



# The Board of Governors of the California Community Colleges

PRESENTED TO THE BOARD OF GOVERNORS

DATE: July 8-9, 2013

SUBJECT: Nonresident Tuition Exemption (Second Reading)		Item Number: 2.5	
		Attachment: Yes	
CATEGORY:	Legal	TYPE OF BOARD CONSIDERATION:	
Recommended By:	 Steven Bruckman, Executive Vice Chancellor	Consent/Routine	
		First Reading	
Approved for Consideration:	 Brice W. Harris, Chancellor	Action	X
		Information	

**ISSUE:** Amendment of a title 5 regulation is required due to the enactment of Assembly Bill 1899 granting an exemption from nonresident tuition for students possessing “T” or “U” visas.

**BACKGROUND:** Unless specifically exempt, state law requires nonresident students to pay nonresident tuition. Legislation taking effect on January 1, 2013 grants a nonresident tuition exemption to an additional class of students. A title 5 regulation amendment is being proposed to implement this statutory change.

**RECOMMENDED ACTION:** It is recommended that the Board of Governors adopts the following resolution:

**Be it Resolved:** The Board of Governors of the California Community Colleges, acting pursuant to Education Code sections 66700, 70901(c) and 70901.5, hereby:

- approves the proposed regulation changes;
- directs the chancellor to file the regulations with the Secretary of State and submit the regulations to the Office of Administrative Law for printing unless the Department of Finance determines the regulations would create a state-mandated local program cost and is unable to certify to the Board of Governors and the Legislature that a source of funds is available to reimburse that cost (see Education Code section 70901.5(a)(6));

- authorizes the chancellor to take any necessary ministerial action to process these regulations; and
- adopts the regulations effective thirty days after filing with the Secretary of State and submission of the regulations to the Office of Administrative Law.

The proposed regulations are presented to the Board of Governors for approval and adoption. The Board of Governors held a public hearing and received no comments on this proposed action in May.

**ANALYSIS:** Education Code section 76140 requires districts to charge nonresident students a nonresident tuition. Districts are required to exempt from nonresident tuition various groups of students including students taking noncredit classes, members of the armed forces stationed in California on active duty and various other groups.

Education Code section 68130.5 provides an exemption for students who attended high school in California for three or more years and graduated from a California high school or attained the equivalent thereof. In the case of a person without lawful immigration status, the student must file an affidavit with the institution of higher education indicating intent to legalize his or her status. These students are commonly referred to as Assembly Bill 540 students.

Assembly Bill 1899 (Mitchell) added Education Code sections 68122, 69504.5, and 76301. This bill establishes that “T” and “U” visa students (noncitizens who are victims of trafficking, domestic violence, and other serious crimes), would receive educational benefits to the same extent as students granted refugee status. While not clearly stated in the law, the effect of this legislation is to grant students who possess “T” and “U” visas the same rights and privileges that qualified Assembly Bill 540 students currently possess provided they meet the criteria established for Assembly Bill 540 students.

Title 5, section 54045.5, sets forth the requirements necessary for Assembly Bill 540 students to be granted a nonresident tuition exemption. Subdivision (g) is added to this section to account for the additional exemption made available to qualified students with “T” and “U” visas.

The proposed regulation changes are included as attachment 1.

## ATTACHMENT 1

### BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES PROPOSED REVISIONS TO TITLE 5 REGULATIONS: NONRESIDENT TUITION EXEMPTION

1. Section 54045.5 of subchapter 1 of chapter 5 of division 6 of title 5 of the California Code of Regulations is amended to read:

#### **§ 54045.5. Nonresident Tuition Exemption.**

(a) In accordance with Education Code section 68130.5, any student, other than a student who is a nonimmigrant alien under title 8 U.S.C.-United States Code section 1101(a)(15), shall be exempt from paying nonresident tuition at any community college district if he or she:

- (1) ~~A~~attended high school in California for three or more years;
- (2) ~~G~~graduated from a California high school or attained the equivalent of such graduation; and
- (3) ~~R~~registers for or is enrolled in a course offered by any college in the district for any term commencing on or after January 1, 2002.

(b) Any student seeking an exemption under subdivision (a) shall complete a questionnaire form prescribed by the Chancellor and furnished by the district of enrollment, verifying eligibility for this nonresident tuition exemption, and may be required to provide documentation in addition to the information required by the questionnaire as necessary to verify eligibility for an exemption. All nonpublic student information so provided shall be confidential and shall not be disclosed unless required by law.

(c) Any student without lawful immigration status who is seeking an exemption under subdivision (a), shall, in the questionnaire described in (b), affirm that he or she has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

(d) A student seeking this tuition exemption has the burden of providing evidence of compliance with the requirements of this section.

(e) Nothing herein modifies eligibility standards for any form of student financial aid, including but not limited to, those contained in Subchapter 7 of Chapter 9 of this Division.

(f) Nothing herein authorizes a refund of nonresident tuition that was paid for any term commencing prior to January 1, 2002.

(g) Notwithstanding the general nonimmigrant alien exclusion from the exemption noted in subdivision (a), nonimmigrant aliens granted "T" or "U" visa status under title 8 United States Code section 1101(a)(15)(T)(i) or (ii), or section 1101(a)(15)(U)(i) or (ii), respectively, shall be exempt from paying nonresident tuition, provided all eligibility requirements in subdivisions (a)(1)-(a)(3) above are met.

NOTE: Authority cited: Sections 66700, 68130.5 and 70901, Education Code. Reference: Section 68130.5, Education Code.