

North Carolina Community College System

Study on the Admission of Undocumented Students into the North Carolina Community College System

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Table of Contents

Executive Summary	1
Introduction.....	9
Chapter 1: Timeline of Events in the NCCCS	11
Chapter 2: Review of the University of North Carolina System’s Policy on the Admission of Undocumented Students	20
Chapter 3: Estimated Amount of State and Local Resources Required to Support an Undocumented Full-time Student	25
Chapter 4: Verification Practices and State Policy Studies	32
Chapter 5: Discussion of Key Policy Issues	81
Appendices.....	94
Appendix A Note: The full appendix for Task 3.1 Timeline/Compendium is available electronically. Submit request to NCCCS.	94
Appendix B Note: Full appendix for each state in Task 3.4 State Policy Studies is available electronically. Submit request to NCCCS.	94
Appendix C AACRAO Survey	95
Appendix D <u>AACRAO</u> Survey Data Tables.....	103
Appendix E SAVE Program Transaction Charges	125
Appendix F SAVE Verification Process Flowchart	128
Appendix G Task 3.2: Review of Sanford Report.....	129

Executive Summary

Introduction

Policies governing the enrollment of undocumented students in postsecondary educational institutions vary widely nationwide. The North Carolina Community College System (NCCCS) has grappled with this difficult issue for most of the current decade. In November 2008, the NCCCS commissioned a review of issues surrounding the admission of undocumented students. The results presented in this report examine federal and state law developments and policies and practices affecting access to post-secondary educational institutions for undocumented immigrants in eleven states, and the costs associated with admitting, and verifying the status of, undocumented students.

The primary objectives that guided the research were to:

- Prepare a timeline and compendium of the history of the admission of undocumented students to NCCCS curriculum programs.
- Outline the policy of the University of North Carolina System on the admission of undocumented students, and address the implications of the adoption of a similar policy by the NCCCS.
- Calculate the estimated amount of state and local resources required to support an undocumented student enrolled full-time in a North Carolina community college curriculum program, taking into account the amount of tuition paid by the student.
- Conduct a state policy study. Present an analysis of policies for admission and pending or ratified legislation pertinent to undocumented students in public institutions of higher education in the following states: Arizona, California, Colorado, Florida, Georgia, Illinois, New Mexico, New York, South Carolina, Texas, and Virginia.
- Identify the key policy issues that the North Carolina State Board should consider when developing a long-term policy on the admission of undocumented students, including implications of the fiscal impact, and the costs and processes associated with verification.

Timeline

North Carolina regulations require the NCCCS system to “maintain an open-door admission policy to all applicants who are high school graduates or who are at least 18 years of age.”¹ However, NCCCS has taken several different positions with respect to the admission of undocumented students during the past nine years. In 2001, NCCCS restricted the admission of undocumented students to three narrow categories of students. Three years later, NCCCS granted individual colleges more latitude on the matter, and in 2007, there was considerable public response after NCCCS acted to admit undocumented students to all North Carolina community colleges, at out-of-state tuition rates. In May 2008, on the heels of an advisory letter from the North Carolina Attorney General’s office indicating that restrictions on the admission of undocumented students were more likely to sustain a court challenge, NCCCS reinstated the sharp restrictions that had been instituted back in 2001. Shortly thereafter, the U.S. Department of Homeland Security issued a statement affirming that it is up to each

¹ 23 NCAC 02C.0301(a). North Carolina statute, The State Board of Community Colleges is authorized by statute to establish and administer standards for admissions and graduation. N.C. Gen. Stat. §115D-5.

state to determine whether to admit undocumented students. On August 15, 2008, the NCCCS State Board maintained the restrictions on the admission of undocumented students to North Carolina community colleges.

Under current NCCCS policy, undocumented students may be admitted to community colleges in North Carolina only if they fit into one of three narrow categories, as follows:

- (1) High school students enrolled in college level courses consistent with the concurrent enrollment policy and the cooperative program agreement;
- (2) Students enrolled in non-college level courses or programs, such as GED programs; or
- (3) Students able to produce documentation demonstrating that they are considered to be a “qualified alien” as defined under federal law, 8 U.S.C. §1641.²

University of North Carolina System Guidelines:

The University of North Carolina (UNC) system applies an across-the-board policy allowing undocumented students to be considered for admission, and does not permit any of the seventeen constituent institutions to adopt policies barring the admission of such students. These guidelines, adopted on November 12, 2004, are formally stated in Policy 700.1.4[G] of the UNC *Policy Manual*. Notwithstanding the open-door component, the UNC system incorporates restrictive elements that significantly reduce the number of such students who ultimately enroll, including requirements that:

- Such students must be graduates of high schools in the United States;
- Such students are treated as out-of-state students for admission purposes; and
- Such students must pay out-of-state tuition rates.

Based on communications with two UNC admissions officials, it appears that the process used to identify and allow admission of undocumented students to UNC entails little verification activity, and has not generated any need for detailed, specialized knowledge or extraordinary administrative practices and procedures. It appears that the UNC system policy creates little added cost or burden for the affected institutions.

Verification Processes:

The implementation and enforcement of any policy on the admission of undocumented students requires varying levels of effort to verify the information submitted by students and reviewed by college staff. The information that prospective students are required to gather and submit tends to vary among college and college systems, as do the verification procedures followed. Research and survey data have identified three primary processes employed by institutions to verify students’ citizenship or residency claims:

- **Self-Certification**, a process where a student is responsible for self-reporting his or her residency and/or citizenship status on an application or other required forms;

² See Appendix A: Task 3.1 Compendium/Timeline Appendix, August 15, 2008 Board decision, p. 213.

- **Local Review**, a process in which the student submits documentation to support residency and/or citizenship claims, and the college reviews the supporting documentation and determines admission or tuition eligibility; and
- **Database Verification**, a process used to verify the legal status of non-citizens, where students submit the requested information and colleges use a two-stage national system to determine the legality of a student's non-citizen status. Typically, a federal verification system, the Systematic Alien Verification of Entitlements (SAVE) program, is used.³ The direct cost of the SAVE service is up to one dollar per student submission, with a minimum monthly charge of 25 dollars for months the service is used.⁴

Although little hard data on the total costs of verification are available, the costs related to staffing, training, and IT needs must be considered in developing policy on the admission of undocumented students. Some insight into the processes implemented, and the time and costs estimated by other states, is available from a national survey administered by the American Association of Collegiate Registrars and Admissions Officers (AACRAO).⁵ Findings indicated that most institutions in the 11 states in this study do verify the status of applicants claiming U.S. citizenship or legal residence, and are likely to request a student's birth certificate or passport. Institutions that knowingly admit undocumented students under certain conditions were likely to report that the condition imposed is higher tuition.⁶

Few admissions and registrar offices at institutions in the 11 surveyed states were able to respond to survey questions about the direct costs of student verification, and the staff time devoted to verification. The national survey findings were therefore more instructive with respect to the cost and time commitments associated with the verification process. Based upon the national responses of public 2-year institutions, the estimated average direct cost per academic year for institutions to verify students' residence status for admission and tuition determination is \$8,602. Also based on national findings, 80 percent of responding institutions reported having adequate staffing to manage the verification process. Among colleges that were able to estimate the amount of time specifically spent on the verification of undocumented students, the majority reported that less than 20 percent of verification time is spent on these students.

Estimated Public Subsidy

Among some groups, one concern about the admission of undocumented students to community colleges is the cost to taxpayers. It has been unclear whether undocumented students are publicly subsidized by taxpayers when they enroll as out-of-state students, since they pay higher tuition rates than do students enrolled as in-state residents. Enrollment data and local and state appropriations data were used to estimate the public subsidy required to support undocumented students paying out-of-state tuition rates. Estimates revealed that overall there is no public subsidy for students paying out-of-state tuition.

The use of state and local appropriations data provided an estimate of taxpayer support for students enrolled in community colleges. Local and state appropriations consist of money from state and local

³ See Appendix F.

⁴ See Appendix E.

⁵ See Appendix C.

⁶ See Appendix D.

municipalities, or revenues from local taxpayers or other public resources. These funds are provided for the daily operation of the colleges, and do not include government revenue for special projects or programs, or capital funds. According to the appropriations data source, the U.S. Department of Education's Integrated Postsecondary Education Data System (IPEDS), state appropriations are amounts received by the institution through acts of a state legislative body, excluding grants and contracts and capital appropriations. These funds are used to meet current operating expenses, not for specific projects or programs. According to IPEDS, local appropriations, education district taxes, and similar support are amounts received from property taxes or other taxes assessed directly for an institution. This includes any other similar general support provided to the institution from governments below the state level, including local government appropriations.

Based upon IPEDS state and local appropriations revenue data for academic year 2006-2007, and year-round full-time equivalent (FTE) student enrollment data for academic year 2006-2007 from the North Carolina Community College System (NCCCS), the estimated average amount of local and state appropriations across all 58 North Carolina community colleges was \$5,344 per FTE. Out-of-state full-time tuition was \$7,024 in 2006-2007. The public cost per FTE was determined by subtracting out-of-state tuition from the average amount of local and state appropriations per FTE. The difference, or public cost, represents the cost to NC taxpayers to subsidize each out-of-state and/or undocumented student enrolled. However, as the average difference was negative, -\$1,680, it represents revenue to the NCCCS from students who pay out-of-state tuition.⁷

The public cost per FTE was estimated for each community college. Pamlico Community College was the only college where the public cost per FTE was positive (\$69). Pitt Community College had the greatest negative cost per FTE (-\$2,773).

State Policies and Practices – Key Issues to Consider:

Nationally, individual states have made diverse choices on whether to admit undocumented students to state colleges and universities and, if so, on whether to charge them in-state or out-of-state tuition. A document and legal search, and a web survey,⁸ were conducted to identify state admissions policies and legislative developments affecting undocumented students in public higher education for the following states: Arizona, California, Colorado, Florida, Georgia, Illinois, New Mexico, New York, South Carolina, Texas, and Virginia.

Consistent with the definition used by the states included in this report, this policy study defined undocumented students as *those students who are non-U.S. citizens and do not hold a valid visa or other recognized immigration status authorizing them to be lawfully present in the United States*. This definition is consistent with that reported by eight North Carolina community colleges in 2008. In much of the research, the terms “undocumented,” “unauthorized,” and “illegal” were found to be used interchangeably.

Our research revealed that policies on undocumented students in the identified states fall into three broad categories, identifiable as access/low-cost, access/high-cost, and no access.

⁷ See Chapter 3.

⁸ Appendix C.

Type 1: Access/Low-Cost: California, Illinois, New Mexico, New York, and Texas

The first category, labeled “access/low-cost” includes those states where the policy is to facilitate access to low-cost higher education for undocumented students. States in this category permit undocumented students to be admitted to public colleges, and permit those students to pay in-state tuition if they meet certain criteria, including varying lengths of required attendance at a state high school, graduation from a state high school, or obtaining a Graduate Equivalency Diploma in-state. These states also require additional documentation, such as an affidavit indicating that the undocumented student will seek or obtain the appropriate visa as soon as possible.

The access/low-cost states included in the study have designed laws and processes to avoid application of Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act. This federal prohibition states that an individual who is not lawfully present in the U.S. is not eligible for any state postsecondary benefit on the basis of residency unless other U.S. citizens are eligible for the benefit without regard to residency.⁹ There are no implementing regulations for Section 505, and there is considerable disagreement on the meaning of this provision and on the role of Congress in telling states how to dispense state benefits. To avoid the section 505 prohibition, the access/low-cost states have legislated exceptions, exemptions, or changes to permit students to become eligible for in-state tuition under criteria that are not solely based upon residency within the state. They base access to in-state tuition upon factors that are distinct from, but related to, resident status. The most common formulation makes in-state tuition available only to those undocumented students who attended an in-state high school for a designated period of time and/or graduated from an in-state high school.

The Type 1 states, because they admit all students regardless of legal status, have the most simplified process for verifying student-reported citizenship and residence information. There is no attempt to exclude any students, and a simplified process for determining in-state or out-of-state tuition. A student either does or does not meet the outlined criteria for years in residence and in high school. All students who claim residency, and meet the criteria, are charged in-state tuition.

Key Issues to Consider for Type 1:

Increased access to affordable higher education: The Type 1 policy category increases access to higher education, which is related to a more educated populace, increased tax revenues, and decreased spending on social programming and law enforcement.

Minimal verification costs and complexity: The verification process followed in this policy category is relatively streamlined. Colleges typically request information regarding a student’s self-reported citizenship status on the application for admission, and verify for in-state tuition using a local review of the student’s high school transcript.

Taxpayer burden for higher education costs: Although the full impact is unclear, adopting the Type 1 policy category would financially impact the NCCCS. Increased in in-state tuition enrollments may augment system expenditures, but the degree of increased enrollment is unknown.

Necessity for legislative and regulatory changes: In order to adopt this policy option, legislative changes to North Carolina tuition standards (but not admission standards) would be required, because current North Carolina law limits in-state tuition to U.S. citizens and specific categories of non-citizens.

⁹ 8 U.S.C. §1623(a) (2008).

Potential for legal challenge by documented out-of-state citizens: The Type 1 policy category poses some risk that litigation akin to the *Martinez* case in California may ensue.¹⁰ New York and Texas have also faced challenges to their practice of admitting undocumented students at in-state tuition rates.¹¹

Type 2: Access/High Cost: Arizona, Colorado, Florida, Georgia, and Virginia

The access/high-cost category applies to five of the eleven states in the analysis: Arizona, Colorado, Florida, Georgia, and Virginia. These five states allow admission of undocumented students, but do not currently allow undocumented students to be eligible for in-state tuition. In two of the states in this category, Virginia and Florida, local institutions have discretion to determine whether or not to admit undocumented students. Only Colorado requires that agencies in the state use the federal verification system (SAVE).¹² The SAVE system does not verify citizenship, but does check the variety of databases of eligible non-citizens to determine legal status. If colleges under this policy want to verify citizenship for tuition determination, they will be required to verify by checking birth certificates and passports, and may also choose to use the SAVE system for non-citizens who are legally in the U.S.

Key Issues to Consider for Type 2:

Moderately enhanced access to higher education: Based on 2007-2008 enrollment data on undocumented students (112 students), the Type 2 policy category will have a modest impact upon enrollment in North Carolina community colleges. Compared to an admission policy that would exclude all undocumented students, this approach would moderately increase access to higher education. With higher enrollment, increased access is related to a more educated populace, increased tax revenues, and decreased spending on social programming and law enforcement.

Potential for increased verification costs and complexity: Implementation of this policy category would necessitate the identification of students as undocumented for tuition purposes. NCCCS would need to define and institute recommended verification processes, which could include self-certification or local review of citizenship or immigration documents. The System could also recommend the additional step of using a national database verification system. Although it appears that the additional costs associated with this policy approach are not substantial, recommendations should consider the potential increased staffing and administrative costs.

No taxpayer burden for higher education costs: A student who enrolls and pays out-of-state tuition does not represent a cost to NCCCS. Based upon state and local appropriations and year-round FTE enrollment data for 2006-2007, the public cost per full-time equivalent (FTE) student is an estimated \$1,680 of revenue per FTE to NCCCS.

¹⁰ See *Martinez, et al. v. Regents of the University of California et al.*, 166 Ca. App. 4th 1121 (2008) (granted review in the California Supreme Court, 198 P. 3d 1).

¹¹ See chapter 4.

¹² The SAVE Program is an intergovernmental information-sharing program intended to aid entities in determining a non-citizen's immigration status and thereby ensure that only entitled non-citizen applicants receive Federal, State, or local public benefits and licenses. The program provides information to benefit issuing agencies, institutions, licensing bureaus, and other entities in order to assist them in determining an individual's eligibility under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). However, the SAVE Program does not determine applicant eligibility for specific benefits.

No necessity for legislative changes: The Type 2 policy category would not require legislative changes to tuition standards, because charging out-of-state tuition is consistent with North Carolina law.

Reduced risks of potential legal challenges: Adopting this policy approach would diminish the risk of litigation similar to the *Martinez* case, currently being decided in California.¹³ Admission decisions are not regulated by federal law, and under this policy category, undocumented students would not be receiving in-state tuition benefits.

Type 3: No Access: South Carolina

Of the 11 states included in the analysis, South Carolina is the only state in the no access category. In 2008, South Carolina became the only state in the nation to enact legislation denying undocumented students access to public higher education. South Carolina requires that the immigration status of an alien applicant for a state benefit such as in-state tuition be verified through the SAVE program. South Carolina specifically prohibits determination of eligibility to be made at the local college. If colleges need to verify citizenship, they will be required to check birth certificates and passports, as well as use the SAVE system to identify non-citizens who are in the U.S. legally.

Key Issues to Consider for Type 3:

Reduced access to higher education: Relative to the Type 1 and Type 2 policy approaches, the no access model would reduce access to higher education. Undocumented students would not be able to enroll at either in-state or out-of-state tuition rates. Reduced access to higher education lowers high school completion rates, which can lead to lower salaries and decreased tax revenues, and to increased social welfare costs.¹⁴

Potential for increased verification costs and complexity: Because the Type 3 policy does not admit undocumented students, institutions must employ a verification process to determine whether an applicant is documented for the purpose of admission. The process would require local review of citizenship or immigration documents, and possible additional steps to verify the legal status of non-U.S. citizens. The potential for increased staffing and administrative costs, as well as the service charge for the national database verification system, should be considered.

Necessity for regulatory change clarifying admission policy: Adopting the Type 3 policy model would entail rulemaking proceedings, because the current open-door policy of NCCCS states that “each college shall maintain an open-door admission policy to all applicants who are high school graduates or who are at least 18 years of age.”

Reduced risk of legal challenges: Adopting this policy approach would eliminate the risk of litigation similar to the *Martinez* case. Under this policy, undocumented students would not be admitted, and therefore could not receive in-state tuition benefits. However, without regulatory changes to the current admission policy, there may be an increased risk of litigation, based on possible complaints about violation of the existing open-door admission policy.

¹³ See *Martinez, et al. v. Regents of the University of California et al.*, 166 Ca. App. 4th 1121 (2008) (granted review in the California Supreme Court, 198 P. 3d 1).

¹⁴ Frum, J.L. (2006). Postsecondary Educational Access for Undocumented Students: Opportunities and Constraints. *American Academic*, 81-108.

No taxpayer burden for higher education costs: Under the Type 3 policy model, undocumented students would not be admitted to North Carolina community colleges, and therefore would not be related to any additional higher education costs.

