

**CALIFORNIA COMMUNITY COLLEGES
CHANCELLOR'S OFFICE**

1102 Q STREET
SACRAMENTO, CA 95811-6549
(916) 445-8752
HTTP://WWW.CCCCO.EDU

**Memorandum**

Date: March 2, 2010

**FS 10-01
Via E-mail Only**

TO: Chief Executive Officers
Chief Student Services Officers
Chief Instructional Officers
Chief Business Officers
Admissions Officers and Registrars

FROM: Frederick E. Harris, Assistant Vice Chancellor
College Finance and Facilities Planning

SUBJECT: Out-of-State Athletes, Residency Determination and Nonresident Tuition Fees

Recent irregularities concerning the registration of out-of-state athlete students at some of our campuses necessitate a systemwide review of the requirements, current & best practices, and district compliance with residency determination and the appropriate charging of nonresident tuition fees.

This memo is intended to provide a brief overview of:

1. Requirements pertaining to residency determination and nonresident tuition fees.
2. Effective residency determination procedures implemented by several colleges, particularly for out-of-state student athletes.
3. Audit procedures in the **Contract District Audit Manual** to help determine compliance with residency requirements.

As many of you know an article appeared November 2009 in the Ventura Star entitled "Colleges accused of tuition fraud" <http://tuitionfraud> which reported on weaknesses in compliance with residency determination requirements at some of our colleges, especially as it concerns out-of-state athletes. Please be aware that to the extent this behavior occurs, it could have legal consequences. Additionally a district could lose thousands of dollars in state support as a result of not applying effective procedures to validate applicable residency verification data.

As it is in the interests of all districts and their colleges to comply with the residency determination requirements and because accurate residency determination is a prerequisite for the appropriate claiming of FTES for apportionment purposes, we strongly encourage review and revision of district policies and procedures to ensure compliance with the:

1. **Student Attendance Accounting Manual** <http://StudentAttMan>
2. **Student Fee Handbook** <http://StudentFeeHB>
3. **Commission on Athletics (COA)** current statutes, regulations, requirements and procedures <http://www.coasports.org>

If after the review of your district's policies, procedures and compliance with requirements, any residency determination irregularities are found to have impacted resident FTES reported for state apportionment purposes, please immediately notify Elias Regalado in our office to review appropriate corrective action (his contact information is provided at the end of this memo).

REQUIREMENTS (California Education Code and California Code of Regulations)

Enrollment Fee

Payment of the basic enrollment fee is required pursuant to Education Code Section 76300. Regulations to implement the enrollment fee appear as Sections 58500-58509 of Title 5 of the California Code of Regulations (CCR). Unless expressly exempted, or entitled to a waiver, all students enrolling for college credit must pay the enrollment fee. For additional information on these exemptions or waivers, please refer to the **Student Fee Handbook** (Chapter 2 – Course Fees) and current statutes and regulations.

Nonresident Tuition Fee

The nonresident tuition fee is required by Education Code Section 76140 in the event a district chooses to admit nonresidents. Except as otherwise provided in statute or regulation, a student classified as a nonresident shall be required to pay in addition to other fees required, a nonresident tuition fee (EC Section 68050). It is important to note that students who are appropriately exempted from paying nonresident tuition are still required to pay the basic enrollment fee unless expressly exempted from that fee. Students charged nonresident tuition are also subject to the basic enrollment fee. For additional information on residency exceptions, please refer to the **Student Attendance Accounting Manual** (Chapter 2 – Residency Regulations and Requirements), the **Student Fee Handbook** (Chapter 2 – Course Fees), and current statutes and regulations.

Residency Determination

Residency determinations are required to be made for each student at the time applications for admission are accepted, and whenever a student has not been in attendance for more than one semester or quarter. The student must be determined to be clearly established as having been a resident for one year prior to the "residence determination date." This date is the day immediately preceding the session's opening day of instruction. Residency determinations must be made on a case-by-case basis, and the determinations result from conclusions made by the district, in compliance with current statutes and regulations.

