



Office of State and Local Coordination
U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

JUL - 9 2008

Mr. Thomas J. Ziko
Special Deputy Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602-0629

Dear Mr. Ziko:

Thank you for your letter of May 28, 2008, to Michael Chertoff, Secretary of Homeland Security. Your letter was referred to U.S. Immigration and Customs Enforcement (ICE), within the Department of Homeland Security, for response.

You inquired whether 8 U.S.C. § 1621 prohibits NCCCS from requiring North Carolina community colleges to enroll illegal aliens in post-secondary education courses, absent state legislation. Please note that admission to public post-secondary educational institutions is not one of the benefits regulated by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and is not a public benefit under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). In this respect, Section 411(c)(1)(B) of PRWORA, codified at 8 U.S.C. § 1621(c)(1)(B), addresses benefits "for which payments or assistance are provided. . .", such as monetary assistance for post-secondary education.

Therefore, the individual states must decide for themselves whether or not to admit illegal aliens into their public post-secondary institutions. States may bar or admit illegal aliens from enrolling in public post-secondary institutions either as a matter of policy or through legislation. Please note, however, that any state policy or legislation on this issue must use federal immigration status standards to identify which applicants are illegal aliens. In the absence of any state policy or legislation addressing this issue, it is up to the schools to decide whether or not to enroll illegal aliens, and the schools must similarly use federal immigration status standards to identify illegal alien applicants.

We hope that this response satisfies your concerns. Please contact us if you have any further questions.

Sincerely,

Sheriff (Ret.) Jim Pendergraph
Executive Director
Office of State and Local Coordination