Figure A: Summary of Key Issues by Policy Category

Type 1: Access/Low Cost Approach	Type 2: Access/High Cost Approach	Type 3: No Access Approach
<ul style="list-style-type: none"> •Increased access to affordable higher education. •Minimal verification costs and complexity. •Taxpayer burden for higher education costs. •Necessity for legislative and regulatory changes. •Potential for legal challenge by documented out-of-state citizens. 	<ul style="list-style-type: none"> •Moderately enhanced access to higher education. •Potential for increased verification costs and complexity. •No taxpayer burden for higher education costs. •No necessity for legislative changes. •Reduced risks of legal challenges. 	<ul style="list-style-type: none"> •Reduced access to higher education. •Potential for increased verification costs and complexity. •No taxpayer burden for higher education costs. •Necessity for regulatory change clarifying admission policy. •Reduced risk of legal challenges.

In the development of the policy approach proposed by the NCCCS State Board, consideration will need to be given to the key issues related to each policy option and the recommended verification process. The NCCCS must consider which documents will be required for verification, and the recommended implementation of, and methods to be used for, verification. These decisions will be best made in conjunction with choosing a policy approach, and with feedback from the community college personnel most familiar with administrative IT capacity, admission processes, tuition determination, and verification procedures.

Regardless of the policy approach ultimately agreed upon, the NCCCS will need to clearly communicate to the public and to eligible students the foundation and rationale of the policy. Because the facts about the public subsidy costs of community college students have been the focus of much interest, it will be important for the NCCCS to communicate the details debated in policy discussions, including public costs. The formal policy should also be widely communicated to inform eligible postsecondary and secondary education students.

Introduction

Policies governing the enrollment of undocumented students in postsecondary education institutions vary widely nationwide. The North Carolina Community College System (NCCCS) has grappled with this difficult issue for most of the current decade. In 2001, NCCCS restricted the admission of undocumented students to three narrow categories of students. Three years later, NCCCS granted individual colleges more latitude on the matter, and in 2007, there was considerable public response after NCCCS acted to admit undocumented students at out-of-state tuition rates to all North Carolina community colleges. In May 2008, on the heels of an advisory letter from the North Carolina Attorney General's office indicating that restrictions on the admission of undocumented students were more likely to sustain a court challenge, NCCCS reinstated the sharp restrictions that had been instituted back in 2001. Shortly thereafter, the U.S. Department of Homeland Security issued a statement affirming that it is up to each state to determine whether to admit undocumented students. On August 15, 2008, the NCCCS State Board maintained the restrictions on the admission of undocumented students to North Carolina community colleges, but agreed to examine the issue further by commissioning a review of policies in selected other states to facilitate consideration of the range of policy options.

NCCCS then hired JBL Associates, Inc. (JBLA) and Powers, Pyles, Sutter, & Verville, P.C. (PPSV) to conduct an in-depth study and report on the issues surrounding the admission of undocumented students. The team, JBLA-PPSV, was engaged to examine federal and state legal developments, and policies and practices, affecting access to post-secondary education institutions for undocumented immigrants in eleven states, and the costs associated with admitting, and verifying the status of, undocumented students.

This report presents the results of each research task and an analysis of the findings. Chapter One presents a summary of the timeline of events related to undocumented students in North Carolina, and a detailed compendium documenting these events. Chapter Two outlines the current University of North Carolina system policy regarding undocumented students, and the process that UNC system institutions use to verify students. Chapter Three presents an estimate of the public cost, based on the state and local resources needed to support a student paying out-of-state tuition. Chapter Four is an 11-state policy study that outlines state policies, practices, and state specific issues, including a summary matrix and appendix on each state's current policies, processes, practices, and related forms. Chapter Five integrates the research findings into a summary of three policy categories, presents the related verification processes associated with the different approaches, and identifies policy issues associated with the three policy categories.

Research Objectives and Methodology

The primary research objectives and associated questions that guided this research were to:

- Prepare a timeline and compendium of the history of the admission of undocumented students to NCCCS curriculum programs, including developments in federal and North Carolina law.
- Outline the policy of the University of North Carolina System on the admission of undocumented students, and address the implications for the NCCCS of adopting a similar policy.

- Calculate the estimated amount of State and local resources required to support an undocumented student enrolled full-time in a North Carolina community college curriculum program, taking into account the amount of tuition paid by the student.
- Conduct a state policy study, and present an analysis of the policies for admission and pending or ratified legislation of undocumented students in public institutions of higher education in the following states: Arizona, California, Colorado, Florida, Georgia, Illinois, New Mexico, New York, South Carolina, Texas, and Virginia. We included the following questions for each state:
 - Can undocumented students be admitted to curriculum programs at public institutions of higher education?
 - How do these educational institutions define undocumented or illegal students, if they are defined at all?
 - What governing authority determined the admissions policy?
 - If undocumented students are eligible for admission, are there any additional criteria or conditions that they must meet in order to qualify?
 - Do undocumented students pay in-state or out-of-state tuition rates?
 - What type of verification processes and systems are used? What are the estimated costs of verification?
 - What types of documentation must students provide to establish immigration status?
 - What specific standards are used to determine whether a student is “lawfully present”?
 - If verification processes fail, what sanctions are incurred? Who imposes the sanction? Which person or entity is held responsible if sanctions are imposed?
 - Are campuses subject to any reporting requirements? If so, what information is required and to whom are the reports submitted?
- Identify the key policy issues that the North Carolina State Board should consider when developing a long-term policy on the admission of undocumented students, including implications of the fiscal impact, and the costs and processes associated with verification, for the state and for students.

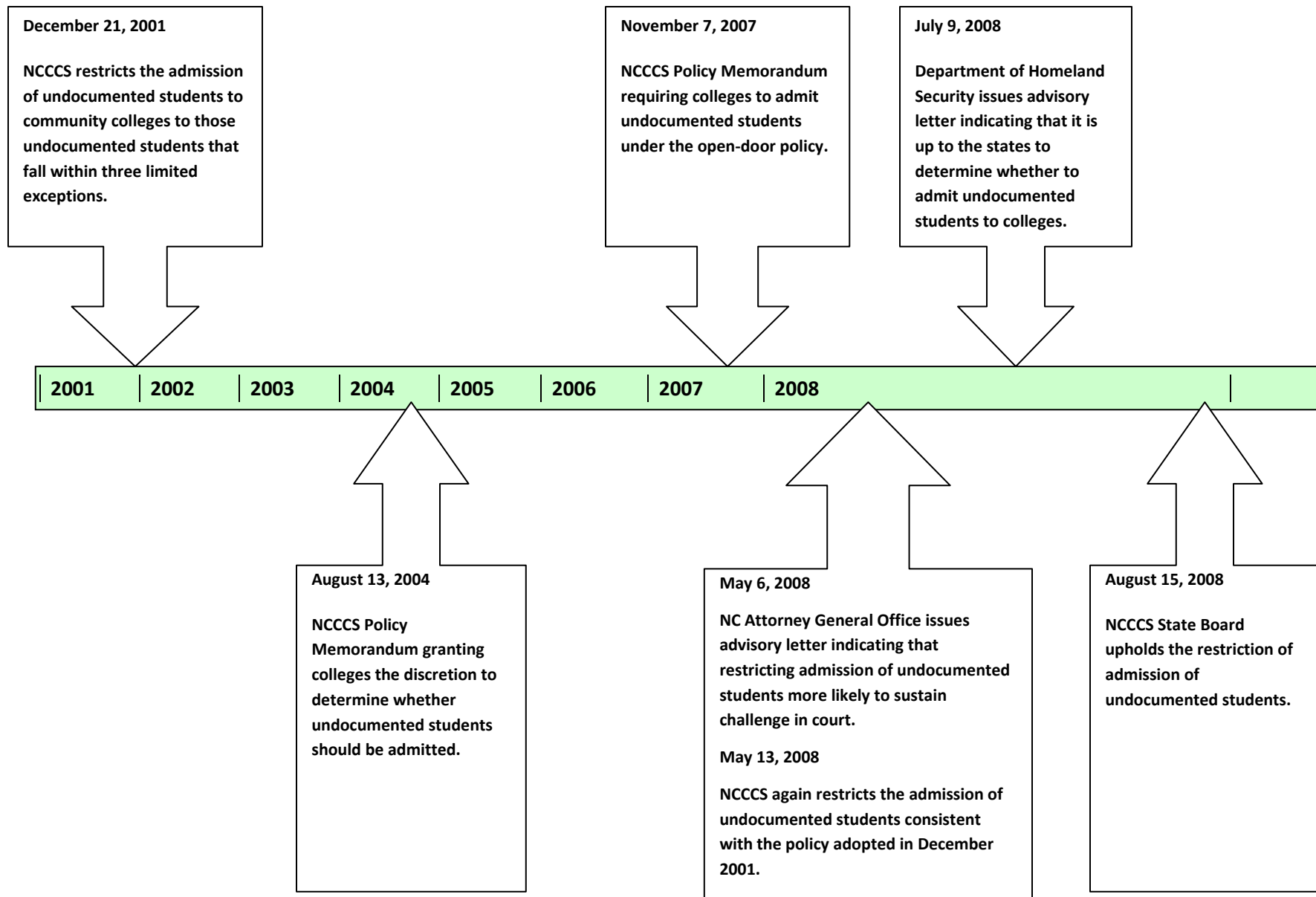
Methods used to gather the required information included both primary and secondary research. The JBLA-PPSV team used internet searches to identify and document state systems and institutional policies and practices. The team used Westlaw, a legal subscription service, to search publicly available codes for statutory and regulatory standards and rules. In addition, we utilized documents and data provided by NCCCS. Primary research included conducting interviews with institutional personnel, and utilizing the U.S. Department of Education’s Integrated Postsecondary Education Data System to determine public costs. Lastly, we worked with the American Association of Collegiate Registrars and Admissions Officers (AACRAO) to develop and administer a survey of U.S. postsecondary institutions on admissions and verification issues related to undocumented students. All data sources are referenced throughout the report.

Chapter 1: Timeline of Events in the NCCCS

Timeline of Major Events Related to NCCCS' Policies Regarding Admission of Undocumented Immigrant Students

The JBL-PPSV team developed a timeline outlining the major events and developments concerning the North Carolina Community College System's policies related to the admission of undocumented students to NCCCS schools. Documents were gathered from several sources: applicable federal and state laws and regulations; the NCCCS office; and the North Carolina State Board of Community Colleges. Following is a timeline that outlines the major policy changes NCCCS has adopted since 2001 with respect to undocumented students. Also included is a more detailed chronology of events relating to undocumented students and the North Carolina Community College System. An electronic appendix of relevant statutes, regulations, NCCCS communications and directives, and other documentation referenced in the timeline is available through the NCCCS office.

Major NCCCS Policy Positions Regarding the Admission of Undocumented Students to the North Carolina Community College System



Date	Key Events
08/22/96	The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 was enacted by Congress in 1996. The law included a provision (8 USC §1621) mandating that individuals without a qualified immigration status are not eligible to receive state or local public benefits, including postsecondary education benefits.
09/30/96	The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 was also enacted by Congress in 1996. Section 591 of the Act contained a provision prohibiting States from granting postsecondary education benefits <i>based on residence</i> to individuals who are not lawfully present in the United States, unless U.S. citizens or nationals <i>are also eligible to receive the benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is a resident.</i> This provision became effective July 1, 1998.
12/21/01	<p>NCCCS issued its first policy memorandum regarding the admission of undocumented students to community colleges in the state. Under this restrictive policy, undocumented students could be admitted to community colleges only if they were:</p> <ul style="list-style-type: none"> (1) In high school and enrolling in college-level courses; (2) Enrolling in non-college-level courses or programs (such as GED preparation courses); or (3) Determined to meet other qualifying conditions set forth under Federal law.
04/02/03	Senate Bill 982 was introduced in the North Carolina Senate. The bill would have required that undocumented students would not be eligible for in-state tuition. The bill was referred to the Senate Education/Higher Education Committee on April 3, 2003. No further action was taken on the bill, and it did not pass.

Date	Key Events
08/10/04 & 08/13/04	<p>NCCCS issued its second policy memorandum regarding the admission of undocumented students to community colleges in the state. This August 13, 2004 memorandum granted local colleges the discretion to develop admission policies that:</p> <ul style="list-style-type: none"> (1) Permitted the enrollment of undocumented non-immigrant applicants to curriculum, continuing education, and basic skills programs; and (2) Required qualifying undocumented non-immigrants to pay out-of-state tuition. <p>Under this policy, no college was required to enroll undocumented students.</p> <p>(Note: The August 13, 2004 version of the memorandum superseded an earlier August 10, 2004 version of the same memorandum.)</p>
04/12/05	<p>House Bill 1183 was introduced into the North Carolina legislature. The bill would have permitted undocumented students to receive in-state tuition in North Carolina, provided that the undocumented student had:</p> <ul style="list-style-type: none"> (1) Received a high school diploma from a secondary or high school within North Carolina; (2) Attended North Carolina schools for four consecutive years prior to high school graduation; and (3) Filed an affidavit of intent to legalize his or her immigration status. <p>HB 1183 was referred to the House Committee on Education on April 12, 2005. No further action was taken on the bill, and it did not pass.</p>
05/02/07	<p>NCCCS received a copy of a policy study titled "Undocumented Immigrants in the Community College System: Questions of Access and Tuition." The study was prepared by four students at the Terry Sanford Institute of Public Policy at Duke University.</p>

Date	Key Events
11/07/07	David Sullivan, General Counsel for NCCCS, issued NCCCS' third policy memorandum regarding the admission of undocumented students. This memorandum advised that community colleges should immediately begin admitting undocumented individuals who were high school graduates, or at least 18 years of age, in order to comply with the State Board's open-door admission policy.
12/03/07	<p>NCCCS sent a letter to the North Carolina Attorney General, requesting that the Attorney General advise NCCCS whether the 2004 policy permitting the enrollment of undocumented individuals was consistent with relevant federal and state law, as well as with the regulations of the State Board of Community Colleges.</p> <p>NCCCS President Martin Lancaster made a public statement in support of the admission of undocumented students to community colleges.</p>
12/06/07	The University of North Carolina's Tomorrow Commission released a report giving recommendations on how the University could "respond more directly and proactively to the 21 st century challenges facing North Carolina...." The report included a recommendation that the University examine strategies to determine under what circumstances, if any, academically-qualified undocumented students should be charged in-state tuition.

Date	Key Events
04/02/08	<p>NCCCS released the results of its survey of selected community colleges. The survey, conducted in February 2008, identified practices used by the colleges with respect to the admission of undocumented students. The survey results indicated that:</p> <ul style="list-style-type: none"> (1) The community colleges had a consistent operational definition of an undocumented student: a non-US citizen who does not have a visa or valid Student Exchange and Visitor Program (SEVIS) document; (2) Community college staff with responsibility for determining whether a student is undocumented varied among the colleges. (3) Not all of the colleges surveyed verified that a student was undocumented, as opposed to simply missing documents. (4) Community colleges that did verify a student's immigration status used different methods to do so. <p>The study recommended:</p> <ul style="list-style-type: none"> (1) Creating a consistent system for processing applications for undocumented students; (2) Using consistent coding of undocumented students; (3) Creating training for individuals responsible for determining citizenship; and (4) Creating a consistent process for validating students who transition from a high school program.
05/06/08	<p>The North Carolina Attorney General's Office issued a letter in response to the December 3, 2007 NCCCS request. The letter advised that because the federal law, 8 U.S.C. §1623, restricts the eligibility of undocumented students for state postsecondary education benefits, a policy <i>restricting</i> the admission of undocumented aliens was more likely to withstand judicial scrutiny than was a policy <i>permitting</i> the admission of undocumented individuals.</p>

Date	Key Events
05/08/08	Governor Mike Easley issued a statement that "[i]n the absence of federal action to the contrary, the Community College board should continue its current policy, which is consistent with other states."
05/09/08	NCCCS responded to the Attorney General's May 6, 2008 letter and requested that the Attorney General's Office seek guidance from the Secretary of the Department of Homeland Security.
05/13/08	Erskine Bowles, UNC system President, issued a letter confirming that the University of North Carolina would continue to follow its current guidelines allowing for the admittance of undocumented or illegal aliens, subject to certain limitations.
05/13/08	<p>Shanté Martin, NCCCS General Counsel, issued the fourth NCCCS policy memorandum regarding the admission of undocumented students. Under this policy, community colleges were required to cease admitting undocumented individuals to community colleges, subject to certain exceptions, including:</p> <ul style="list-style-type: none"> (1) High school students enrolled in college level courses consistent with the concurrent enrollment policy and the cooperative program agreement; (2) Students enrolled in non-college level courses or programs, such as GED programs; or (3) Students able to produce documentation demonstrating that they are considered to be a "qualified alien" as defined under federal law, 8 U.S.C. §1641.
05/16/08	The NCCCS State Board conducted a meeting at which the issue of the admission of undocumented students was considered. President R. Scott Ralls issued a report to the Board, noting that he "shares the dual objectives of wanting to always remain within the law...and to also follow the principles of the open door philosophy that has been at the very foundation of our System."
05/28/08	The North Carolina Attorney General sent a letter to Michael Chertoff, Secretary of Homeland Security, requesting guidance regarding the scope of the federal prohibition on providing postsecondary education benefits to undocumented students.

Date	Key Events
07/09/08	<p>The Department of Homeland Security's U.S. Immigration and Customs Enforcement Office responded to the North Carolina Attorney General's May 28, 2008 letter. This July 9, 2008 letter advised that:</p> <ul style="list-style-type: none"> (1) Admission to public postsecondary educational institutions is not a benefit regulated by federal law; (2) States must decide whether to admit illegal aliens into their public postsecondary institutions, either through policy or legislation; (3) In the absence of State policy or legislation, individual schools must decide whether to enroll illegal aliens; and (4) Both the schools and the States must use federal immigration status standards to identify illegal alien applicants.
07/24/08	<p>The North Carolina Attorney General transmitted the July 9, 2008 Homeland Security letter to NCCCS.</p>
07/25/08	<p>NCCCS issued a press release regarding the July 9, 2008 Homeland Security letter, advising that:</p> <ul style="list-style-type: none"> (1) The Department of Homeland Security confirmed that federal law does not bar admission of undocumented individuals; and (2) NCCCS's policy would continue to prohibit the enrollment of undocumented students until the State Board had the opportunity to discuss the matter further.
08/07-13/08	<p>Several private and public groups submitted letters to NCCCS advocating for and against the admission of undocumented students to North Carolina community colleges.</p>
08/08/08	<p>In preparation for the State Board's August 14, 2008 meeting, Shanté Martin, General Counsel for NCCCS, submitted a list of potential legal questions and answers to the Board, presenting an analysis regarding admission of undocumented students to the community colleges.</p>

Date	Key Events
08/13/08	Senator Phil Berger, Republican Leader of the North Carolina Senate, issued a press release and a letter to the Board, urging the Board to maintain its current policy prohibiting the admission of undocumented students to North Carolina community colleges.
08/14/08	Lieutenant Governor Beverly Perdue sent a letter to the State Board supporting its decision to maintain the policy, as set forth in the May 13, 2008 directive, of prohibiting the admission of undocumented students, while the study to determine the long-term policy of NCCCS was conducted.
08/14/08	NCCCS President R. Scott Ralls addressed the Board at its Issues Luncheon. In his address, President Ralls advised that NCCCS should craft an admission policy to support NCCCS' open-door philosophy, while also addressing the concerns regarding admission of undocumented students.
08/15/08	The NCCCS Board voted to conduct a study on the admission of undocumented students, and to employ an independent consultant to conduct the study. While the study is pending, the Board also voted to continue the May 13, 2008 directive prohibiting the admission of undocumented students until a long-term policy is developed.
08/15/08	Shanté Martin, General Counsel for NCCCS, issued a memo stating that the State Board of Community Colleges had directed the NC Community College System to maintain the May 13, 2008 restriction on the admission of undocumented students until the Board finalizes a long-term policy.