As appropriate, students shall be required to present evidence of physical presence in California, intent to reside for other than a temporary purpose, and for students classified as a nonresident in the preceding term, financial independence. Districts shall use a questionnaire that conforms to CCR Title 5 Section 54012 and require applicants to supply required information and may request additional information. Applicants shall certify their answers on residence questionnaires under oath or penalty of perjury. Districts should inform students that if they knowingly provide false

information, they may be subject to significant penalties and/or other student disciplinary action (further guidance provided below). As provided by CCR Title 5 Section 54300, districts may authorize information to be submitted electronically using an electronic signature. Applications for admission and residency questionnaires submitted electronically are valid only if they include electronic signatures that satisfy the requirements of Section 54300(b). The California Legislature has granted residence classification to certain persons without the need to prove 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. For example, CCR Title 5 Section 54042 requires that students claiming to have an exception related to active members of the military who are present in California under military orders must provide specified proof or evidence of status. Military dependents have similar proof or evidence requirements.

For additional information on residency exceptions, evidence requirements, and overall residency determination guidance, please refer to the **Student Attendance Accounting Manual** (Chapter 2 – Residency Regulations and Requirements) and current statutes and regulations.

EFFECTIVE PROCEDURES IMPLEMENTED BY VARIOUS COLLEGES

For your consideration, below are examples received from several colleges of effective procedures implemented to ensure compliance with residency determination requirements and nonresident tuition fee requirements. We encourage each district to review its current procedures and consider implementation of best practices as appropriate.

- On applicable forms (paper and electronic), require students to acknowledge being warned of the most severe consequence(s) that could result from falsifying information. For example, require student to check-off and/or sign a perjury warning similar to the following:
WARNING: Falsifying information about citizenship, California residency, financial aid, and/or military status could result in:
 - (1) *criminal charges for perjury and/or fraud and, if convicted, imprisonment;*
 - (2) *student disciplinary action; and/or*
 - (3) *accumulated monetary charges such as for restitution or nonpayment of nonresident tuition fees.*
- Review departmental processes pertaining to out-of-state students and information sharing among departments and staff interacting with students.
- Closely review student applications for completeness and consistency with other related data. For athletes, compare student's application to athlete's COA Form 1 for applicable information and consistency.
- Arrange for a non-coaching staff or faculty member to attend the initial team meeting to oversee completion of paperwork and/or inform students of residency requirements and consequences of false information.
- When appropriate obtain an official school transcript from athletes before certifying as eligible to participate in a sport.
- Increase the exchange of information between Athletics offices, Admissions/Records, Financial Aid, Counseling, and Residence Hall representatives to improve internal checks and balances.
- Check to ensure students who apply online and list themselves as graduating from a California high school are not automatically coded as a resident.

- Review and revise, as appropriate, the residency determination questionnaire and/or checklist relative to student requests to reclassify their resident status and include a place for students to provide an electronic or original signature and date.
- Obtain evidence from a student to support claiming an exemption and/or waiver, such as for a child of military personnel pursuant to requirements of CCR Title 5 Section 54041.

CONTRACT DISTRICT AUDIT MANUAL PROCEDURES

This is the audit procedure in the 2008-09 **Contract District Audit Manual** (CDAM) regarding Residency Determination:

- Test the supporting residency documentation (hardcopy and/or electronic) of a sample of students in credit courses to determine whether each student has been properly classified as either a "resident" or a "nonresident."
- Review the selected credit course section tabulations for the students in the above sample to determine whether the attendance of nonresidents has been claimed for State support.

We will include in the upcoming version of the CDAM expanded procedures on residency determination and collection of nonresident tuition fees, especially regarding out-of-state athletes.

CONTACTS

Please contact Elias Regalado at 916.445.1165 or eregalado@cccco.edu for specific questions about student residency requirements or to report FTES adjustments for apportionment purposes. To discuss audit procedures, please contact Glen Campora at 916.323.6899 or gcampora@cccco.edu.