CCFS-321*

Each tabulation shall include a summary of hours claimed by residency category as specified on Form CCFS-320 and a grand total.

For courses subject to **Weekly or Daily Census Procedures**, a separate course section tabulation is required for each of the census categories. Each tabulation shall provide a detailed listing (in one cohesive document) for each census day or date as follows:

1. Identification:
  - a. Static course identifier code
  - b. Section identifier code
  - c. Course title
  - d. Method of instruction code
2. Number of days the daily census course is scheduled to meet or number of weeks the weekly census course is scheduled to meet.
3. Number of class hours each daily census course section is regularly scheduled to meet (including TBA) on each meeting day, or the number of class hours (including TBA hours) each weekly census course is regularly scheduled to meet during each full week of the term.
4. For all Weekly Census and Daily Census courses:
  - a. Beginning and ending dates of the course section
  - b. Date of the census days
  - c. An alphabetical list of each student actively enrolled in the section indicating:
    - 1) Student's name (last, first, middle initial)
    - 2) Student's identification number
    - 3) Student's residency category
    - 4) Scheduled contact hours per week or per day

*Reference: T5 58003.1 (b), (c), and (f), T5 58020, ECS 68040*

For **Alternative Attendance Accounting Procedure** courses each course section tabulation shall provide a detailed listing (in one cohesive document) as follows:

1. Identification:
  - a. Static course identifier code
  - b. Section identifier code
  - c. Course title
  - d. Method of instruction code
2. Number of weeks the course section is scheduled to meet.
3. Beginning and ending dates of course sections.



4. Census day or date
5. An alphabetical list of each student enrolled at any time during the course section indicating:
  - a. Student's Name (last, first, middle initial)
  - b. Student identification number
  - c. Student's residency category
  - d. Scheduled units of credit for which the student is enrolled at the census day or date (credit courses)
6. For noncredit Alternative Attendance Accounting Procedure courses, each listing will include the calculated WSCH factor for students enrolled as of each of the two census days.

Reference: T5 58003.1(f), T5 58020, ECS 68040

For **Actual Hours of Attendance Procedure** courses each course section tabulation shall provide a detailed listing (in one cohesive document) as follows:

1. Identification:
  - a. Static course identifier code
  - b. Section identifier code
  - c. Course title
  - d. Method of instruction code
2. Number of days the course section is scheduled to meet.
3. Number of class hours the course section is scheduled to meet.
4. Beginning and ending dates of course section.
5. An alphabetical list of each student enrolled at any time during the course section indicating:
  - a. Student's Name (last, first, middle initial)
  - b. Student identification number
  - c. Student's residency category
  - d. Student's actual hours of attendance

Reference: T5 58022, ECS 68040

For **Apprenticeship Classes** of related and supplemental instruction pursuant to Labor Code, Section 3074, that are being reported on the CCFS-321, each course section tabulation shall provide a detailed listing as follows:

1. Identification:
  - a. Static course identifier code
  - b. Section Identifier code
  - c. Course title
  - d. Method of instruction code
2. Number of days the course section is scheduled to meet.
3. Number of hours of 50 through 60 minutes each course section session is scheduled to meet.
4. Beginning and ending dates of course section.
5. An alphabetical list of each student enrolled during the course section indicating:
  - a. Student's name (last, first, middle initial)
  - b. Student identification number
  - c. Actual hours of 50 through 60 minutes of attendance
6. A grand total of actual hours of 50 through 60 minutes of attendance

*Reference: Budget Act, T5 58024, CCFS-321*

## AUDIT RESOLUTION PROCESS

1. The Chancellor shall review each district's annual audit to determine whether the reports contain citings which may warrant further investigation.

*Reference: ECS 84040, T5 59100 et seq.*

Further investigation is warranted when the district has:

- a. Failed to comply with attendance accounting standards, or
- b. Violated rules and regulations defining limitations on state support, or
- c. Failed to comply with any standard monitored by means of a compliance question.

*Reference: T5 59108 et seq.*

2. Prior to action to recover funds or other corrective measures, a district shall be given the opportunity to respond by presenting information which might mitigate or refute

any audit citing selected by the Chancellor for further investigation.

*Reference: T5 59110*

- 3.** If, upon reviewing a citing, the district's response and any other available information, there is a need for corrective action to resolve a citing, the Chancellor may require the district to do one or more of the following:
  - a.** Submit a corrected apportionment claim,
  - b.** Implement procedures to ensure future compliance with rules and regulation in question, or
  - c.** Report periodically to the Chancellor on the status of actions taken to comply with rules and regulations.
- 4.** If, upon reviewing a citing, the district's response and any other available information, the Chancellor finds there is no need for corrective action to resolve the citing, the district shall be informed as expeditiously as possible.