Chapter 2: Review of the University of North Carolina System's Policy on the Admission of Undocumented Students

UNC System Guidelines on the Admission of Undocumented Aliens

The UNC System admission guidelines permit undocumented aliens to be considered for admission so long as they graduated from a high school in the United States. If admitted, such individuals may not be considered as North Carolina residents for tuition purposes, and must therefore pay out-of-state tuition. These system-wide guidelines, applicable to every institution within the UNC system, are set forth in the UNC Policy Manual, which is the official document articulating the policies of the UNC Board of Governors and the administrative regulations and guidelines of the President. Policies set forth in the *Manual* are applicable to the University of North Carolina, its seventeen constituent institutions, and its affiliated entities.¹⁵

These guidelines are formally stated in Policy 700.1.4[G] of the UNC *Policy Manual*. The guidelines, which were adopted on November 12, 2004, read as follows:

Undocumented aliens are eligible to be considered for admission as undergraduates at UNC constituent institutions based on their individual qualifications with limitations as set out below:

1. An undocumented alien may be considered for admission only if he or she graduated from high school in the United States.
2. Undocumented aliens may not receive state or federal financial aid in the form of a grant or a loan.
3. An undocumented alien may not be considered a North Carolina resident for tuition purposes; all undocumented aliens must be charged out of state tuition.
4. All undocumented aliens, whether or not they abide in North Carolina or graduated from a North Carolina high school, will be considered out of State for purposes of calculating the 18% cap on out of State freshmen pursuant to Policy 700.1.3.
5. When considering whether or not to admit an undocumented alien into a specific program of study, constituent institutions should take into account that federal law prohibits the states from granting professional licenses to undocumented aliens.

¹⁵ See, Policy 100.4 in the *Manual*.

Recent Public Pronouncements by the UNC System

The above-quoted UNC guidelines have been in force for five years and remain the Board of Governors' sole formal pronouncement on the issue during that time. However, recent recommendations to (and statements from) the UNC administration reflect that there exists a continuing commitment on the part of the UNC system to maintain, if not expand, its open door policies on the admission of undocumented students.

The UNC Tomorrow Commission was a 28-member group comprised of business, education, government, and non-profit leaders from North Carolina charged with the task of making recommendations to the UNC Board of Governors on how UNC "can respond more directly and proactively to the 21st century challenges facing North Carolina...."¹⁶ The Tomorrow Commission's Final Report, issued on December 6, 2007, included the following recommendation:

4.2.5. UNC should increase the educational attainment of all underrepresented populations, especially African-American male and Hispanic students.

Suggested Strategies:

- Identify specific strategies for serving Hispanic students and increasing their educational attainment, including:

Examining whether and under what circumstances, if any, undocumented students who graduate from North Carolina high schools and who are academically qualified for admission to a UNC institution should be charged in-state tuition. In doing so, the University should examine the associated legal issues. It should also research and assess the economic and social impact on the state and the potential cost to North Carolina taxpayers of providing an affordable college education to undocumented students, versus the ongoing costs to the economy and well-being of North Carolina that result from the lack of higher educational attainment among undocumented students. (Tomorrow Commission Final Report, page 24)

While UNC has not taken steps to make in-state tuition available to undocumented students during the sixteen months since the Tomorrow Commission issued its report, the UNC system has reiterated its ongoing support for open-door admissions policies for undocumented students. On May 13, 2008, UNC President Erskine B. Bowles issued a memorandum to the UNC Board of Governors and Chancellors, reiterating the University of North Carolina's adherence to the guidelines permitting the admission of undocumented aliens who have graduated from a domestic high school. The memorandum came on the heels of a May 6 advisory letter from the

¹⁶ UNC Tomorrow Commission Report, Final Report, December 6, 2007 at page 2.

North Carolina Attorney General's office concluding that a more restrictive policy "would more likely withstand judicial scrutiny." Moreover, the May 13 UNC pronouncement coincided with the NCCCS memorandum of that same date that responded to the Attorney General's guidance by stating that "beginning immediately, the community college will no longer admit undocumented immigrants into curriculum degree programs."

In reiterating the UNC system's support for the admission of undocumented students, President Bowles noted that the Attorney General advisory letter that prompted the NCCCS pull-back was not a formal opinion, and that the U.S. Department of Homeland Security (DHS) was reported to have issued a statement that it is left for the school to decide whether or not to enroll undocumented students. On July 9, 2008, DHS issued a letter to the North Carolina Attorney General's office, confirming that it is the view of DHS that "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..."

Key Elements of the UNC System's Admissions Methods Pertaining to Undocumented Students

Our review of pertinent application documentation, and our discussions with admissions officials at two UNC system institutions – UNC-Chapel Hill and UNC-Greensboro – indicated that the application process relies upon a simple process of elimination to identify undocumented students for the purpose of implementing the UNC guidelines for such applicants.

The Application Process

The UNC-Chapel Hill admissions application requires all applicants to complete a section that reads as follows:

Citizenship

☐ **U.S. Citizen** _____
STATE OF RESIDENCE

☐ **Permanent Resident Alien (hold "Green Card" Form I-151)**

RECEIPT # / DATE OF ISSUE

STATE OF RESIDENCE / CITIZENSHIP COUNTRY

☐ **Non-Resident Alien** _____
CITIZENSHIP COUNTRY

If you are a citizen of another country, you will need to file a financial certification form as required by law. For a copy, go to www.admissions.unc.edu/applying/printapp.html.

The student must certify that the information presented in his or her application is complete and accurate.

This mandatory application section on citizenship enables the admissions office to identify undocumented students by a process of elimination. First, the applicant must indicate whether he or she is (a) a U.S. citizen, (b) a documented permanent resident alien who holds a "Green

Card,” or (c) a non-resident alien who must file a financial certification form. Undocumented students necessarily fall into category (c) and will select this box, as this is the sole category that applies to them. Most of the students who check the non-resident alien box live outside the United States, while some reside domestically and hold a valid visa. Those students who check the “non-resident alien” box and do not fit into either of these two groups are presumed to be undocumented. Therefore, such students must have graduated from a high school in the United States in order to be admitted, and are treated as out-of-state for purposes of admission and tuition. UNC-Chapel Hill further relies upon the financial certification form that is referenced on the application to distinguish between undocumented students and those foreign-national students who are living in the United States on valid visas. Since students in the former category do not claim to have a visa, they are not asked to produce one.¹⁷

The process followed at UNC-Greensboro with respect to undocumented alien applicants is generally the same as that described for UNC-Chapel Hill. Although the section of the admissions application pertaining to citizenship is worded somewhat differently, it also contains categories that, by process of elimination, require undocumented students to identify themselves as non-resident aliens. The institution will then, in turn, confirm via e-mail or phone that the applicant has no visa documentation. Again, since such students do not claim to have a visa, they are not asked to produce one. As is the case at UNC-Chapel Hill (and presumably at all UNC system institutions), such students, if admitted, are treated as non-residents for admissions and out-of-state tuition purposes, pursuant to the system’s guidelines. The admissions office also asks the student whether he or she has applied for permanent residency. If the student has applied, the office requests a copy of the pertinent documentation to ascertain how far the process has gone. If the applicant/student obtains a Green Card, he or she may be considered for in-state tuition.¹⁸

Administrative Burden

According to the two UNC admissions officials with whom we spoke, the admissions application process for undocumented aliens does not entail significant or unusual follow-up, paperwork, or other administrative burden relative to the processing of other applicants for admission. It was noted by the UNC-Greensboro admissions official that because it is often necessary to seek additional information concerning all types of applicants, no attempt has been made to determine the cost involved to confirm that no visa documentation exists.

Assessment of the Implications of the Adoption of a Similar Policy by NCCCS

¹⁷ This description of the review process at UNC- Chapel Hill is based upon a series of e-mail exchanges between Dr. Sharon Bob and Mr. Stephen M. Farmer, the Assistant Provost and Director of Admissions at UNC-Chapel Hill. The e-mail exchanges occurred between January 9 and January 14, 2009. The financial certificate referenced on the admissions application includes a requirement that the applicant certify his or her “current visa status if you are now in the U.S.”

¹⁸ This description of the review process at UNC-Greensboro is based upon a summary of the review process received from Lise K. Keller, Director of Undergraduate Admissions at UNC-Greensboro, on January 13, 2009.

The foregoing review of the policies and practices followed by the UNC system yielded the following aspects to be considered in developing NCCCS policy:

- The UNC system applies an across-the-board policy allowing undocumented students to be considered for admission, and does not permit any of the seventeen constituent institutions to adopt policies barring the admission of such students.
- If NCCCS were to adopt a similar across-the-board policy applicable to all community colleges, such action would constitute a significant departure from past practices at NCCCS. For much of the timeframe during which NCCCS admitted undocumented students, the system allowed latitude to individual community colleges on the subject. The UNC system provides no such latitude. The relative advantages and disadvantages of a departure by NCCCS from its past practice of allowing local discretion on admittance should therefore be evaluated carefully in considering adoption of a policy similar to that of the UNC system.
- Notwithstanding the open-door component, the UNC system incorporates restrictive elements that significantly reduce the number of such students who ultimately enroll, including requirements that:
 - Such students must be graduates of high schools in the United States;
 - Such students are treated as out-of-state students for admission purposes; and
 - Such students must pay out-of-state tuition rates.
- If NCCCS were to consider adopting these or other restrictions along with the admission of undocumented students, it should evaluate the impact that such restrictions will have on the population of undocumented students that will actually enroll in NCCCS schools, to ascertain whether such restrictions will enhance or undermine the objectives, costs, and benefits associated with the new policy.
- Based upon the feedback received from UNC admissions personnel, it appears that the “process of elimination” methodology incorporated into the UNC admissions system for undocumented students entails little verification activity, and has not generated any need for detailed, specialized knowledge or extraordinary administrative practices and procedures; therefore, the policy creates little added cost or burden for the affected institutions.
- If NCCCS were to consider adopting a policy on the admission of undocumented students similar to that of the UNC system, it should evaluate the process of elimination methodology, compare that methodology to the procedures currently followed by NCCCS schools for the purpose of identifying undocumented students and denying them admission, and evaluate what other procedures, if any, will be necessary and appropriate for implementation purposes at NCCCS colleges.

Chapter 3: Estimated Amount of State and Local Resources Required to Support an Undocumented Full-time Student

Estimated Public Subsidy

Among some groups, one concern about the admission of undocumented students to community colleges is the cost to taxpayers. It has been unclear whether undocumented students are publicly subsidized when they enroll as out-of-state students, because they pay higher tuition rates than do students enrolled as in-state residents. The JBLA-PPSV team utilized enrollment data and local and state appropriations data to estimate the public subsidy to support undocumented students paying out-of-state tuition rates. Data tables and charts are presented below. We have included an overall estimate, as well as individual estimates for each of the 58 North Carolina community colleges. We also present the relationship between enrollment and public cost, and the percentage distribution from state and local appropriations.

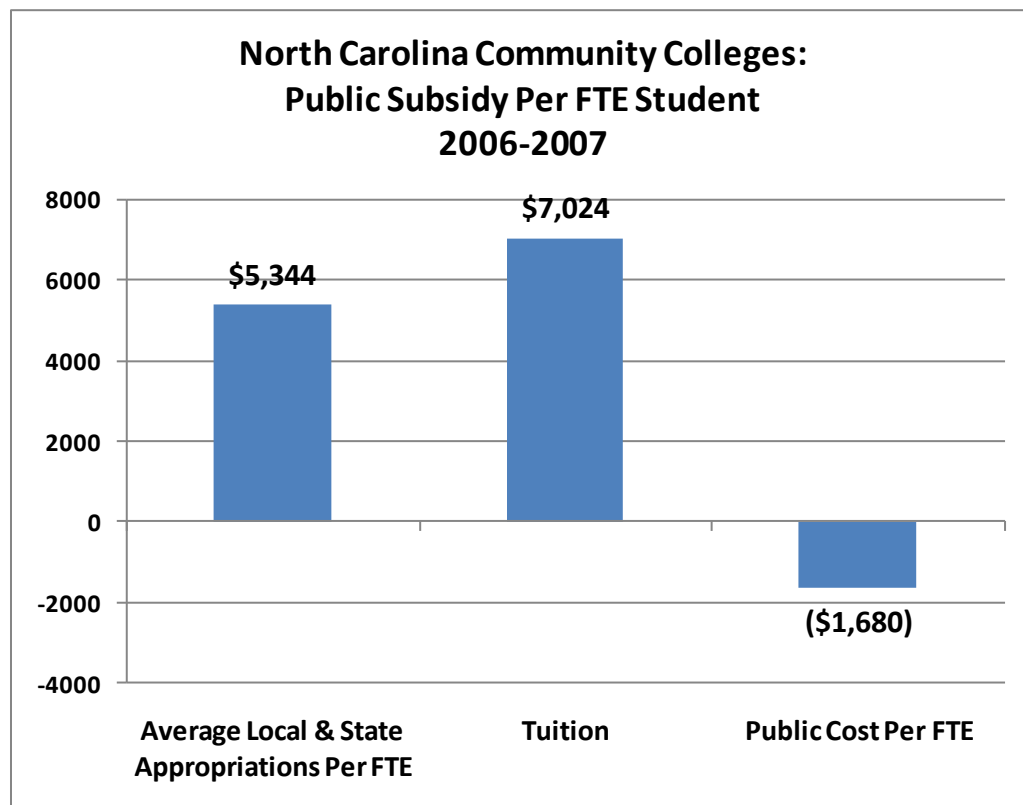
Estimated Average Public Cost Overall, and by Community College

Local and state appropriations consist of money from state and local municipalities, or revenues from local taxpayers or other public resources. These funds are provided for daily operations of the colleges, and do not include government revenue for special projects or programs, or capital funds. The colleges may also have other revenue from non-government sources. The use of state and local appropriations data provides an estimate of taxpayer support for students enrolled in community colleges. According to the appropriations data source, the U.S. Department of Education's Integrated Postsecondary Education Data System (IPEDS), state appropriations are amounts received by the institution through acts of a state legislative body, except for grants and contracts and capital appropriations. These funds are used to meet current operating expenses, not for specific projects or programs. According to IPEDS, local appropriations, education district taxes, and similar types of support are amounts received from property taxes or other taxes assessed directly for an institution. This includes any other similar general support provided to the institution from governments below the state level, including local government appropriations.

Based upon state and local appropriations revenue data from IPEDS for academic year 2006-2007, and year-round FTE enrollment data for academic year 2006-2007 from the North Carolina Community College System (NCCCS), the estimated average amount of local and state appropriations across all 58 North Carolina community colleges is \$5,344 per full-time equivalent student (FTE). General funds may be used to support non-credit students, but we cannot identify the amount used for these students. This may introduce some error into the results. NCCCS reported 193,142 FTE students enrolled in 2006-2007 in regular budget programs at the 58 North Carolina community colleges. Out-of-state full-time tuition was \$7,024 in 2006-07. We determined the public cost per FTE by subtracting out-of-state tuition from the average amount of local and state appropriations. The difference, or the public cost, represents the amount spent by NC taxpayers to subsidize each out-of-state and/or undocumented

student enrolled. However, the difference is negative (-\$1,680), and represents revenue to the NCCCS from undocumented students who pay out-of-state tuition.

Figure 1



-Based on 193,142 year-round FTE students at 58 North Carolina community colleges, 2006-2007

-Based on state and local appropriations data from IPEDS, 2006-2007

The difference between the public resources provided per FTE and the tuition paid by out-of-state and/or undocumented students varies among the colleges. Table 1 shows the public cost per FTE at the individual community colleges. The revenue, or difference between out-of-state tuition and public subsidy, is greatest at the six NC community colleges listed below.

- Alamance Community College
- Coastal Carolina Community College
- Fayetteville Technical Community College
- Guilford Technical Community College
- Pitt Community College
- Western Piedmont Community College

There is only one college -- Pamlico Community College -- where the amount of out-of-state tuition is not greater than the public cost. At Pamlico, the public cost is \$69 per undocumented student paying out-of-state tuition.

