



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

R. Scott Ralls, Ph.D.

President

May 13, 2008

IMPORTANT INFORMATION

MEMORANDUM

TO: Community College Presidents
Community College VP/Deans of Instruction
Community College VP/Deans of Student Development
Community College VP/Deans of Continuing Education
Community College Admissions Officers
Community College Registrars

FROM: Q. Shanté Martin, *General Counsel*

**RE: UNRESTRICTED ADMISSION OF UNDOCUMENTED OR
ILLEGAL IMMIGRANTS**

On May 6, 2008, the Office of the Attorney General advised the North Carolina Community College System Office that the System Office's guidance in the December 21, 2001 Memorandum CC01-271, restricting the admission of illegal immigrants, "would more likely withstand judicial scrutiny." Based upon that advice, the November 7, 2007 Memorandum CC07-275, advising local community colleges to "immediately begin admitting undocumented individuals," is hereby superseded.

Pending the Office of the Secretary of Homeland Security's guidance in response to the North Carolina Office of the Attorney General's request for clarification or pending North Carolina state law affirmatively providing for the unrestricted admission of undocumented or illegal immigrants to our local community colleges, colleges should follow the guidance provided in the December 21, 2001 Memorandum CC01-271.

For ease of reference, the substantive guidance provided in the December 21, 2001 Memorandum CC01-271 is quoted as follows:

Federal Law, 8 USC Section 1621 makes most undocumented or illegal aliens ineligible for most state or local public benefits. Post secondary education is one of those benefits that undocumented or illegal aliens are not eligible to receive. Federal Law, 8 USC Section 1641

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makes an exception for some illegal aliens who have been subjected to extreme cruelty or battered and who meet other conditions set forth in this section. Any undocumented or illegal aliens who are eligible to receive post secondary education (other than high school students taking Huskins or concurrent enrollment courses) should have written documentation of their eligibility based on one of the exceptions set forth in Federal Law, 8 USC Section 1641.

Therefore, colleges should admit or enroll undocumented or illegal aliens only as follows:

1. Undocumented or illegal aliens who are high school students may enroll in college level courses consistent with the concurrent enrollment policy and the cooperative program agreement (Huskins Bill courses) policy. Undocumented or illegal aliens may take college level courses pursuant to these policies because eligibility for participation in these programs is not based on legal residence but on attendance in a North Carolina high school. These courses are open to all high school students attending a high school (public, private, or home school) located in the State who meet the eligibility criteria. This position appears to be consistent with the federal policy regulating provision of state or local public benefits to undocumented or illegal aliens.
2. Undocumented or illegal aliens may enroll in non-college level courses or programs including GED preparation courses, Adult Basic Education, Adult High School, English as a Second Language and other continuing education courses less than college level. These courses do not appear to violate the general prohibition against providing post-secondary education to undocumented or illegal aliens.
3. Undocumented or battered illegal aliens who have been determined to meet one of the qualifying conditions set forth in Federal Law, 8 USC Section 1641 are eligible for college level courses. It is the applicant's responsibility to produce sufficient documentation to satisfy the college that the applicant is eligible for post secondary education benefits.

(December 21, 2001 Memorandum CC01-271). Wherever "Huskins" or "concurrent enrollment" is listed above, colleges should also include the following high school programs: Learn and Earn, Learn and Earn Online, alternative high school programs (Early College and Middle College High Schools), and Dual Enrollment.

Additionally, colleges that have admitted undocumented or illegal immigrants based

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upon the guidance in the November 7, 2007 Memorandum CC07-275 shall be permitted to allow only those undocumented or illegal immigrants to complete their program of study at the out-of-state tuition rate.

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