*Reference: T5 59112*

- 5.** A district shall be held harmless against any audit citing not resolved within five years of the time the citing was first presented to the district governing board. Until that time, the district shall retain all primary and support documentation which might need to be reviewed by the Chancellor to verify any claim for apportionment. The five-year period does not apply where the Chancellor finds deliberate district misrepresentation in connection with claims for state or federal funding.

*Reference: T5 59118*

## **RECORD RETENTION AND DESTRUCTION OF RECORDS**

- 1.** Each community college district shall establish an annual review procedure by which documents and papers received or produced during the prior academic year are classified as Class 1-Permanent, Class 2-Optional, or Class 3-Disposable.
- 2.** Records originating during a current academic year shall not be classified during that year.
- 3.** Records of a continuing nature, i.e., active and useful for administrative, legal, fiscal, or other purposes over a period of years, shall not be classified until such usefulness has ceased.

*Reference: T5 59022*

### **Class 1 - Permanent Records**

The following records have been classified as Class I-Permanent Records, and as such, shall

be retained indefinitely unless photographed, micro photographed, or otherwise reproduced on film:

- 1. Annual reports**
  - a.** Official budget
  - b.** Financial report of all funds, including cafeteria and student body funds
  - c.** Audit of all funds
  - d.** Full-time equivalent student (FTES), including First Period, Second Period, Annual and all corrections (Recal reports)
  - e.** Other major annual reports, including:
    - 1) Those containing information relating to property, activities, financial condition, or transactions
    - 2) Those declared by board minutes to be permanent
    - 3) Official actions as described in Title 5, Section 59023(b)
    - 4) Personnel records of employees as described in Title 5, Section 59023(c)
    - 5) Property records as described in Title 5, Section 59023(e)
- 2. Student records consisting of the following:**
  - a.** The records of enrollment and scholarship for each student. Such records of enrollment and scholarship may include but need not be limited to:
    - 1) Name of student;
    - 2) Date of birth;
    - 3) Place of birth;
    - 4) Name and address of a parent having custody or a guardian, if the student is a minor;
    - 5) Entering and leaving date for each academic year and for any intersession;
    - 6) Subjects taken during each year, half year, intersession or quarter;
    - 7) If grades or credits are given, the grades and number of credits toward graduation allowed for work taken.
  - b.** All records pertaining to any accident or injury involving a student for which a claim for damages has been filed as required by law, including any policy of

liability insurance relating thereto, except that these records cease to be Class 1- Permanent Records one year after the claim has been settled or after the applicable statute of limitations has run out.

*Reference:* T5 59023

## **Class 2 - Optional Records**

Any record worthy of further preservation, but not classified as Class 1 - Permanent, may be classified as Class 2 - Optional and shall then be retained until reclassified as Class

3 - Disposable.

*Reference:* T5 59024

## **Class 3 - Disposable Records**

All records, other than continuing records, not classified as Class 1-Permanent or Class

2-Optional, shall be classified as Class 3- Disposable. Generally, a Class 3-Disposable record unless otherwise specified in this Chapter, should be destroyed during the third academic year after the academic year in which it originated (e.g., 2017-18 plus 3 = 2020-21).

The following are classified as Class 3-Disposable Records:

1. Records Basic to Audit, including those relating to attendance, full-time equivalent student (FTES), or a business or financial transaction (purchase orders, invoices, warrants, ledger sheets, canceled checks and stubs, student body and cafeteria fund records, etc.), and detail records used in the preparation of any other report.
2. Periodic Reports, including daily, weekly, and monthly reports, bulletins and instructions.

*Reference:* ECS 84040, T5 59025-26

## **Retention Period for Records Basic to an Audit**

With respect to records basic to an audit, a Class 3-Disposable record shall not be destroyed until after the third July 1 succeeding the completion of the annual audit required by Education Code, Section 84040 or any other legally required audit, or after the ending date of any retention period required by any agency other than the State of California, whichever date is later.

*Reference:* T5 59026

## **Microfilm or Electronic Copy**

Whenever an original Class 1-Permanent record is photographed, micro photographed, or otherwise reproduced on film or electronically, the copy thus made is hereby classified as Class 1 - Permanent. The original record, unless classified as Class 2 - Optional, may be classified as Class 3 - Disposable, and may then be destroyed in accordance with this chapter if the following conditions have been met:

1. The reproduction was accurate in detail and on film of a type approved for permanent, photographic records by the United States Bureau of Standards.
2. The chief executive officer, or the designee of that officer, has attached to, or incorporated in, the microfilm copy or system a signed and dated certification of compliance with the provisions of Section 1531 of the Evidence Code, stating in substance that the copy is a correct copy of the original, or a specified part thereof, as the case may be.
3. The microfilm copy was placed in an accessible location and provision was made for preserving permanently, examining and using same.

*Reference:* T5 59022

### **Destruction of Fiscal Records**

For the destruction of records please refer to the California Code of Regulations, Title 5, Chapter 10, Article 3 the Procedures for Destruction, commencing with Section 59027.

*Reference:* T5 59027 et seq.; EC 84850

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