Table 1: Public Subsidy Per FTE Student, 2006-2007				
Institution	NC Year-Round FTE, 2006-2007	Local and State Appropriations	Out of state, full-time tuition, 2006-2007	Public Cost Per FTE
Alamance Community College	3,804	4,425	7,024	(2,599)
Asheville-Buncombe Technical Community College	5,611	5,205	7,024	(1,819)
Beaufort County Community College	1,641	5,881	7,024	(1,143)
Bladen Community College	1,393	5,415	7,024	(1,609)
Blue Ridge Community College	2,077	5,835	7,024	(1,189)
Brunswick Community College	1,412	6,263	7,024	(761)
Caldwell Community College and Technical Institute	3,892	4,943	7,024	(2,081)
Cape Fear Community College	6,566	4,662	7,024	(2,362)
Carteret Community College	1,673	5,803	7,024	(1,221)
Catawba Valley Community College	4,387	4,925	7,024	(2,099)
Central Carolina Community College	5,090	4,759	7,024	(2,265)
Central Piedmont Community College	12,546	5,522	7,024	(1,502)
Cleveland Community College	2,940	4,848	7,024	(2,176)
Coastal Carolina Community College	4,179	4,374	7,024	(2,650)
College of the Albemarle	2,184	5,541	7,024	(1,483)
Craven Community College	2,629	5,556	7,024	(1,468)
Davidson County Community College	3,401	5,168	7,024	(1,856)
Durham Technical Community College	4,490	4,918	7,024	(2,106)
Edgecombe Community College	2,274	5,327	7,024	(1,697)
Fayetteville Technical Community College	10,393	4,276	7,024	(2,748)
Forsyth Technical Community College	6,127	4,766	7,024	(2,258)
Gaston College	4,338	5,670	7,024	(1,354)
Guilford Technical Community College	8,838	4,466	7,024	(2,558)
Halifax Community College	1,499	6,097	7,024	(927)
Haywood Community College	1,906	5,648	7,024	(1,376)
Isothermal Community College	2,055	5,432	7,024	(1,592)
James Sprunt Community College	1,257	6,691	7,024	(333)
Johnston Community College	3,735	5,275	7,024	(1,749)
Lenoir Community College	3,149	5,174	7,024	(1,850)
Martin Community College	887	6,582	7,024	(442)
Mayland Community College	1,897	5,089	7,024	(1,935)
McDowell Technical Community College	1,285	5,851	7,024	(1,173)
Mitchell Community College	2,199	5,320	7,024	(1,704)
Montgomery Community College	990	5,823	7,024	(1,201)
Nash Community College	2,434	4,752	7,024	(2,272)
Pamlico Community College	558	7,093	7,024	69
Piedmont Community College	2,513	4,994	7,024	(2,030)
Pitt Community College	5,577	4,251	7,024	(2,773)
Randolph Community College	2,346	5,446	7,024	(1,578)
Richmond Community College	1,961	5,376	7,024	(1,648)
Roanoke-Chowan Community College	919	6,496	7,024	(528)
Robeson Community College	3,615	4,536	7,024	(2,488)
Rockingham Community College	2,000	5,461	7,024	(1,563)
Rowan-Cabarrus Community College	4,579	5,342	7,024	(1,682)
Sampson Community College	1,724	5,189	7,024	(1,835)
Sandhills Community College	3,557	5,742	7,024	(1,282)
South Piedmont Community College	2,102	5,385	7,024	(1,639)
Southeastern Community College	2,345	4,780	7,024	(2,244)
Southwestern Community College	2,192	5,349	7,024	(1,675)
Stanly Community College	2,276	4,844	7,024	(2,180)
Surry Community College	2,891	5,357	7,024	(1,667)
Tri-County Community College	1,022	6,557	7,024	(467)
Vance-Granville Community College	4,122	5,030	7,024	(1,994)
Wake Technical Community College	10,642	5,229	7,024	(1,795)
Wayne Community College	3,426	4,794	7,024	(2,230)
Western Piedmont Community College	2,871	4,516	7,024	(2,508)
Wilkes Community College	2,684	6,044	7,024	(980)
Wilson Technical Community College	2,042	5,841	7,024	(1,183)
Total	193,142	5,344		(1,680)

-Based on 193,142 year-round FTE students at 58 North Carolina community colleges, 2006-2007
 -Based on state and local appropriations data from IPEDS, 2006-2007

Estimated Revenues from Undocumented Students Enrolled in 2007-2008

Based on North Carolina Community College System enrollment data, a total of 111 verified undocumented students were enrolled at 22 community colleges during the 2007-2008 academic year. FTE enrollment was estimated to be 62 across all 22 colleges. See Table 2 for estimated FTE enrollment for individual colleges. To estimate revenues, we used the 2006-2007 public cost shown in Table 1 (adjusted for 2007-2008 constant dollars), and the number of estimated FTE undocumented students enrolled in 2007-2008, to determine the estimated total public cost (or revenue) for each of the 22 North Carolina Community Colleges that enrolled undocumented students. For all 22 colleges, the estimated total revenue is \$113,003.

Table 2	Adjusted Public Cost Per FTE Student*	Number of Verified Undocumented Students Enrolled 2007-2008	Estimated Number of FTE Undocumented Students Enrolled 2007-2008**	Total Public Cost Based on 2007-2008 Estimated FTE Undocumented Enrollment
Asheville-Buncombe Technical Community College	(1,857)	5	2.9096	(5,402)
Blue Ridge Community College	(1,214)	1	0.4854	(589)
Cape Fear Community College	(2,411)	1	0.6082	(1,466)
Carteret Community College	(1,246)	1	0.6098	(760)
Catawba Valley Community College	(2,142)	4	2.4268	(5,198)
Central Carolina Community College	(2,312)	4	2.2859	(5,284)
Central Piedmont Community College	(1,533)	12	7.2373	(11,094)
Durham Technical Community College	(2,150)	22	11.4268	(24,562)
Fayetteville Technical Community College	(2,804)	2	1.0850	(3,043)
Forsyth Technical Community College	(2,304)	13	6.8276	(15,732)
Gaston College	(1,382)	9	5.2722	(7,285)
Isothermal Community College	(1,625)	1	0.6438	(1,046)
James Sprunt Community College	(340)	2	1.3390	(456)
Lenoir Community College	(1,888)	5	2.7565	(5,204)
Montgomery Community College	(1,225)	2	1.2808	(1,569)
Randolph Community College	(1,611)	4	1.8216	(2,934)
Rockingham Community College	(1,595)	1	0.5683	(907)
Rowan-Cabarrus Community College	(1,717)	4	2.1308	(3,658)
Sandhills Community College	(1,309)	8	4.9304	(6,453)
South Piedmont Community College	(1,673)	3	1.6791	(2,809)
Wake Technical Community College	(1,832)	5	2.5237	(4,623)
Western Piedmont Community College	(2,560)	2	1.1438	(2,928)
Total		111	62	(113,003)

*2006-2007 public cost estimates adjusted for 2007-2008 constant dollars.

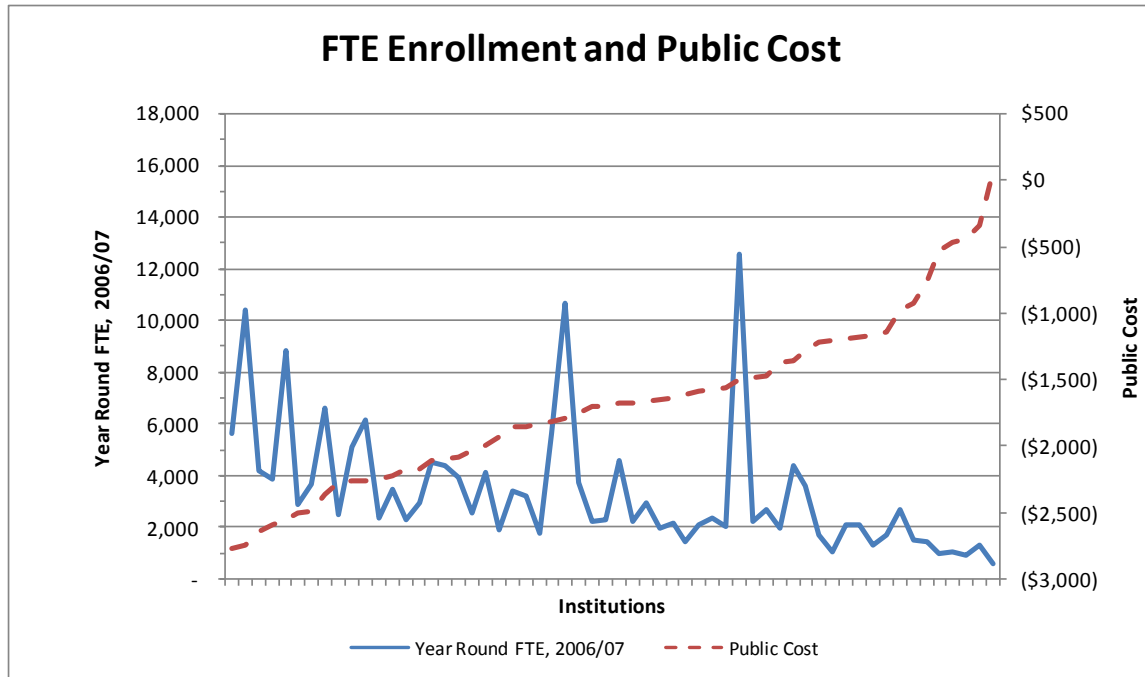
**Based on multipliers ranging from .46 to .67 for each college, derived from IPEDS enrollment data.

Relationship between Enrollment and Public Cost

The public cost (local and state appropriations per FTE, minus out-of-state tuition paid) varies by community college, because local and state appropriations vary by locality, and because enrollment varies by college. Differences in the amount of public revenue per FTE student may reflect differences in institutional mission, local cost of living, or size of the college. Larger

institutions, as a general rule, have lower student costs. There is a relationship between enrollment and public support per FTE. Figure 2 presents the relationship between FTE enrollment and public cost per FTE. Based on the IPEDS data, higher levels of FTE enrollment are related to lower public cost, or in this case, higher revenues.

Figure 2

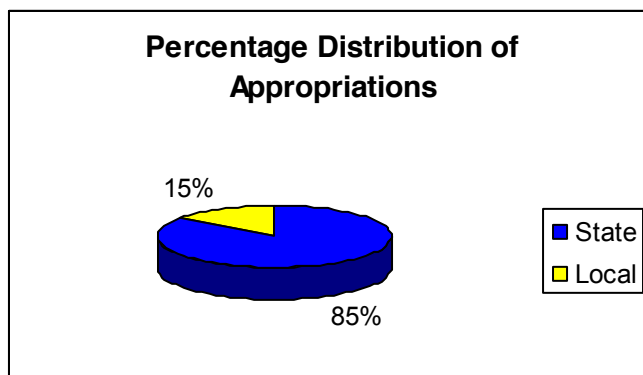


-Based on 193,142 year-round FTE students at 58 North Carolina community colleges, 2006-2007
 -Based on data from IPEDS, 2006-2007

Proportion of State and Local Appropriations

The majority of public support for NC community colleges comes from state appropriations (Figure 3). The portion of revenue from state and local sources varies among the colleges (Table 3).

Figure 3



-Based on data from IPEDS, 2006-2007

Table 3	Percentage Distribution of Appropriations Revenues	
	State	Local
Central Piedmont Community College	66	34
Brunswick Community College	72	28
Wake Technical Community College	75	25
Asheville-Buncombe Technical Community College	75	25
Guilford Technical Community College	76	24
Wilkes Community College	79	21
Forsyth Technical Community College	80	20
Sandhills Community College	80	20
Craven Community College	80	20
Carteret Community College	81	19
Rockingham Community College	82	18
Mitchell Community College	82	18
Cape Fear Community College	82	18
Southwestern Community College	82	18
Blue Ridge Community College	82	18
Haywood Community College	82	18
Fayetteville Technical Community College	83	17
College of the Albemarle	83	17
Randolph Community College	83	17
Johnston Community College	83	17
Davidson County Community College	84	16
Durham Technical Community College	84	16
Caldwell Community College and Technical Institute	84	16
Beaufort County Community College	84	16
Isothermal Community College	84	16
Martin Community College	85	15
James Sprunt Community College	85	15
Wayne Community College	85	15
Pitt Community College	85	15
Montgomery Community College	85	15
Gaston College	86	14
Wilson Technical Community College	86	14
Alamance Community College	87	13
Nash Community College	87	13
Richmond Community College	87	13
Rowan-Cabarrus Community College	87	13
Surry Community College	87	13
Coastal Carolina Community College	87	13
Roanoke-Chowan Community College	88	12
Catawba Valley Community College	88	12
Western Piedmont Community College	88	12
Central Carolina Community College	88	12
Lenoir Community College	88	12
Sampson Community College	89	11
Halifax Community College	89	11
Stanly Community College	89	11
South Piedmont Community College	89	11
Robeson Community College	90	10
Pamlico Community College	90	10
Southeastern Community College	90	10
Tri-County Community College	91	9
Piedmont Community College	91	9
McDowell Technical Community College	91	9
Vance-Granville Community College	91	9
Edgecombe Community College	91	9
Bladen Community College	92	8
Mayland Community College	93	7
Cleveland Community College	93	7
Total	85	15

Based on data from IPEDS, 2006-2007

Chapter 4: Verification Practices and State Policy Studies

A document and legal search, and a web survey,¹⁹ were conducted to identify state admissions policies and legislative developments affecting undocumented students in public higher education for the following states: Arizona, California, Colorado, Florida, Georgia, Illinois, New Mexico, New York, South Carolina, Texas, and Virginia. *For this purpose, we defined undocumented students as those students who are non-U.S. citizens and do not hold a valid visa or other recognized immigration status authorizing them to be lawfully present in the United States.* In much of our research, we found the terms “undocumented,” “unauthorized,” and “illegal” to be used interchangeably.

For each state, we researched answers to the following questions:

1. What governing agency oversees the public institutions of higher education in the state?
2. Is there a policy to admit or not to admit undocumented immigrants into curriculum programs at public colleges?
3. If undocumented immigrants are admitted, do they pay in-state or out-of state tuition?
4. Are undocumented students defined? If so, how?
5. In order for undocumented immigrants to qualify for admission or for in-state tuition (as applicable), what additional criteria or conditions must be satisfied? What disclosure and documentation must they provide?
6. What pending legislation, judicial proceedings, or Attorney General opinions, if any, exist with regard to the admission of undocumented students?²⁰
7. What are the verification processes to determine who is “lawfully present”? What are the estimated costs of that process?
8. If verification is not completed, what are the student sanctions, and who administers them?
9. If verification of a student’s status as an undocumented student is not completed, are there specific sanctions imposed on the college?
10. What reporting requirements exist?

Research on *federal* requirements regarding institutional reporting on student immigration status to the Department of Homeland Security (DHS) and any related sanctions determined that there is no generalized federal requirement that institutions ask for student immigration status or report students who are undocumented. However, students who are in the United States on student or exchange visas must be reported through the Student Exchange and Visitor Program (SEVIS).²¹ In a July 9, 2008 letter to the North Carolina Department of Justice, DHS advised that admission

¹⁹ Appendix C

²⁰ We have identified the status of any pending proposed state bills as of March 1, 2009.

²¹ See 8 C.F.R. §§214.2(f), 214.2(m), 214.3 (2008).

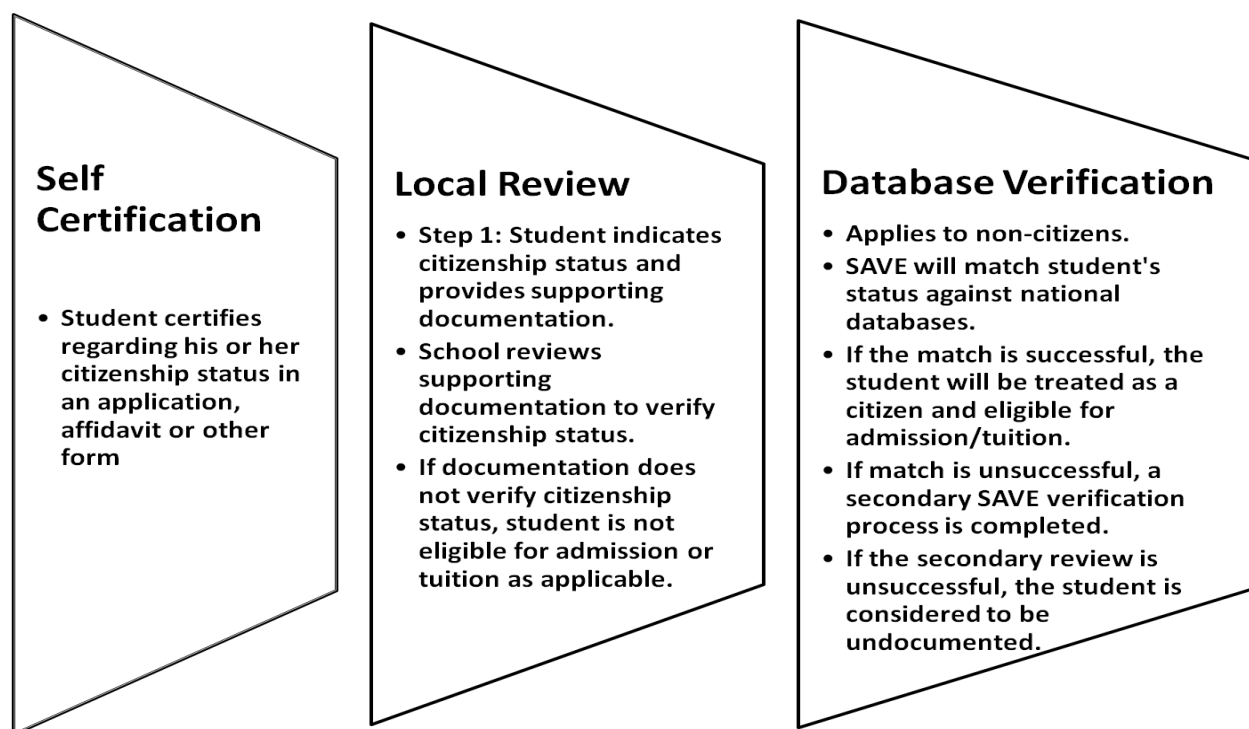
to college is not a public benefit that is regulated by federal immigration or public benefits law, and that states can make independent decisions “whether or not to admit illegal aliens into their public postsecondary institutions. States may bar or admit illegal aliens from enrolling in public postsecondary institutions either as a matter of policy or through legislation. If a state does deny admission, it must use federal immigration status standards to identify which applicants are illegal aliens.”²²

Verification Processes

The implementation and enforcement of any policy on the admission of undocumented students requires varying levels of effort to verify the information submitted by students and reviewed by college staff. There are different amounts of information students are required to gather and submit, and various levels of the extent to which institutions verify the documents submitted. Research and survey data have identified three processes employed by institutions to verify students’ citizenship or residency claims: **self-certification**, a process where a student is responsible for self-reporting his or her residency and/or citizenship status on an application or other required forms; **local review**, a process by which the student submits documentation to support residency and/or citizenship claims, and the college reviews the supporting documentation and determines admission or tuition eligibility; and **database verification**, a process used to verify the legal status of non-citizens, where students submit the requested information and colleges use a two-stage national system to determine the legality of a student’s non-citizen status. Typically, a federal verification system, the Systematic Alien Verification of Entitlements (SAVE) program, is used. A description of the SAVE process is presented in Appendix F. The direct cost of the service is up to one dollar per student submission, with a minimum monthly charge of \$25 for months during which the service is used See Appendix E.

²² See July 9, 2008 Letter from Sheriff Jim Pendergraph, U.S. Department of Homeland Security, Immigration and Customs Enforcement, to Thomas Ziko, Special Deputy Attorney General, North Carolina Department of Justice.

