

TOP STORY IIII

TUESDAY, MAY 20, 2008

N.C. pushes ban on illegal immigrant students

By Daniel C. Vock, Stateline.org Staff Writer

While other states struggle with the issue, North Carolina alone is moving ahead with an interpretation of a federal law that says illegal immigrants cannot attend community colleges, even if the students pay more than the cost of their education.

The new policy, ([PDF](#)) approved May 13 by the [North Carolina Community College System](#), comes after six months of political and legal controversy on the topic, but it is unlikely to be the last word in an area where federal courts and immigration officials have offered little guidance to states.

Practically speaking, the decision's effect will be limited. It doesn't apply to students attending English as a Second Language classes or vocational training, for instance. Only 112 North Carolina community college students who pursued academic credit last year — out of a total of 296,520 — likely were illegal immigrants, according to the community college system.

But symbolically, the policy is “insulting” to Latinos, said Tony Asion, executive director of [El Pueblo](#), a Raleigh-based non-profit group focused on developing the Latino community. He pointed out that, before the change, undocumented students were allowed to enroll but had to pay out-of-state tuition, which is set at 40 percent above cost that the colleges spend to educate them. Other North Carolina residents get a discount.

Admitting undocumented students “isn't taking any money from anyone. It isn't taking any (class) space from anyone. The reason (for the change) is: ‘We just don't want these people in our schools,’” Asion said.

Politically, the issue has been explosive, pitting outgoing [Gov. Mike Easley](#) (D), who supports allowing undocumented immigrants in the schools, against the entire field of candidates vying to succeed him, both Democrats and Republicans. And the community colleges' position is now at odds with the policy of the 16-campus [University of North Carolina](#) system, which still admits undocumented students.

Legally, the question of whether states are free to admit illegal immigrants to state colleges — or to give them in-state tuition, as 10 other states do — continues to confound state officials across the country.

Lawmakers in Virginia and Missouri unsuccessfully tried this year to prevent illegal immigrants from signing up for classes at any state college, and out-of-state students are suing Kansas and California for giving in-state status to illegal immigrant students.

On the one hand, children who are in the country illegally are entitled to free school from kindergarten through high school, according to a 1982 U.S. Supreme Court decision, *Plyler v. Doe*.

IN-STATE TUITION

Ten states offer in-state tuition for illegal immigrants, according to the American Association of State Colleges and Universities:

- California
- Illinois
- Kansas
- Nebraska
- New Mexico
- New York
- Oklahoma
- Texas
- Utah
- Washington

But a 1996 federal [law](#) limits states from giving benefits to older undocumented students that they don't offer to U.S. citizens. The law bars states from "providing a postsecondary education benefit to an alien not lawfully present unless any citizen or national is eligible for such benefit."

What the law means when it mentions "a benefit" is not clear, lawyers say.

The best hope for settling the matter may be the Kansas case, now on appeal to the U.S. Supreme Court. In that case, called [Day v. Bond](#), a Missouri student is [challenging](#) Kansas law for favoring in-state illegal immigrants over out-of-state U.S. citizens, an alleged violation of the 1996 law.

But two lower courts dismissed the challenges without considering that argument. Instead, they ruled that the student had no standing to bring the suit, because only the federal government could challenge the law. The high court has not decided whether to hear the dispute.

Richard Samp, as chief legal counsel for the [Washington Legal Foundation](#), a conservative legal think tank, is supporting the Kansas challenge. He said the foundation has tried to prod the federal government to confront states offering in-state tuition to illegal immigrants, to no avail.

The Bush administration has shown "absolutely no desire" to get involved, he said.

Pat Reilly, a spokeswoman for the [U.S. Immigration and Customs Enforcement](#) (ICE) agency, said the federal government does not require schools or colleges to check the immigration status of students, as North Carolina plans to do. Likewise, the agency does not pursue additional disciplinary action against illegal immigrants for attending public colleges.

On the other hand, she said, the only way foreign nationals can attend college in the United States legally is through the agency's [International Student Exchange and Visitors Program](#). Illegal immigrants in the U.S. cannot qualify for that program, Reilly said.

Reilly cited several practical reasons for the agency's stance.

ICE is more worried about enforcing immigration law in the workplace, because it's the prospect of jobs that lures immigrants to the country illegally in the first place. ICE has drastically stepped up its job-site enforcement in the last two years — including the largest raid in the country's history last week (May 12), in which nearly 400 people were detained at a meat packing plant in Postville, Iowa.

ICE does not target schools, colleges or universities, mainly because of the increased likelihood that children could get caught up in the raids, Reilly said. (She stressed, however, that ICE officers may go after illegal immigrants at any time.)

Plus, it's less likely that a separate crime occurs when an undocumented student signs up for classes than when an illegal immigrant applies for a job. At the workplace, either the employer is knowingly hiring illegal immigrants or the job applicants are using fraudulent documents to get work, both of which are crimes beyond immigration offenses, Reilly said.

The North Carolina community colleges asked the state attorney general in November whether letting undocumented students take classes was a prohibited “benefit” under the 1996 law. The attorney general’s office did not provide a definite answer, citing, in part, the U.S. government’s lack of guidance.

Instead, the office told the community colleges they would be on safer legal ground if they didn’t admit illegal immigrants, and that advice prompted last week’s change.

As unusual as the community colleges’ new prohibition is nationally, it’s not new for North Carolina. Between 2001 and November 2007, the state restricted illegal immigrants’ enrollment in community colleges, and no one challenged the rules.

North Carolina banned all undocumented students from academic courses in 2001, but, in 2004, it let individual schools determine whether to keep the prohibition. Out of 58 community colleges, 34 lifted the restrictions by April 2005.

Last November, the community college board tried to create one rule for the whole state, allowing all undocumented students to enroll. The open-door policy announced then touched off the current controversy.

