



The Board of Governors of the California Community Colleges

PRESENTED TO THE BOARD OF GOVERNORS

DATE: January 16, 2018

SUBJECT: Nonresident Tuition Exemption (PUBLIC HEARING)		Item Number: 3.3	
		Attachment: Yes (2)	
CATEGORY:	Office of the General Counsel	TYPE OF BOARD CONSIDERATION:	
Recommended By:	 Marc A. LeForestier, General Counsel	Consent/Routine	
		First Reading	X
Approved for Consideration:	 Eloy Ortiz Oakley, Chancellor	Action	
		Information	

ISSUE: This item is a first reading of proposed regulations amending California Code of Regulations, title 5, section 54045.5, *Nonresident Tuition Exemption Implementation*. The purpose of the revision is to conform our regulations to recent changes in the law following passage of Senate Bill 68 (2017).

BACKGROUND: Over the last decade-and-a-half, the State of California has introduced and expanded a nonresident tuition exemption for post-secondary education. In 2001 the Legislature enacted Assembly Bill No. 540 (2001), which added section 68130.5 to the Education Code. Section 68130.5 exempted from nonresident tuition certain nonresident students who attended high school in California for three or more years and received a high school diploma or its equivalent. The exemption is now commonly referred to as “AB 540 status,” or by a similar term. In 2014, the Legislature expanded the exemption in Assembly Bill 2000, extending it to certain students who either attended California elementary or secondary schools (or both) for a total of three or more years, or attained equivalent credits in California. In 2017, the Legislature expanded the exemption further in Senate Bill 68.

RECOMMENDED ACTION: The proposed regulations are presented to the Board of Governors for a first reading and public hearing. The Board of Governors must hold a public hearing for receipt of comments, both written and oral, which are offered concerning the proposed action. It is anticipated that the regulations will be presented to the Board for adoption at its March 19, 2018 meeting.

ANALYSIS: Education Code section 68050 generally requires that students who are not residents of California pay nonresident tuition in addition to fees required by the institution. However, the Education Code also authorizes a number of exemptions to nonresident tuition.

Title 5, section 54045.5, contains the Board of Governor's regulations implementing the nonresident tuition exemption for AB 540 students. Section 54045.5 currently reflects the exemptions provided by law prior to the enactment of Senate Bill 68.

In Senate Bill 68, the Legislature expanded the AB 540 exemption to include students who have attended school or attained credits equivalent to three years of full-time attendance in high school at the following: California high schools established by the State Board of Education; California adult schools established by a county office of education; a California unified school district; a California high school district; the California Department of Corrections and Rehabilitation; campuses of the California Community Colleges; or a combination of the above. Eligibility may also be established through the completion of noncredit coursework at a California community college. (Senate Bill No. 68 (2017-2018 Reg. Sess.) ("SB 86").) This legislation is codified in Education Code section 68130.5.

Section 54045.5 fell out of compliance with California law principally because it contains a specific recitation of Education Code section 68130.5's eligibility requirements, which have now been substantially amended. In the proposed revisions to section 54045.5, the recitation of the eligibility requirements is removed rather than amended. This approach will rely on current statutory law rather than restating it, and should allow the regulation to remain current regardless of future statutory changes.

The proposed regulation changes are included as Attachment 1.

A summary and analysis of the proposed changes are included as Attachment 2.