Figure 4: Summary of Different Verification Practices



Following are three scenarios demonstrating the processes involved in verifying student-reported information:

- If a student indicates on the admission application that he or she is a U.S. Citizen, an institution can choose to verify that information or accept that status at face value (self-certification). If an institution chooses to verify, the student must produce a U.S. passport or birth certificate from one of the 50 states, or a certificate certifying a birth abroad to a U.S. Citizen (local review).
- If a student indicates on the admission application that he or she is an eligible non-citizen (e.g., a permanent resident alien, an aslyee, or on an I-155 visa [there are many variations of these categories]), an institution can accept that status at face value (self-certification). If the college chooses to verify, the student must produce a passport or ICE documentation, and the college can approve the documents (local review), or use the national SAVE system (database verification). The SAVE system will take the document information that is submitted electronically by the college, and match it against a myriad of databases that will check for *valid non-citizen status*. SAVE does not check for citizenship or undocumented status. If the match is successful, the student is treated as a citizen, and charged tuition on the basis of state residency (after the standard review for that eligibility). If the match is unsuccessful, there is a secondary SAVE process that involves sending documents to SAVE for another look. If the second review is unsuccessful, the student is considered undocumented.

- If an institution asks for undocumented status or “other status” on the admissions application, a student in this category will typically be unable to produce any of the documents described above. However, in states that admit undocumented students, at either in-state or out-of-state tuition rates, there is another level of documentation often required to certify state residence, and state high school attendance and graduation. The required documentation is typically a high school transcript. Some states have an affidavit requirement to indicate that the student will get his or her status changed to a legal status at the earliest possible time.

Verification Survey

Verification costs related to staffing, training and IT needs must be considered in developing a policy on the admission of undocumented students. However, there are little hard data on the actual costs of verification. Some insight into the processes implemented, and the time and costs estimated by other states, is available from a national survey administered by the American Association of Collegiate Registrars and Admissions Officers (AACRAO). JBLA-PPSV utilized data from of the survey (See Appendix C and D). AACRAO surveyed 613 institutions in the U.S. (private, public, 2-yr, 4yr), and provided JBLA_PPSV with data for the public two-year and four-year institutions from the 11 states in our state policy study (AZ, CA, CO, FL, GA, IL, NM, NY, SC, TX, VA). We received data from 127 institutions in these 11 states, ranging from 25 institutions in New York to just two in New Mexico.

Verification Requests:

A majority of the institutions in the 11 states reported that they seek information about applicants’ residence status and citizenship on the admission application. This is consistent with AACRAO’s national findings, where 97 percent reported that they seek such information. Most of the institutions that responded to the survey from the 11 states reported that they verify the status of applicants claiming U.S. citizenship or legal residence. Some report that they verify “all” applicants. Generally, more institutions reported that they verify in order to determine tuition charges. However, a substantial portion of institutions within the 11 states report that they “do not” verify the status of applicants claiming U.S. citizenship or legal residence (ranging from 18 percent to 40 percent in CA, IL, NY, TX, and VA). This finding that a considerable portion of institutions do not verify is consistent with AACRAO’s findings nationally, where 23 percent of institutions report that they do not verify information.

Among those institutions reporting that they do verify, the documents they most often request for the verification process include the student’s birth certificate or passport. However, some only require that students self-report their status on the requested forms. Among the 11 states in our study, only South Carolina reported that they use a national verification system.

Sanctions:

Institutions that knowingly admit undocumented students, under certain conditions, were asked what happens if those students do not provide the required information. Among the 11 states in our study, no institutions reported that they ask those students to withdraw. Some reported that they allow enrollment both with and without conditions. However, they were most likely to

report that those students are simply charged higher tuition. This is often the condition imposed by those institutions that knowingly admit under certain conditions.

Cost of verification:

Few admissions and registrar offices were able to respond to questions about the direct and indirect costs of student verification, and staff time devoted to verification. There was a very low response rate among institutions in the 11 states. Therefore, we utilized AACRAO's national data for insight into costs and time associated with the verification process. Based upon the national responses of 112 institutions (public, private, 2-year, and 4-year), the estimated average direct costs per academic year for institutions to verify students' residence status for admission and tuition determination are \$9,420. The average direct cost reported by public 2-year institutions is slightly lower -- \$8,602. Estimated indirect costs (non-salary), as reported by 89 institutions nationally, averaged \$6,567 per year, slightly lower than the \$5,306 reported by 2-year public colleges.

Nationally, among colleges that were able to estimate the amount of time specifically spent on the verification of undocumented students, the majority reported that less than 20 percent of verification time is spent on undocumented students. Institutions were also asked if they had adequate staffing to manage the verification process. Nationally, 80 percent reported that they have adequate staffing. Although little data on the cost of verification are available, it is possible to consider the complexity of verification processes under each policy category. Verification costs will be driven by the specific policy, the level and complexity of the review process, and the size of the enrollment.

Regardless of the admission and tuition policy in place, students report and institutions collect some form of data. The types of documents submitted by students, and the complexity of the process used by institutions to verify, is driven by both the specific policy in place and the choices made by states and institutions on how to verify. These processes exist in conjunction with, and in addition to, any current processes in place to certify state residency, which many states and their public institutions require for in-state tuition determination. Following is an analysis of the specific policies and practices regarding the admission of undocumented students in 11 states.

Cross-state findings

Our research concerning admissions policies and pending or ratified legislation involving undocumented students revealed that policies on undocumented students in the identified states fall into three broad categories, identifiable as access/low-cost, access/high-cost, and no access. These policy categories and the grouping of the eleven states among them are discussed below.

Type 1: Access/Low-Cost: California, Illinois, New Mexico, New York, and Texas

The first category, labeled “access/low-cost”, includes those states where the policy is to facilitate access to low-cost higher education for undocumented students. Among the eleven, the access/low-cost states are California, Illinois, New Mexico, New York, and Texas. States in this category permit undocumented students to be admitted to public colleges, and permit those students to pay in-state tuition if they meet certain criteria, including varying lengths of required attendance at a state high school, graduation from a state high school, or obtaining a Graduate Equivalency Diploma in-state. These states also require additional documentation, such as an affidavit indicating that the undocumented student will seek or obtain the appropriate visa as soon as possible.

According to the Pew Hispanic Center, in 2005, two-thirds of the undocumented U.S. population lived in eight states.²³ Among those eight states, four states represent almost half that population. These states are included in our analysis, and fall into the access/low-cost category (California, Illinois, New York and Texas).²⁴

The access/low-cost states included in our study have designed laws and processes to avoid application of Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act. This federal prohibition states that:

An alien who is not lawfully present in the US shall not be eligible on the basis of residence within a state for any postsecondary education benefit unless a citizen or national of the US is eligible for such a benefit (in no less an amount, duration and scope) without regard to where the citizen or national is such a resident.”²⁵

There are no implementing regulations for Section 505, and there is considerable disagreement on the meaning of this provision, and on the role of Congress in telling states how to dispense state benefits.

To avoid the section 505 prohibition, the access/low-cost states have legislated exceptions, exemptions, or changes to permit students to become eligible for in-state tuition under criteria that are not solely based upon residency within the state. They base access to in-state tuition upon factors that are distinct from, but related to, resident status. The most common formulation makes in-state tuition available only to those undocumented students who attended an in-state high school for a designated period of time, and/or graduated from an in-state high school.

²³ California (24%), Texas (14%), Florida (9%), New York (7%), Arizona (5%), Illinois (4%), New Jersey (4%), North Carolina (3%).

²⁴ Passel, Jeffrey. “Estimates of the Size and Characteristics of the Undocumented Population” Pew Hispanic Center. 2005. Accessed Dec. 23, 2008 from <http://pewhispanic.org/files/reports/44.pdf>.

²⁵ 8 U.S.C. §1623(a) (2008).

The Type 1 states, because they admit all students regardless of legal status, have the most simplified process for verifying student reported citizenship and residence information. There is no attempt to exclude any students, and the states use a simplified process for determining in-state or out-of-state tuition – you either meet the outlined criteria for years in residence and in high school, or you don't. All students who claim residency and meet the criteria are charged in-state tuition. These states report the least expense and smallest staffing requirements for verifying residency.²⁶

Type 2: Access/High Cost: Arizona, Colorado, Florida, Georgia, and Virginia

The access/high-cost category applies to five of the eleven states in our analysis: Arizona, Colorado, Florida, Georgia, and Virginia. These five states allow admission of undocumented students, but do not currently allow undocumented students to be eligible for in-state tuition. Colorado requires that agencies in the state use the federal verification system, the Systematic Alien Verification of Entitlements (SAVE) program, to verify the status of any alien/non U.S. citizen who has applied for state benefits such as in-state tuition, and has executed an affidavit indicating the individual is lawfully present in the United States.²⁷ The SAVE system does not verify citizenship, but does check a variety of databases of eligible non-citizens to determine legal status. If colleges want to verify citizenship, that requires them to check birth certificates and passports, as well as to use the SAVE system for non-citizens who are in the U.S. legally.

With a multi-step process to determine who is a U.S. citizen, an eligible non-citizen, or undocumented, based on the survey results, these colleges report higher costs and greater staffing needs for verification and determination of tuition rates.

Type 3: No Access: South Carolina

Of the 11 states included in our analysis, South Carolina is the only one in the no access category. In 2008, South Carolina became the only state in the nation to enact legislation denying undocumented students access to public higher education. South Carolina requires that the immigration status of an alien applicant for a state benefit such as in-state tuition be verified through the SAVE program operated by DHS. South Carolina specifically prohibits determination of eligibility to be made at the local college. As noted above, the SAVE system does not verify citizenship, but does check a variety of databases of eligible non-citizens to determine legal status. If colleges wish to verify citizenship, that requires them to check birth

²⁶ Appendix D.

²⁷ The SAVE Program is an intergovernmental information-sharing program intended to aid entities in determining a non-citizen's immigration status, and thereby ensure that only entitled non-citizen applicants receive Federal, State, or local public benefits and licenses. The program provides information to benefit issuing agencies, institutions, licensing bureaus, and other entities in order to assist them in determining an individual's eligibility under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). However, the SAVE Program does not determine applicant eligibility for specific benefits. See Appendix F

certificates and passports, as well as to use the SAVE system to determine non-citizens who are in the U.S. legally.

Our research demonstrated that the issue of undocumented students' college enrollment and funding has generated much national and state-based legislative and legal debate, as well as attempts at legislation, both successful and unsuccessful. Findings revealed that 32 states have considered allowing in-state tuition for undocumented students in recent legislative cycles, while there are 10 states that have, through 2007, considered legislation to deny in-state tuition to undocumented students.²⁸ In the process of drafting this report, we found that legislation to change the status quo has been proposed in some of the states we studied; this is indicated that in the summary matrix.

²⁸ ECS State Notes, March 2008.

Resources

Biswas, R. R. (2005). *Access to Community College for Undocumented Immigrants*. Boston: Jobs for the Future.

Biswas, R. R. (2007). *Update: State Policies Regarding In-State Tuition for Undocumented Students*. Boston: Jobs for the Future.

Frum, J. L. (2006). Postsecondary Educational Access for Undocumented Students: Opportunities and Constraints. *American Academic*, 81-108.

Kantrowitz, M. (2008). *Scholarships for Undocumented Students*. Retrieved December 23, 2008, from FinAid: The SmartStudent Guide to Financial Aid:
<http://www.finaid.org/otheraid/undocumented.phtml>

NILC. (2006, April). *Basic Facts about In-State Tuition for Undocumented Immigrant Students*. Retrieved Dec 24, 2008, from <http://www.nilc.org>:
<http://www.nilc.org/immlawpolicy/DREAM/index.htm>

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Olivas, M. (2008, Oct). *Recent Developments in Undocumented College Student Issues (2005-present)*. Retrieved Dec 24, 2008, from University of Houston Law Center:
<http://www.law.uh.edu/ihelg/undocumented/homepage.html>

Rambuyan, A. (n.d.). *Realizing the American Dream*. Retrieved January 30, 2009, from Immigration Policy Center:
<http://icirr.org/sites/icirr.org/files/Realizing%20the%20American%20Dream.pdf>

Recent State Policies: Tuition/Fees - In-state for Undocumented Immigrants. (2008, May). Retrieved Dec 24, 2008, from Education Commission of the States:
<http://www.ecs.org/ecs/ecscat.nsf/webtopicview?OpenView&Start=1&Count=1000&Expand=409#409>

Strayhorn, C. K. (2006). *Undocumented Immigrants in Texas*. Austin.

Zaleski, A. (2008, March). *In-state Tuition for Undocumented Immigrants*. Retrieved Dec 24, 2008, from Education Commission of the States:
<http://www.ecs.org/ecsmain.asp?page=/html/issues.asp>

The three policy categories were derived from the in-depth analysis of policies and practices in the 11 states. The following matrix summarizes the data gathered for all 11 states. A detailed discussion of each individual state is then provided.

State	Admit undocumented students? (Y/N)	Tuition for undocumented students: in-state or out-of-state rates?	Modified requirement to establish eligibility for in-state tuition.	Is a student disclosure form required?	Pending legislation/ Case law	Verification process	College reporting requirements	Statutory cite and effective date for applicable standards regarding undocumented students
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Arizona	Yes	Out-of-state ⁽¹⁾	Not applicable	Yes	None	Birth certificate or passport and form ⁽²⁾ and SAVE ⁽³⁾	Dec 31 and June 30 to Joint Legislative Budget Committee	Ariz.Rev. Stat. §15-1803 (2008) December 2006
California	Yes	In-state	3 years of high school + ⁽⁴⁾	Yes	Yes Martinez v. Regents & pending legislation	Statewide form and additional documents ⁽⁵⁾	No Information re: undocumented student status is confidential.	Cal. Educ. Code §68130.5 (2008) October 2001
Colorado	Yes	Out-of-state	Not applicable except for US citizen children of undocumented parents	Yes	No	Affidavit ⁽⁶⁾ with documents and SAVE	No ⁽⁷⁾	Colo. Rev. Stat. §23-7-110 (2008) May 2008

(1) In accordance with the Illegal Immigration and Reform and Immigrant Responsibility Act of 1996 (PL 104-208; 110 Stat. 3009-546), a person who was not a citizen or legal resident of the US or who is without lawful immigration status is not entitled to classification as an in-state students pursuant to A.R.S. 15-1802.01.

(2) Appendix AZ 91-93

(3) SAVE charges up to \$1 per transaction with a \$25 monthly minimum.

(4) High school attendance in CA for 3 or more years, graduated from a CA high school or attained equivalent degree, and files an affidavit to become a legal permanent resident at the earliest possible time. Cal. Educ. Code §68130.5 (a) (2008).

(5) Appendix CA-72

(6) Appendix CO-80

(7) The recently enacted Colorado statute providing for in-state tuition for U.S. citizens with undocumented parents (Col. Rev. Stat. §23-7-110) provides that “any information provided to satisfy the criteria specified in this section shall be confidential unless disclosure is explicitly required by law.”

State	Admit undocumented students? (Y/N)	Tuition for undocumented students: in-state or out-of-state rates?	Modified requirement to establish eligibility for in-state tuition.	Is a student disclosure form required?	Pending legislation/ Case law	Verification process	College reporting requirements	Statutory cite and effective date for applicable standards regarding undocumented students
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Florida	Yes No current law prohibiting undocumented student admission. Colleges can make autonomous decisions.	Out-of-state	Not applicable	Yes	Yes – to allow undocumented students in-state tuition	Form to collect student documents ⁽⁸⁾	None	Fl. Stat. Ann. §1009.21 (2008) July 2007 Fla. Adm. Code § 6A-10.044 March 2005
Georgia	Yes No current law prohibiting undocumented student admission.	Out-of-state ⁽⁹⁾	Not applicable	Yes	Yes – a resolution calling for updated federal immigration legislation.	Standard form with documents ⁽¹⁰⁾	None	Ga. Code. Ann. §50-36-1. July 2007

(8) Appendix FL-115 for sample

(9) This provision requires that the University System of Georgia or the State Board of Technical and Adult Education adopt policies to ensure that unqualified aliens are not entitled to receive postsecondary benefits in a manner that is consistent with 8 U.S.C. §§ 1611, 1621, or 1623. We have not identified any rules promulgated to enforce this provision.

(10) Appendix GA-78 for sample

State	Admit undocumented students? (Y/N)	Tuition for undocumented students: in-state or out-of-state rates?	Modified requirement to establish eligibility for in-state tuition.	Is a student disclosure form required?	Pending legislation/ Case law	Verification process	College reporting requirements	Statutory cite and effective date for applicable standards regarding undocumented students
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Illinois	Yes	In-state	3 years + ⁽¹¹⁾	Yes	Yes – to repeal current standards.	Required affidavit ⁽¹²⁾	None	110 Ill. Comp. Stat. 305/7e-5; 520/8d-5; 660/5-88; 665/10-88; 670/15-88; 675/20-88; 680/25-88; 685/30-88; 690/35-88; 805/6-4a. May 2003
New Mexico	Yes	In-state	2 years + ⁽¹³⁾	Yes	None	Standard form with certification and documents ⁽¹⁴⁾	None	N.M. Stat. Ann. § 21-1-4.6; June 17, 2005 N.M. Admin. Code title 5 §7.18.9(D) August 2007

(11) Illinois Public Act 93-007 (2003) created an exception to permit students to be eligible for in-state tuition if they attended at least three years of high school and file an affidavit of intent to legalize immigration status.

(12) Appendix IL-67

(13) Under N.M. Stat. Ann. §21-1-4.6, an undocumented student is eligible to receive in-state tuition if the student attended a state high school for one year and graduated or received a GED.

(14) Appendix NM-21

State	Admit undocumented students? (Y/N)	Tuition for undocumented students: in-state or out-of-state rates?	Modified requirement to establish eligibility for in-state tuition.	Is a student disclosure form required?	Pending legislation/ Case law	Verification process	College reporting requirements	Statutory cite and effective date for applicable standards regarding undocumented students
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New York	Yes	In-state	2 years + (15)	Yes	Yes – to repeal current standards	Affidavit (16) with self-reporting and/or documents	None	NY Educ. Law §355(2)(h)(8) August 2002
South Carolina	No	Not applicable	Not applicable	Yes	None	Federal SAVE system required with documents	None	S.C. Code Ann. §59-101-430 (2008) June 2008
Texas	Yes	In-state	3 years + (17)	Yes	Yes –to repeal current standards	Affidavit with self-reporting or documents (18)	None	Tex. Educ. Code §54.052 September 2005
Virginia	Yes	Out-of-state	Not applicable	Yes	Yes –to permit in-state tuition	Petition for residency with documents	None	Va. Code Ann. § 23-7.4(B) (2008) March 2008

(15) Under the NY Educ. Law §355(2)(h)(8), an undocumented student is eligible for in-state tuition, a student must attend state high school for 2 or more years, graduate, and file affidavit of intent.