In neighboring Virginia, a federal trial judge ruled ([PDF](#)) in 2004 that state universities and colleges could bar illegal immigrants from enrolling, as long as they deferred to the federal government in determining legal status.

But the case focused on whether the U.S. Constitution allowed the restrictive policy; it didn’t address whether the 1996 federal law required the policy. Now, most Virginia state universities block the admission of undocumented students, but some schools let them enroll.

This year, the GOP-controlled Virginia House voted to prevent illegal immigrants from signing up for classes at any state college, but the measure died in the Democratic-controlled Senate. A similar measure in Missouri also stalled this year.

Samp, the lawyer from the Washington Legal Foundation, said the 1996 federal law doesn’t require states to bar illegal immigrants from public universities.

As long as a U.S. citizen from New York could still enroll in North Carolina’s community colleges for the same price as an undocumented resident of North Carolina, there would be no violation of the law, he said.

“Federal law doesn’t prohibit (states) from providing a benefit. They just can’t give it in a discriminating fashion,” he said.

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Amnesty is back in the US Senate again

By zeb arrow on May 20, 2008 8:23:54 AM

Amnesty for illegal immigrants has once again reared it's ugly head with Senator Feinstein (D-CA) slipping in her amnesty for agricultural workers into the Iraq Supplemental Spending bill being voted on this week in the Senate. This would amount to amnesty for over 3 million illegal aliens. Her amendment is not only not germane to the bill's intent, polls indicate 80% of Americans are opposed to amnesty on principle.

Unless Americans immediately, once again, pepper the Senate with complaints, amnesty could come to pass. Want to fight against sellout politicians, illegal immigration and amnesty? Here's how:

<http://www.alipac.us/article-3191--0-0.html>

<http://www.alipac.us/ftopict-115596.html>

<http://www.alipac.us/article3201.html>

Common Sense & Rule of Law Return

By zeb arrow on May 20, 2008 8:25:51 AM

Since illegal aliens are unlawfully present here and cannot lawfully operate and hold jobs, why should NC taxpayers subsidize their post-secondary education? Over 80% of the populace is against subsidizing their education at all but our hands were tied by a miscreant activist Supreme Court decision years ago.

For any of you that may think that denying illegal aliens is some sort of civil rights violation, think again. Civil rights pertain ONLY to citizens. The Merriam-Webster online Dictionary defines civil-rights as: "The nonpolitical rights of a citizen; especially: the rights of personal liberty guaranteed to U.S. citizens by the 13th and 14th amendments to the Constitution and by acts of Congress."

If one is not a citizen of the country, civil rights do not apply. Period. End of story.

It's refreshing to see common sense and the rule of law return to NC state government for a change

WHY ADMITTING ILLEGAL IMMIGRANTS TO COLLEGES IS BAD PUBLIC POLICY

By zeb arrow on May 20, 2008 8:28:03 AM

North Carolina Attorney General, Roy Cooper, has just issued a directive that North Carolina colleges should abide by federal immigration law and not admit illegal aliens. The community college system has complied but the state universities, notorious hot beds of liberalism, are dragging their feet.

According to estimates, the previous open door policy in North Carolina of allowing illegal aliens to attend community colleges would cost taxpayers between \$6 million and \$8 million. If that program expanded (more illegal alien students than anticipated), costs will increase.

<http://www.jwpcivitasinstitute.org/media/publication-archive/fact-sheet/fact-sheet-n-c-community-colleges-and-immigration>

The previous policy "in violation of the federal Immigration and Nationality Act" encouraged and induced illegal immigration by providing illegal immigrants with a taxpayer-subsidized education. By preparing illegal immigrants to enter North Carolina's workforce, the previous policy also ignored the fact that under the Immigration and Nationality Act it is illegal to employ an illegal alien.

The directive issued by Governor Easley and carried out by Martin Lancaster (Community College President, at that time) in November 2007 asks taxpayers to subsidize the education of undocumented aliens who are not in the country legally and cannot legally work in North Carolina or in the United States.

This plan charged illegal immigrants with out-of-state tuition. On average, out-of-state tuition covers only 50 percent to 70 percent of the total costs of education.

Alternative figures released by the community college system regarding the costs to educate an out-of-state student do not include capital costs. According to the North Carolina Community College System Fact Book: <http://www.ncccs.cc.nc.us/Publications/docs/Publications/fb2007.pdf> , tuition funds comprise only 12.5 percent of total community college operating expenses. State and local funds â i.e., state and local taxpayers â comprise 82 percent of all funding for the community college system.

In 2005, legislation to grant illegal immigrants in-state-tuition was considered by the North Carolina General Assembly. According to Civitasâ April 2007 DecisionMaker Poll (<http://old.jwpcivitasinstitute.org/keylinks/Polls/2007-April-Poll.pdf>), 70 percent of voters oppose giving illegal immigrants in-state tuition.

Hereâs examples as to where the misguided and unlawful policy of allowing illegal aliens into colleges can lead:

In 2001, Texas granted in-state tuition to illegal immigrants. In 2005, Texas reported a 900 percent increase in enrollment of illegal immigrants in state higher education institutions and community colleges.

In comparison, California likely has more than double the number of illegal immigrants enrolled in state colleges and universities than Texas. According to a recent Legislative Analysis Office report, there are up to 20,000 immigrant students in California receiving waivers from the state for tuition, both legal and illegal. The report said that about 90 percent of the immigrant students in Californiaâs Community College system alone are undocumented. This means that there could be as many as 18,000 illegal immigrants enrolled in California State University, University of California and community colleges receiving heavily subsidized in-state tuition rates at the cost to the taxpayer of about \$117 million per year. <http://www.californiachronicle.com/articles/48870>