(16) Appendix NY-53

(17) Under Tex. Educ. Code §54.052, an undocumented student is eligible for in-state tuition a student must attend state high school for 3 years, graduate or get GED, and file affidavit of intent.

ARIZONA

State Agencies:

Arizona Board of Regents: The Arizona Board of Regents is the governing body of Arizona's public university system, providing policy guidance to Arizona State University, Northern Arizona University, and the University of Arizona, including their branch campuses.

Community Colleges: Community colleges in Arizona are governed by local district boards.

Is there a policy to admit or not to admit undocumented immigrants into curriculum programs at public colleges?

Yes. Undocumented students can be admitted to Arizona public colleges.

- Arizona Board of Regents policies indicate that students classified for tuition purposes as Arizona residents and who meet general aptitude and basic competency requirements are required to be admitted to one of the three public universities in Arizona. This process is referred to as “assured admission for Arizona residents.”²⁹ However, an undocumented student cannot be classified as an in-state student.³⁰ Arizona public colleges have discretion to admit additional applicants that do not qualify for the “assured admission” process.³¹ Undocumented students can be admitted under this procedure.
- Admission to Arizona community colleges may be granted to any person who is a high school graduate, has a high school certificate of equivalency, is at least 18 years of age, and demonstrates evidence of potential success, or is a transfer student in good standing from another college or university.³²

If undocumented immigrants are admitted, do they pay in-state or out-of state tuition?

Undocumented students may not be classified as Arizona residents, and therefore are not eligible for in-state tuition.³³

Are undocumented students defined? If so, how?

²⁹ Ariz. Rev. Stat. §15-1803 (2008) and Arizona Board of Regents Policy 4-102.

³⁰ Id.

³¹ Arizona Board of Regents Policy, 2-101(C).

³² Ariz. Rev. Stat. §15-1805.01 (2008).

³³ Ariz. Rev. Stat. §15-1825 (2008).

The relevant Arizona statute describes undocumented students as those students who are “not a citizen or legal resident of the United States or who is without lawful immigration status.”³⁴

In order for undocumented immigrants to qualify, what additional criteria or conditions must be satisfied? What disclosure and documentation must they provide?

There are no specific admission requirements an undocumented student must fulfill to be accepted into an Arizona institution. As noted above, undocumented students are not qualified for in-state tuition. In order to qualify for in-state tuition, Arizona requires students to sign a declaration of citizenship or status, indicating the student’s citizenship or immigration status. Where applicable, students must indicate on the form that they “do not qualify” for U.S. citizenship status or a legal immigration status.³⁵

What pending legislation, judicial proceedings, or Attorney General opinions, if any, exist with regard to the admission of undocumented students?

None identified.

What are the verification processes to determine who is “lawfully present” for purposes of admission or tuition determinations? What are the estimated costs of that process?

Colleges report that student status is verified at admission by the admission office, to determine tuition charges. To verify, they require student submission of evidence, such as a birth certificate or passport, or other documents.³⁶ A handful of colleges report using the SAVE system, which can cost up to \$1.00 per transaction, and a minimum of \$25/month.

Arizona colleges report an average of 4.7 staff members involved in verifying all students’ residency status, with varying percentages of the workload spent on undocumented student verification.

If verification is not completed, what are the student sanctions, and who administers them?

Enforcement of the tuition residence classification procedures is the responsibility of the president of each college or university and the designated classification officer.³⁷ Any student found to have made a false or misleading statement concerning the student’s domicile or tuition status is subject to dismissal from the university.³⁸

The survey results indicated that most often, students are charged the higher tuition if their legal status cannot be verified.

³⁴ Ariz. Rev. Stat. §15-1803(2008).

³⁵ Maricopa Community Colleges Student Declaration of Citizenship or Status.

³⁶ See Appendix B. AZ-pages 91-93.

³⁷ Arizona Board of Regents Policy 4-206(A).

³⁸ Arizona Board of Regents Policy 4-208(B).

If verification of a student's status as an undocumented student is not completed, are there specific sanctions imposed upon the college?

Our research did not identify specific state sanctions in the Arizona statutes and regulations that would be imposed upon a college for failure to abide by Arizona admission or tuition requirements related to undocumented students. In general, Arizona public institutions of higher education are subject to the oversight of the governing boards (the Arizona Board of Regents or individual community college governing boards) to ensure compliance with state requirements and policies. In addition, employees can be removed from an institution for dishonesty in professional activities, or for neglect of properly assigned duties.³⁹

What reporting requirements exist?

Ariz. Rev. Code §15-1803 requires each community college and university to report to the joint legislative budget committee, on December 31 and June 30 of each year, the total number of students who were entitled to classification as an in-state student, and the total number of students who were not entitled to classification as an in-state student because the student was not a citizen or legal resident, or is without lawful immigration status.⁴⁰

³⁹ Arizona Board of Regents Policy 6-101(H).

⁴⁰ Ariz. Rev. Stat. §1803(C) (2008).

CALIFORNIA

State Agencies

Regents of the University of California: The University of California, including all its locations, is governed by the Regents, which under Article IX, Section 9 of the California Constitution has "full powers of organization and governance," subject only to very specific areas of legislative control.

California Community Colleges: The California Community Colleges system is comprised of 72 districts and 110 colleges. The colleges are administered by a System Office which operates under the direction of the Board of Governors of the California Community Colleges.

Is there a policy to admit or not to admit undocumented immigrants into curriculum programs at public colleges?

Yes. Undocumented students are eligible for admission to the University of California and community colleges so long as the students meet the individual school's academic admission requirements. The Regents publish general entrance requirements requiring that the top one-eighth of the state's high school graduates be eligible for admission to the University of California.⁴¹ Individual locations of the University of California also have discretion to admit additional applicants from their pool of eligible candidates. A community college district may admit any California resident, or any non-resident possessing a high school diploma.⁴²

If undocumented immigrants are admitted, do they pay in-state or out-of state tuition?

Undocumented students are eligible for in-state tuition if they qualify for California's "nonresident exemption."⁴³ To qualify for the "nonresident exemption," an individual must have:

- Attended at least 3 years of high school in California; and
- Graduated from high school or received an equivalent degree.

⁴¹ Regents of the University of California Policy on Admissions.

⁴² Cal. Educ. Code §76000 (2008).

⁴³ Cal. Educ. Code §68130.5 (2008).

In addition, an undocumented student must file an affidavit stating that the student has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.

Are undocumented students defined? If so, how?

The California “nonresident exemption” refers to “persons without lawful immigration status” as those individuals who must file an affidavit to be eligible for in-state tuition.⁴⁴

In order for undocumented immigrants to qualify, what additional criteria or conditions must be satisfied? What disclosure and documentation must they provide?

As noted above, to receive the “nonresident exemption” for in-state tuition, an undocumented student must file an affidavit. California provides this affidavit in its “California Nonresident Tuition Exemption Request” form.⁴⁵ This form requires the student to identify whether he or she is an alien with a valid immigration status (“a nonimmigrant alien”), or an “alien without lawful immigration status.”

What pending legislation, judicial proceedings, or Attorney General opinions, if any, exist with regard to the admission of undocumented students?

California currently has legislative as well as judicial matters pending with regard to undocumented students.

- In the case of Martinez v. Regents of the University of California,⁴⁶ U.S. citizens paying nonresident tuition at California state colleges and universities brought an action challenging the validity of the “non-resident” tuition exemption. The case is currently set for hearing by the California Supreme Court. The “nonresident exemption” at Cal. Educ. Code §68130.5 remains in effect while the case is pending.⁴⁷
- Senate Bill 160 was introduced in the California Senate on February 14, 2009. On March 18, 2009, the bill was voted out of committee and referred to the California Senate Committee on Appropriations. This proposed legislation would require the Regents of the University of California to establish procedures and forms to enable those undocumented students who qualify for in-state tuition to be eligible for state-funded financial aid programs.⁴⁸

⁴⁴ Id.

⁴⁵ Sample Student Declaration of Citizenship or Status Form.

⁴⁶ See Martinez, et al. v. Regents of the University of California et al., 166 Ca. App. 4th 1121 (2008) (granted review in the California Supreme Court, 198 P. 3d 1).

⁴⁷ University of California statement about Martinez v. Regents appeal, dated September 22, 2008.

⁴⁸ See California Senate Bill 160.

What are the verification processes to determine who is “lawfully present”? What are the estimated costs of that process?

California colleges report routinely collecting information on citizenship/residence status on the admission application, and verifying the students’ status for in-state tuition determination using the form completed by the student, either in Admissions or in the Registrar’s office.⁴⁹ Staffing is reported to average 2.5 full-time equivalent staff that spends less than 20 percent of their time on undocumented student verification, at a cost of less than \$4500 per year. Colleges also report verifying the citizenship status of applicants as part of determining if a student is eligible to receive federal student aid authorized by Title IV of the Higher Education Act of 1965.⁵⁰ There is no single time when student status is verified – it may be at application receipt, or after admission.

If verification is not completed, what are the student sanctions, and who administers them?

California law provides specific consequences for students that receive in-state tuition but do not meet the statutory and regulatory eligibility requirements. First, if the student’s residency status for tuition is incorrect, the student’s residency status will immediately be changed. In addition, if a student concealed facts or made untruthful statements about residency status, he or she will be required to pay all tuition and fees that would have been charged, and will be subject to appropriate discipline.⁵¹

The survey results indicated that most often, students are charged the higher tuition if they do not provide the required information.

If verification of a student’s status as an undocumented student is not completed, are there specific sanctions imposed on the college?

Our research did not identify specific state sanctions in the California statutes and regulations that would be imposed on a college for failure to abide by the requirements of Cal. Educ. Code §68130.5. In fact, California institutions of higher education are specifically protected by a statute if the “nonresident exemption” is determined by a state court to be unlawful.⁵² The law indicates that a state court can order equitable relief to require a California institution to “terminate any waiver” awarded under the “nonresident exemption.” This means that a court could require California institutions to stop granting nonresident tuition waivers and to charge recipients of those waivers out-of-state tuition. However, the law also provides that if a state court finds that Section 68130.5 is unlawful, California Community Colleges, the California State University, and the University of California will not be required to pay money damages, tuition refunds or waivers, or other retroactive relief.

⁴⁹ See Appendix, p. CA-72 and Appendix D.

⁵⁰ 20 U.S.C. §1001, et seq. (2008).

⁵¹ Regents Standing Order 110.2(c).

⁵² Cal. Educ. Code §68130.7 and 68133 (2008).

What reporting requirements exist?

Consistent with the survey responses, our research did not identify specific reporting requirements related to an undocumented student's immigration status. Community college districts are allowed to report students exempt from nonresident tuition to be considered full time equivalent students for apportionment purposes.⁵³ Further, other California universities must report data regarding residency status of their students. However, Cal. Educ. Code §68130.5(d) provides that student immigration status information provided under "nonresident exemption" is considered confidential.

⁵³ Cal. Educ. Code §68130.5(b).

COLORADO

State Agencies:

Colorado Commission on Higher Education/Department of Higher Education: Under the authority of the Commission, the Department coordinates policy and state resources for the state's 27 public institutions, as well as several hundred proprietary schools.

Colorado Community College System: The System office oversees career and academic programs in the 13 state community colleges. In addition, CCCS oversees 1200 secondary and 800 postsecondary career and technical programs in more than 150 school districts, and in seven other postsecondary institutions across the state.

Is there a policy to admit or not to admit undocumented immigrants into curriculum programs at public colleges?

Yes. Undocumented students may be admitted to Colorado institutions.

- Four-year institutions follow minimum admission standards adopted by the Colorado Commission for Higher Education. These standards require Colorado institutions to consider a student's standardized test scores, high school grade point average, high school class rank, and other factors in making admissions decisions. Institutions may also adopt admission standards that are more rigorous than the Commission's minimum admission standards. These standards do not consider a student's immigration status as one of the admission criteria.
- Colorado community colleges follow an open-admission policy where a community college may admit applicants who are 17 years old or older that the college determines would benefit from the programs offered by the institution.⁵⁴

If undocumented immigrants are admitted, do they pay in-state or out-of state tuition?

Undocumented students are not eligible to receive in-state tuition.

- Certain non-U.S. citizens with valid immigration status may be eligible for Colorado in-state tuition.⁵⁵ However, Colorado law requires that an individual must provide proof that he or she is "lawfully present in the United States" and submit an affidavit attesting that he or she is lawfully present in the United States, in order to obtain a state benefit,

⁵⁴ Colorado Commission on Higher Education Policy, Section 1 Part F Admissions Standards Policy.

⁵⁵ Colo. Rev. Stat. §23-7-103(1)(o) (2008).

including in-state tuition.⁵⁶ If the individual's affidavit indicates that he or she is an alien who is lawfully present in the United States, Colorado law also requires institutions of higher education to verify the individual's immigration status using the federal SAVE system.

- Colorado also recently enacted a provision designating United States citizens who have graduated from a Colorado high school, attended at least 3 years, and who reside in the state, as eligible for in-state tuition.⁵⁷ The law was created to cover applicants who are U.S. citizens but whose parents may be undocumented.

Are undocumented students defined? If so, how?

Colorado law requires that where verification of citizenship is required by law “all persons eighteen years of age or older shall provide proof that they are lawfully present in the United States prior to receipt of certain public benefits,” including in-state tuition.⁵⁸ However, we did not identify a specific definition of “undocumented student” in the Colorado statute or regulations.

In order for undocumented immigrants to qualify, what additional criteria or conditions must be satisfied? What disclosure and documentation must they provide?

Again, we did not identify criteria specific to undocumented students that are required for a student to be eligible for admission to an institution of higher education. Students must prove residency for purposes of in-state tuition by use of acceptable documents.⁵⁹ Non-citizens who are eligible to receive in-state tuition are required to verify their lawful presence in the United States through the SAVE program.

What pending legislation, judicial proceedings, or Attorney General opinions, if any, exist with regard to the admission of undocumented students?

The Colorado Attorney General has recently issued two attorney general opinions relevant to the admission of undocumented students.

- A January 23, 2006 opinion issued by the Colorado Attorney General concluded that the Colorado Commission on Higher Education did not have statutory authority to establish a policy or regulation granting in-state tuition status to undocumented aliens⁶⁰
- An August 14, 2007 opinion issued by the Colorado Attorney General concluded that current law authorized U.S. citizens whose parents were undocumented aliens to receive

⁵⁶ Colo. Rev. Stat. §24-76.5-103(b) (2008).

⁵⁷ Colo. Rev. Stat. §23-7-110.

⁵⁸ Colo. Rev. Stat. §24-76.5-103(b) (2008).

⁵⁹ For example, please see the list of acceptable documentation published by the University of Colorado.

⁶⁰ Formal Opinion of John W. Suthers, Attorney General, No. 06-01, dated January 23, 2006.

in-state tuition. This opinion led to the passage of the legislation permitting such individuals to be eligible for in-state tuition based on high school attendance.⁶¹

What are the verification processes to determine who is “lawfully present”? What are the estimated costs of that process?

Colorado law requires that in verifying the lawful presence of an alien in the United States, the individual must execute an affidavit stating that he or she is an alien lawfully present in the United States⁶². The state must then use the federal SAVE program to verify the individual’s immigration status.⁶³ The SAVE system charges a minimum of \$25/month, or up to \$1.00 per transaction.

Colorado colleges report routinely collecting citizenship and/or resident status on the admission application, and verifying that information either at the time of application or after admission through a form and submission of evidence, typically to the Admissions office. Colleges estimate that the verification of residency is a task that required 4.5 full-time equivalent staff, and that less than 20 percent of the task time is spent on undocumented students⁶⁴.

A separate Colorado statute also requires the state attorney general to bring suit against the federal government for reimbursement of state costs incurred by Colorado in dealing with illegal immigration.⁶⁵ In 2007, the Colorado attorney general did bring suit in the United States District Court for the District of Colorado against the United States, the U.S. Attorney General, and the Secretary of the Department of Homeland Security.⁶⁶ The suit sought an order for the Attorney General and Secretary to enforce various provisions of federal law relating to prevention of illegal immigration. However, the case was dismissed on the grounds that the Colorado attorney general did not have standing to pursue the lawsuit and the state was not entitled to the relief it sought.

If verification is not completed, what are the student sanctions, and who administers them?

Colorado law provides that any person who “knowingly makes a false, fictitious, or fraudulent statement or representation in an affidavit” regarding his or her status as an alien with a lawful presence in the United States will, upon conviction, be guilty of second degree perjury, a class 1 misdemeanor.⁶⁷

If verification of a student’s status as an undocumented student is not completed, are there specific sanctions imposed upon the college?

⁶¹ Formal Opinion of John W. Suthers, Attorney General, No. 07-03, dated August 14, 2007.

⁶² Appendix CO-80 for a sample.

⁶³ Colo. Rev. Stat. §24-76.5-103 (2008).

⁶⁴ Appendix D.

⁶⁵ Colo. Rev. Stat. §§ 24-19.7-101; 24-19.7-102; 24-19.8-101.

⁶⁶ *Colorado v. Gonzales*, 558 F. Supp.2d 1158 (D. Colo. 2007).

⁶⁷ Colo. Rev. Stat. §18-5-503 (2008).

Colorado law provides that it is unlawful for a Colorado public agency to provide benefits in violation of the verification requirements.⁶⁸ However, we did not identify specific sanctions that would be applicable to the public agency for violation of the verification requirements.

What reporting requirements exist?

Our research did not identify specific reporting obligations for Colorado institutions of higher education regarding a student's immigration status in the Colorado law or regulations. In fact, the recently enacted Colorado statute providing for in-state tuition for U.S. citizens with undocumented parents, Col. Rev. Stat. §23-7-110, provides that "any information provided to satisfy the criteria specified in this section shall be confidential unless disclosure is explicitly required by law."

Consistent with the survey data, Colorado does require four-year public institutions to report demographic data regarding undergraduate freshmen, including residency status, to the Colorado Department of Higher Education, using the Department's data reporting system. The data are used to monitor the institution's compliance with its minimum admission standards, including standards relating to in-state and out-of-state student status. The policy documents reviewed did not indicate whether an undocumented student's status is to be reported separately for purposes of the enrollment report. Colorado policies impacting the four-year institutions require that at least 55% of each class must be comprised of in-state students. If an institution does not comply with this and other admission standards, the institution will be required to provide an explanation to its governing board and develop a corrective action plan; the item will then be reviewed by the Commission.⁶⁹

⁶⁸ Colo. Rev. Stat. §24-76.5-103(9) (2008).

⁶⁹ Section 1 Part F Admissions Standards Policy, 7.02.03.

FLORIDA

State Agencies:

Florida Board of Governors: The Florida Board of Governors manages the Florida State University System, which consists of eleven public universities. The Florida State University System Office, headed by a Chancellor, administers the system on behalf of the Board of Governors.

Florida Department of Education, Division of Community Colleges: This office administers the Florida Community College system.

Is there a policy to admit or not to admit undocumented immigrants into curriculum programs at public colleges?

Yes. Undocumented students may be eligible for admission to certain Florida public colleges.

- The Florida State University System has adopted minimum requirements for applicants to be admitted to a Florida state university. These requirements do not consider the student's immigration status.⁷⁰
- Florida law requires that each community college have minimum admission requirements, including that a student must have a standard high school diploma or its equivalent. Each community college board of trustees is authorized by statute to adopt additional admission requirements.⁷¹

If undocumented immigrants are admitted, do they pay in-state or out-of state tuition?

Undocumented students may not be considered to be Florida residents, and are not eligible for in-state tuition.⁷²

Are undocumented students defined? If so, how?

Florida guidance provides a definition of undocumented students. However, the definition is not incorporated into Florida laws or regulations.

⁷⁰ Fla. Admin. Code Ann. §6C-6.001 (2008).

⁷¹ Fla. Stat. §1007.263 (2008).

⁷² Fla. Admin. Code Ann. §6A-10.044 (2008)

- Florida's Guidelines for Florida Residency for Tuition Purposes does include a definition of an "undocumented immigrant" as a "foreign national who lives in the U.S. without the required documentation." An undocumented immigrant is not eligible to establish residency for tuition purposes in Florida.⁷³
- The Florida laws and regulations do not include a specific definition of "undocumented student." Rather, the regulations include a comprehensive list of certain categories of non-citizens who *are eligible* to be considered Florida residents for tuition purposes. These categories include permanent residents, parolees, asylees, refugees, or other permanent status persons (e.g., conditional permanent residents and temporary residents) who have applied to and have been approved by the U.S. Bureau of Citizenship and Immigration Services.⁷⁴

In order for undocumented immigrants to qualify, what additional criteria or conditions must be satisfied? What disclosure and documentation must they provide?

As noted above, undocumented students do not qualify for in-state tuition in Florida. Florida law establishes different statutory categories an individual may use to establish residency. Each category requires the student to provide different types of documentation to establish residency. For example, non-citizens with a documented immigration status are required to provide copies of an approved visa, or documentation of asylum or parolee status, in order to establish their eligibility for in-state tuition.⁷⁵

What pending legislation, judicial proceedings, Attorney General opinions, or policy statements, if any, exist with regard to the admission of undocumented students?

SB 1118 was introduced into the Florida Senate on January 30, 2009, by Senator Frederica Wilson. The proposed legislation would permit an undocumented student to be eligible for in-state tuition if the student:

- Has resided in the state for 3 consecutive years prior to receipt of a high school diploma or GED;
- Has attended high school for 3 consecutive years; and
- Files an affidavit demonstrating that the student has initiated the process of legalizing his/her status or will do so as soon as he/she is eligible to do so.

Under the proposed bill, these students would not be eligible for state financial assistance. This bill is currently assigned to four Florida Senate committees for consideration.

⁷³ Florida's Guidelines for Florida Residency for Tuition Purposes, p. 19.

⁷⁴ Fla. Admin. Code Ann. §6A-10.044 (2) (2008)

⁷⁵ Guidelines for Florida Residency for Tuition Purposes, Exhibit 2-1 Overview of Residency Qualifications and Exceptions, p. 7 and 8. See Appendix FL-115 for sample documentation collection form.

What are the verification processes to determine who is “lawfully present”? What are the estimated costs of that process?

Florida colleges report routinely collecting information on an applicant’s citizenship/residence status on the admission application, and the admission office verifying that information for determination of tuition rates at the time of admission, using documentation such as a passport or birth certificate. The average number of staff used for verifying is 6.7, and that is considered inadequate to the task. It appears to take up to 40 percent of staff time just for undocumented students. Costs were not provided⁷⁶.

If verification is not completed, what are the student sanctions, and who administers them?

A student granted status as a Florida resident for tuition purposes can be subject to disciplinary sanctions determined by the university if the student’s resident status is based upon a false statement.⁷⁷ In addition, a university may invalidate college credit for work done by a student if the student provided false or fraudulent or incomplete statements in his or her application, residence affidavit, or accompanying documents.⁷⁸

If verification of a student’s status as an undocumented student is not completed, are there specific sanctions imposed on the college?

Our research did not identify specific state sanctions in the Florida statutes and regulations that would be imposed upon a college for failure to abide by Florida admission or tuition requirements. In general, the board of trustees of each Florida public institution of higher education is required to ensure the institution complies with state and federal law, rules, regulations, and requirements.⁷⁹

What reporting requirements exist?

Our research did not identify in the Florida law or regulations any specific reporting obligations for Florida institutions of higher education regarding a student’s immigration status. In general, Florida law requires that each university establish an enrollment plan for each fiscal period. Universities are required to report enrollments in order to create this plan.⁸⁰ The statutes reviewed did not indicate whether an undocumented student’s status is to be reported separately for purposes of the enrollment report or plan.

⁷⁶ Appendix D.

⁷⁷ Fla. Adm. Code §6C-7.005.

⁷⁸ Fla. Adm. Code §6C-6.001(7). (2008).

⁷⁹ Fla. Stat. 1001.74(7) (2008).

⁸⁰ Fla. Adm. Code §6C-6.001 (2008).

GEORGIA

State Agencies:

University System Board of Regents: The University System of Georgia's Board of Regents oversees thirty-five colleges and universities: four research universities, two regional universities, thirteen state universities, eight state colleges, and eight two-year colleges. The Board elects a chancellor who serves as its chief executive officer and the chief administrative officer of the University System.

State Board of Technical and Adult Education: The State Board of Technical and Adult Education is responsible for establishing standards, regulations, and policies for the operation of the Georgia Department of Technical and Adult Education, the state's thirty-three technical colleges, economic development programs, and adult education programs.

Is there a policy to admit or not to admit undocumented immigrants into curriculum programs at public colleges?

Our research did not identify a specific prohibition against admission of undocumented students to Georgia's public colleges.⁸¹

- The Board of Regents has established minimum requirements for admission to the system, including several different categories for admission to different types of programs. The Board of Regents policy notes that "international students" may be admitted.⁸²
- The Georgia State Board of Technical and Adult Education policy requires that to be admitted to a community college, the student must hold a high school diploma or a recognized alternate type of diploma.⁸³ Individual institutions may also establish additional admission requirements beyond the minimum standard.

If undocumented immigrants are admitted, do they pay in-state or out-of state tuition?

Georgia law provides that undocumented individuals are not eligible to receive in-state tuition.

⁸¹ Georgia recently enacted a statute which requires each Georgia agency to verify the lawful presence of individuals in order to obtain state benefits. Under this law, the Board of Regents or the State Board of Technical and Adult Education is required to set forth policies "regarding postsecondary education benefits that comply with all federal law." Ga. Code. Ann. §50-36-1 (2008). We contacted a representative to ascertain whether admission would constitute a benefit under this standard, but did not receive a definitive response.

⁸² Georgia Board of Regents Admission Policy 4.02.0101(a)(4).

⁸³ Georgia State Board of Technical and Adult Education Policy V.B.1.

- The Georgia Board of Regents policy provides that noncitizens shall not be classified as “in-state” for tuition purposes, unless there is evidence that the individual is a “lawful permanent resident, refugee, asylee, or other eligible noncitizen.”⁸⁴
- The Georgia State Board of Technical and Adult Education policy also states that “ineligible noncitizens” cannot qualify for in-state tuition.⁸⁵

Are undocumented students defined? If so, how?

Georgia law requires that a non-citizen applying for in-state tuition must demonstrate that he or she is a “qualified alien or nonimmigrant under the federal Immigration and Nationality Act, 18 years of age or older, and lawfully present in the United States.”⁸⁶ Those who do not satisfy this standard would be considered undocumented.

In order for undocumented immigrants to qualify, what additional criteria or conditions must be satisfied? What disclosure and documentation must they provide?

Our research did not identify specific additional admissions requirements that an undocumented student would be required to satisfy for admission. On the application for admission to a technical college, a student is required to identify his or her country of lawful residence, and the student may be required to submit other information necessary to make a determination of a student's legal domicile for tuition rate and student advisement purposes.⁸⁷ Undocumented students are not eligible to receive in-state tuition.

What pending legislation, judicial proceedings, or Attorney General opinions, if any, exist with regard to the admission of undocumented students?

A resolution, HR 339, was introduced to the Georgia legislature, calling for the federal government to enact comprehensive immigration reform that would address, among other things, providing undocumented high school students “a meaningful opportunity to pursue higher education.” The resolution has been referred to committee, but no additional action has been taken.⁸⁸

What are the verification processes to determine who is “lawfully present”? What are the estimated costs of that process?

To receive in-state tuition, the Georgia Board of Regents requires students to complete a Petition for Classification of Students for Tuition Purposes.⁸⁹ On this document, the student must

⁸⁴ Georgia Board of Regents Policy 403.02(B).

⁸⁵ Georgia State Board of Technical and Adult Education Residency Policy VI.

⁸⁶ Ga. Code Ann. §50-36-1(d)(2).

⁸⁷ Georgia State Board of Technical and Adult Education Admission Policy VI.C.

⁸⁸ This resolution is not included in the appendix.

⁸⁹ University System of Georgia Petition for Classification of Students for Tuition Purposes.

indicate whether he or she is an eligible non-citizen with a valid immigration status and make an affirmation that the information is accurate.⁹⁰

Six of seven Georgia colleges report that they routinely collect residency and citizenship information on admissions applications, and verify the information in the Admissions office, through submission of passport documentation, for tuition rates and financial aid eligibility. Georgia schools report that they have, on average, 3.8 full time equivalent staff doing verification, and that undocumented students consume less than 20 percent of that staff time. No costs were provided.⁹¹

If verification is not completed, what are the student sanctions, and who administers them?

Under Georgia law, a person who knowingly and willfully makes a false, fictitious, or fraudulent statement of representation in the affidavit regarding his or her lawful presence in the United States is guilty of violating criminal statute, Ga. Code Ann. §16-10-20, which is punishable upon conviction by a fine of not more than \$1,000.00 or by imprisonment for not less than one nor more than five years, or both.⁹²

According to the survey results, students who do not complete the process are either not permitted to enroll, or charged higher tuition.

If verification of a student's status as an undocumented student is not completed, are there specific sanctions imposed upon the college?

Our research did not identify specific sanctions that may be imposed upon an institution for failure to abide by the Georgia requirements relating to admission and to the awarding of in-state tuition. In general, the Georgia Board of Regents is responsible for monitoring and overseeing the operation of the state universities. Community colleges are also monitored by the Georgia Board of Regents. Georgia law provides that the Board is authorized to inspect and supervise the community colleges as necessary to ensure that the Board's policies and standards are met by the community colleges. If there is a failure to comply, the Board has the authority to withhold or terminate payment of any state funds which would otherwise be due to the college.⁹³

What reporting requirements exist?

The survey results and the research did not identify any reporting obligations or requirements specific to admission of undocumented students. Institutions in the University System, and the community colleges, are required to report the number of out-of-state students, which would include undocumented students, on an annual basis.⁹⁴ The policy documents reviewed did not indicate whether an undocumented student's status is to be reported separately for purposes of the enrollment report.

⁹⁰ See Appendix, p. GA-78.

⁹¹ Appendix D.

⁹² Ga. Code Ann. §§50-36-1(f), 16-10-20 (2008).

⁹³ Ga. Code Ann. §20-30-134 (2008).

⁹⁴ Georgia Board of Regents Policy, 403.01; Georgia State and Technical Board Residency Policy.

ILLINOIS

State Agencies:

Illinois Board of Higher Education: The Board's function is to plan and coordinate Illinois' system of colleges and universities. The Board of Higher Education approves all new units of instruction, research, and public service, as well as new academic administrative units, for public colleges and universities in the state.

Illinois Community College Board: This Board is the state coordinating board for community colleges, and administers the Illinois Public Community College Act. The Illinois Community College System covers the entire state, and includes 48 colleges and one multi-community college center.

Is there a policy to admit or not to admit undocumented immigrants into curriculum programs at public colleges?

Yes. Undocumented students may be admitted to Illinois public colleges.

- The Illinois Board of Higher Education establishes minimum admission standards for public colleges and state universities.⁹⁵ Each state university or college has admission standards which include minimum academic, high school coursework, and acceptable testing scores.⁹⁶
- Illinois regulations provide that community colleges should admit all students qualified to complete any one of their programs.⁹⁷

If undocumented immigrants are admitted, do they pay in-state or out-of state tuition?

Undocumented students are eligible to pay in-state tuition in Illinois if:

- They attended an Illinois high school for at least 3 years as of the date of graduation from high school; or
- They attended school for at least 3 years as of the date they received the equivalent of a high school diploma.

⁹⁵ 110 Ill. Comp. Stat. §§205/10, 205/9.07 (2008).

⁹⁶ See e.g. 11- Ill. Comp. Stat. §305/8 (Admission standards for the University of Illinois; 110 Ill. Comp. Stat. §520/8e (Admission standards for Southern Illinois University); 110 Ill. Comp. Stat. §675/20-85 (Admission standards for the Illinois State University).

⁹⁷ 110 Ill. Comp. Stat. §805/3-17 (2008).

Under this provision, the undocumented applicant must also confirm via affidavit that he or she has filed an application to legalize his or her immigration status, or that he or she will file such an application when eligible to do so.⁹⁸

Are undocumented students defined? If so, how?

The statute refers to an individual “who is not a citizen or a permanent resident of the United States” to identify those students who are required to file an affidavit in order to be eligible to receive in-state tuition.⁹⁹

In order for undocumented immigrants to qualify, what additional criteria or conditions must be satisfied? What disclosure and documentation must they provide?

As noted above, individuals who are not citizens or permanent residents of the United States are required to file an affidavit in order to be eligible to receive in-state tuition.

What pending legislation, judicial proceedings, or Attorney General opinions, if any, exist with regard to the admission of undocumented students?

House Bill 4142 was introduced in the Illinois legislature on February 27, 2009. The bill would stipulate that an individual who is not lawfully present in the U.S. is not eligible for any postsecondary education benefit, including in-state tuition. The bill is currently pending in the Illinois Rules Committee.¹⁰⁰

What are the verification processes to determine who is “lawfully present”? What are the estimated costs of that process?

Six of the 9 Illinois colleges that responded to the survey reported that they routinely ask about citizenship on their admissions applications, but do not verify the information. Other response rates were too low to report¹⁰¹.

If verification is not completed, what are the student sanctions, and who administers them?

The survey results and the research did not identify specific statutes or regulations that impose sanctions upon a student due to failure to complete a verification of the student’s status.

⁹⁸ Illinois adopted Public Act 093-0738, which incorporated this provision into the authorizing acts for each of the Illinois public colleges and universities. 110 Ill. Comp. Stat. §305/7e-5; 110 Ill. Comp. Stat. §520/8d-5; 110 Ill. Comp. Stat. §660/5-88; 110 Ill. Comp. Stat. §665/10-88; 110 Ill. Comp. Stat. §670/15-88; 110 Ill. Comp. Stat. §675/20-88; 110 Ill. Comp. Stat. §680/25-88; 110 Ill. Comp. Stat. §685/30-88; 110 Ill. Comp. Stat. §690/35-88; 110 Ill. Comp. Stat. §805/6-4a. See Appendix IL-67, p. IL-67 for form.

⁹⁹ Id.

¹⁰⁰ This resolution was not included in the Appendix.

¹⁰¹ Appendix D.

If verification of a student's status as an undocumented student is not completed, are there specific sanctions imposed upon the college?

Our research did not identify specific sanctions that could be imposed upon the public colleges and universities relating to failure to verify a student's status. In general, the Illinois Board of Higher Education oversees the operation of the universities and colleges. The community colleges are monitored by the Illinois Community College Board. If the Board concludes that a community college district is not in compliance with standards, sanctions can be imposed on the district, including an interruption of state funding.¹⁰²

What reporting requirements exist?

The survey results and the research did not identify any reporting requirements specific to admission of, or in-state tuition status for, undocumented students. Community colleges are required to report head-count enrollments to the State board by a specified deadline after the completion of each term.¹⁰³ In addition, community colleges complete an annual audit on their compliance with state requirements, including a schedule of enrollment data, a verification of enrollment data, and a description of the process for verifying residency status.¹⁰⁴ Public universities participate in an annual enrollment survey as well.¹⁰⁵ The regulations reviewed did not indicate whether an undocumented student's status is to be reported separately for purposes of the enrollment report.

¹⁰² 23 Ill. Admin. Code §1501.114 (2008).

¹⁰³ 23 Ill. Admin. Code §1501.406.

¹⁰⁴ 23 Ill. Admin. Code §1501.503(a)(2). (2008).

¹⁰⁵ See IBHE Operating and Degree Granting Authority Manual, p. 34.

NEW MEXICO

State Agencies:

New Mexico Higher Education Department: The New Mexico Higher Education Department regulates and oversees all postsecondary institutions, including two-year and four-year institutions. Two-year institutions include private and state-funded community colleges and schools offering certificate and Associate Degrees. Four-year institutions include those offering baccalaureate and graduate degrees.

Is there a policy to admit or not to admit undocumented immigrants into curriculum programs at public colleges?

Yes. Undocumented students may be admitted to New Mexico public institutions of higher education. New Mexico law prohibits any public postsecondary educational institution from denying “admission to a student on account of the student’s immigration status.”¹⁰⁶

If undocumented immigrants are admitted, do they pay in-state or out-of state tuition?

Undocumented students are eligible to receive in-state tuition if the student:

- Has attended a secondary school in New Mexico for at least one year; and
- Graduated from a New Mexico high school or received a New Mexico general equivalency degree (GED).¹⁰⁷

Are undocumented students defined? If so, how?

No, the New Mexico statute does not explicitly define the category of undocumented students. The statute simply provides that students may be admitted and receive in-state tuition regardless of the student’s “immigration status.”¹⁰⁸

In order for undocumented immigrants to qualify, what additional criteria or conditions must be satisfied? What disclosure and documentation must they provide?

An undocumented student must provide evidence that he or she has attended a state high school for one or more years, and has graduated from a New Mexico high school or holds a New

¹⁰⁶ N.M. Stat. Ann. §21-1-4.6 (2008).

¹⁰⁷ N.M. Stat. Ann. §21-1-4.6(B) (2008).

¹⁰⁸ Id.

Mexico GED. The regulations provide that acceptable evidence to establish New Mexico residency for tuition purposes may include, for example:¹⁰⁹

- A New Mexico high school transcript issued in the past year confirming attendance at a New Mexico public or private high school within the past twelve months; or
- A transcript from an online high school showing a New Mexico address and confirming attendance within the past twelve months.¹¹⁰

What pending legislation, judicial proceedings, or Attorney General opinions, if any, exist with regard to the admission of undocumented students?

None identified.

What are the verification processes to determine who is “lawfully present”? What are the estimated costs of that process?

The survey response was limited, and those who responded did not provide cost estimates. Other than the brochure (Appendix NM-20) and form, we did not receive sufficient information to estimate costs¹¹¹.

If verification is not completed, what are the student sanctions, and who administers them?

New Mexico guidance states that it is the student’s responsibility to petition for the appropriate tuition status. However, if the student does not petition for a change of resident status and continues to pay non-resident tuition, he/she waives any right to recover the difference.¹¹²

If verification of a student’s status as an undocumented student is not completed, are there specific sanctions imposed on the college?

Our research did not identify specific state sanctions in the New Mexico statutes and regulations that would be imposed on a college for failure to abide by the admission or tuition requirements. However, New Mexico regulations do require the New Mexico Higher Education Department to conduct audits to ascertain compliance with the residency determination policy. The Department is required to conduct a random audit of each postsecondary institution’s residency decisions on an annual basis.¹¹³ The reports on the verification audits are made annually to the New Mexico Department of Finance and Administration and the Legislative Finance Committee. The

¹⁰⁹ Other forms of acceptable evidence of residency are also listed in N.M. Admin. Code tit. 5 §7.18.9 (2008). We listed the two items above as the documentation relevant to high school attendance. See Appendix, p. NM-21 for form.

¹¹⁰ N.M. Admin. Code tit. 5 §7.18.9(D) (2008).

¹¹¹ Appendix D.

¹¹² See brochure titled “Establishing New Mexico Residency or Eligibility for Reduced Tuition Rates or In-State Tuition.”

¹¹³ N.M. Admin. Code tit 5 §7.18.12(a)(4) (2008).

Department is also required to consider the verification findings in making annual recommendations in connection with higher education funding.¹¹⁴

What reporting requirements exist?

The survey results and the research did not identify specific reporting obligations in New Mexico law or regulations regarding an undocumented student's status. In general, all public postsecondary institutions are required to provide fall and spring semester enrollment reporting, including reporting numbers of in-state and out-of-state students.¹¹⁵ However, the regulations do not contain a specific obligation to identify numbers of undocumented students in the enrollment census.

¹¹⁴ N.M. Stat. Ann. §21-1-26.3 (2008).

¹¹⁵ N.M. Admin. Code tit 5 §6.2.8 (2008).

NEW YORK

State Agencies:

New York Board of Regents: The Regents are responsible for the general supervision of all educational activities within the State, presiding over the University of the State of New York and the New York State Education Department. The University of the State of New York is a broad term encompassing all the institutions, both public and private, offering education in the State.

Is there a policy to admit or not to admit undocumented immigrants into curriculum programs at public colleges?

Yes. Undocumented students may be admitted to public institutions of higher education in New York.

If undocumented immigrants are admitted, do they pay in-state or out-of state tuition?

New York law provides that a student may receive in-state tuition if:¹¹⁶

- The student attended an approved New York high school for two or more years and graduated from the high school, or attended an approved New York GED program and received a GED;
- The student applied for attendance at a public educational unit within the University of New York within five years of graduating from high school or receiving a GED.

Under this provision, an undocumented student must also file an affidavit stating that the student has filed an application to legalize his or her immigration status, or will file such an application when he or she is eligible to do so.¹¹⁷

Are undocumented students defined? If so, how?

The statute refers to “student[s] without lawful immigration status” as those students who are required to file an affidavit in order to be eligible to receive in-state tuition.¹¹⁸

¹¹⁶ Note: this statutory provision does not apply to residents of New York and aliens with a lawful immigrant status (known as “non-immigrant aliens”). A non-immigrant alien, as the term is defined in 8 U.S.C. §1101(a)(15), essentially is an alien with a lawful immigration status.

¹¹⁷ N.Y. Educ. Law §355(2)(h)(8) (2008).

¹¹⁸ Id.

In order for undocumented immigrants to qualify, what additional criteria or conditions must be satisfied? What disclosure and documentation must they provide?

As described above, the undocumented student must file the requisite affidavit.¹¹⁹

What pending legislation, judicial proceedings, or Attorney General opinions, if any, exist with regard to the admission of undocumented students?

There are two bills currently pending in the New York legislature that address undocumented student issues. There is also a pending complaint filed by the Washington Legal Foundation with the Department of Homeland Security, as outlined below:

- A bill, A05234, was introduced in the New York State Assembly on February 11, 2009. The proposed legislation would permit undocumented immigrants to be eligible for state financial aid if the student is authorized by the institution to pay in-state tuition under current law. The bill has been referred to the Committee on Higher Education for consideration, but no further action has taken place.

A second bill, A03991, was introduced in the New York State Senate on January 29, 2009. The proposed legislation would repeal New York's current standards, prohibit institutions from admitting illegal aliens, and require postsecondary institutions to verify the immigration status of each person enrolled in the institution. The bill was referred to the Committee on Higher Education on January 29, 2009.
- On September 7, 2005, the Washington Legal Foundation filed a formal complaint with the Department of Homeland Security (DHS) against New York, charging that New York is violating the civil rights of U.S. citizens who live outside the State. The Washington Legal Foundation charged that New York is violating federal law by offering in-state college tuition rates to illegal aliens who live in New York, while denying those same rates to U.S. citizens who do not reside in the state. The Washington Legal Foundation called on DHS to bring enforcement action against New York, including ordering New York to refund excessive tuition charges. No action has been taken regarding this complaint.¹²⁰

What are the verification processes to determine who is "lawfully present"? What are the estimated costs of that process?

New York colleges report that they routinely ask about citizenship and residency on admissions applications, and that when they verify the information, it is for in-state tuition and financial aid purposes, in the Admissions or Student Accounts office. The schools averaged 2.9 full time staff to perform verification, while the task as it relates to undocumented students took less than 20

¹¹⁹ See Appendix, NY-53.

¹²⁰ Information regarding this complaint is available at the Washington Legal Foundation website at <http://www.wlf.org/Litigating/casedetail.asp?detail=371>.

percent of the staff time, at an average cost of less than 20 percent of \$17,000. They split between student self-reporting and document submission, such as passports.

If verification is not completed, what are the student sanctions, and who administers them?

From the survey results, it appears that students who do not complete the process are charged a higher tuition.

If verification of a student's status as an undocumented student is not completed, are there specific sanctions imposed upon the college?

Our research did not identify specific sanctions that may be imposed upon an institution for failure to abide by the New York requirements relating to admission and to awarding in-state tuition. In New York, the colleges and universities are generally subject to oversight from the New York State Education Department (NYSED). New York law provides that the NYSED Commission is required to “enforce all general and special laws relating to the educational system of the state and execute all educational policies determined upon by the board of regents.”¹²¹ NYSED is also authorized to “examine or inspect” any school or institution to ensure that the institution is compliant with applicable laws.

What reporting requirements exist?

The New York State Education Department's Office of Research and Information Systems collects data from all postsecondary institutions regarding enrollment and state of residence of new students. However, we did not identify any reporting obligations or requirements specific to the admission of undocumented students.

¹²¹ N.Y. Educ. Law §305(1) (2008).

SOUTH CAROLINA

State Agencies:

South Carolina Commission on Higher Education: This Commission serves as the coordinating board for South Carolina's 33 public institutions of higher learning.

South Carolina State Board for Technical & Comprehensive Evaluation: This Board operates the South Carolina Technical College System, a statewide system which includes 16 technical colleges.

Is there a policy to admit or not to admit undocumented immigrants into curriculum programs at public colleges?

Yes. Undocumented students may not be admitted to South Carolina institutions of higher education. South Carolina is the only state of those surveyed to adopt a law which provides that "an alien unlawfully present in the United States is not eligible to attend a public institution of higher learning in this State."¹²²

If undocumented immigrants are admitted, do they pay in-state or out-of state tuition?

Undocumented students are not eligible for in-state tuition.

- South Carolina law provides that "an alien unlawfully in the United States is not eligible on the basis of residence for a public higher education benefit including, but not limited to, scholarships, financial aid, grants, or resident tuition."¹²³
- Non-resident aliens, non-citizens, and non-permanent residents with lawful status pay the out-of-state tuition rate.¹²⁴

Are undocumented students defined? If so, how?

The statute refers to an undocumented student as "an alien unlawfully present in the United States."¹²⁵

In order for undocumented immigrants to qualify, what additional criteria or conditions must be satisfied? What disclosure and documentation must they provide?

South Carolina's statute requires that institutions of higher education must verify an alien's immigration status with the federal government pursuant to 8 U.S.C. §1373(C), a provision of

¹²² S.C. Code Ann. §59-101-430(A) (2008).

¹²³ S.C. Code Ann. §59-101-430(B) (2008).

¹²⁴ S.C. Code Ann. Regs. §62-604 (2008).

¹²⁵ S.C. Code Ann. §59-101-430 (2008).

the Illegal Immigration Reform and Immigration Responsibility Act of 1996, and must not rely on local verification processes. The federal law requires the Department of Homeland Security to respond to any inquiry “by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency” for any lawful purpose.¹²⁶ To implement this provision, the Department of Homeland Security developed the SAVE program described in the introductory section.

What pending legislation, judicial proceedings, or Attorney General opinions, if any, exist with regard to the admission of undocumented students?

None identified.

What are the verification processes to determine who is “lawfully present”? What are the estimated costs of that process?

As described above, an alien’s immigration status must be verified using the SAVE system. The South Carolina statute prohibits institutional personnel from acting to “independently verify the immigration status of any alien.”¹²⁷ The SAVE system charges a minimum of \$25 per month, and up to \$1.00 per transaction.

As required by law, South Carolina colleges collect information about citizenship and residency status on the admission application and verify all non-citizen applicants for determination of admission, tuition, and student aid through the SAVE system, which requires information from a birth certificate or passport. The task may be accomplished in the Admissions or Registrar’s office, and typically uses 1.4 full time staff, which the colleges report as inadequate to the task.

If verification is not completed, what are the student sanctions, and who administers them?

Under South Carolina law, each state institution is required to designate an official to administer its tuition & residency determination process.¹²⁸ The South Carolina statute provides that where it appears “to the satisfaction of the officials” that an individual has “gained domiciliary status improperly or by making or presenting willful misrepresentations of fact, such persons shall be charged tuition and fees past due and unpaid at the out-of-state rate, plus interest at a rate of 8% per annum, plus a penalty amounting to 25% of the out-of-state rate for one semester; and until these charges have been paid no such student shall be allowed to receive transcripts or graduate from any State institution.”¹²⁹

If verification of a student’s status as an undocumented student is not completed, are there specific sanctions imposed on the college?

¹²⁶ 8 U.S.C. § 1373(c) (2008).

¹²⁷ S.C. Code Ann. §59-101-430(A) (2008).

¹²⁸ S.C. Code Ann. §59-112-80 (2008).

¹²⁹ S.C. Code Ann. §59-112-90 (2008).

Our research did not identify specific statutory or regulatory provision sanctioning colleges for failure to abide by the prohibition against the admission of undocumented students to South Carolina institutions. Institutions of higher education are required to complete an annual audit and quality review process.¹³⁰

What reporting requirements exist?

Our research did not identify any reporting obligations or requirements specifically addressing the admission of undocumented students. Each public institution of higher education is required to annually report the number of out-of-state undergraduate students in attendance, no later than September 15 of each year.¹³¹

¹³⁰ S.C. Code Ann. §59-101-660 (2008).

¹³¹ S.C. Code Ann. §59-101-420 (2008).

TEXAS

State Agencies:

Texas Higher Education Coordinating Board: The Board provides leadership and coordination for the Texas higher education system. The Board oversees the certificate, baccalaureate, master's, and doctoral programs offered by Texas public universities and health-related institutions. The Board also oversees and coordinates the operation of local community and technical colleges.

Is there a policy to admit or not to admit undocumented immigrants into curriculum programs at public colleges?

Yes. Undocumented students may be admitted to Texas universities and public colleges.

- The admission standards for the public universities are not based on the student's immigration status. For the general academic universities, Texas has adopted admission standards for students based on a student's high school academic standing, the student's academic record, and other factors.¹³²
- Public community colleges in Texas have open admission policies.¹³³

If undocumented immigrants are admitted, do they pay in-state or out-of state tuition?

An undocumented student may qualify as a Texas resident and pay in-state tuition, if:

- The student graduated from a Texas high school or received a Texas GED;
- Maintained a residence in the state for three years prior to the date of the student's high school graduation;
- Maintained a residence in the state for one year prior to the census date for the academic term that the student will attend.¹³⁴

An undocumented student that meets these criteria must file an affidavit stating the person will apply to become a permanent resident as soon as the person becomes eligible to apply.¹³⁵

Are undocumented students defined? If so, how?

The Texas statute refers to persons that are "not a citizen or permanent resident of the United States" as those individuals required to file an affidavit in order to obtain in-state tuition.¹³⁶

¹³² Tex. Educ. Code Ann. §51.803, 51.804, 51.805 (2008).

¹³³ 19 Tex. Admin. Code §9.53 (2008).

¹³⁴ Tex. Educ. Code Ann. §54.052, 54.053(3)(B) (2008).

¹³⁵ See Appendix, TX-65 for sample form.

In order for undocumented immigrants to qualify, what additional criteria or conditions must be satisfied? What disclosure and documentation must they provide?

The undocumented student must file an affidavit as described above.

What pending legislation, judicial proceedings, or Attorney General opinions, if any, exist with regard to the admission of undocumented students?

There are two bills in the 2009 legislative session related to undocumented students. There is also a pending complaint filed by the Washington Legal Foundation with the Department of Homeland Security.

- H.B. 255 would repeal Texas' current law allowing undocumented immigrants to attend and qualify for in-state tuition at postsecondary institutions. Under the proposed bill, no institution of higher education could admit an applicant unless the applicant submits documentation verifying the applicant is authorized by law to be present in the United States.
- H.B. 266 would require that all students' immigration status be verified before receiving any public benefits, including educational benefits. The bill would grandfather undocumented students admitted to an institution of higher education prior to the 2009-2010 academic year under the current standards. Both bills have been referred to committees in the Texas Legislature.
- On August 9, 2005, the Washington Legal Foundation filed a formal complaint with the Department of Homeland Security (DHS) against Texas, charging that Texas is violating the civil rights of U.S. citizens who live outside the State. WLF charged that Texas is violating federal law by offering in-state college tuition rates to illegal aliens who live in Texas, while denying those same rates to U.S. citizens who are not Texas residents. WLF called on DHS to bring appropriate enforcement action against Texas, including ordering Texas to refund excessive tuition charges. To date, no further action has been taken by the Department of Homeland Security.¹³⁷

What are the verification processes to determine who is "lawfully present"? What are the estimated costs of that process?

Texas colleges report that they routinely collect information about applicants' citizenship and residency status on the admission application, and verify that information for tuition and financial aid purposes through self-reporting and/or the submission of evidence such as a birth certificate or a passport to the Admissions or Registrar's offices¹³⁸. They report an average full time staff of 6.9, at a cost of \$27,000, who spend less than 20 percent of their time on undocumented students, which they report is adequate

¹³⁶ Tex. Educ. Code Ann. §54.053(3)(B) (2008).

¹³⁷ Information regarding this complaint is available at the Washington Legal Foundation website at www.wlf.org.

¹³⁸ Appendix D.

A 2005 report by the Texas comptroller estimated that after the passage of Section 54.52(j), the enrollment of students receiving in-state rates increased almost 10 times, from a total of 393 to 3792 statewide, more than 75% of whom attended community colleges. However, not all of these students were undocumented¹³⁹.

If verification is not completed, what are the student sanctions, and who administers them?

Texas law, supported by survey results, provides that if an individual is erroneously classified as a Texas resident, the institution of higher education must charge the student out-of-state tuition beginning with the first academic term after the institution discovers the error.¹⁴⁰

If a person fails to provide requested information, or provides false information about his or her residency status, the person will then be required to pay the difference between the in-state and out-of-state tuition for each academic term for which the person had paid in-state tuition.¹⁴¹ The individual must pay the amount owed within 30 days of receiving notice from the institution of higher education. The institution of higher education can withhold the student's certificate or diploma or transcript if the liability is not paid.

If verification of a student's status as an undocumented student is not completed, are there specific sanctions imposed on the college?

Our research did not identify specific sanctions that may be imposed on an institution for failure to abide by the Texas requirements relating to admission and to awarding in-state tuition. In general, the Texas Higher Education Coordinating Board is required to monitor and coordinate the activities of component institutions and evaluate the performance of the institutions.¹⁴² The Board is also required to report if any institution of higher education fails to comply with its rules and regulations.¹⁴³

What reporting requirements exist?

Schools are required to provide enrollment reports to the Texas Higher Education Coordinating Board.¹⁴⁴ However, the statute and regulations do not specify that the institution must break out the number of undocumented students in these reports, but according to the survey, the colleges do report information concerning the number of undocumented students as part of the enrollment reports¹⁴⁵.

¹³⁹ Strayhorn. C.K. Special Report: Undocumented Immigrants in Texas, Dec 2006, p. 5

¹⁴⁰ Tex. Educ. Code Ann. §54.056 (2008).

¹⁴¹ Tex. Educ. Code Ann. §54.057 (2008).

¹⁴² Tex. Educ. Code Ann. §51.353 (2008).

¹⁴³ Tex. Educ. Code Ann. §51.045 (2008).

¹⁴⁴ Tex. Educ. Code Ann. §51.403 (2008); Tex. Educ. Code Ann. §130.0036 (2008).

¹⁴⁵ Appendix D.

VIRGINIA

State Agencies:

State Council for Higher Education for Virginia: The State Council of Higher Education for Virginia (SCHEV) is the Commonwealth's coordinating body for higher education. SCHEV makes higher education public policy recommendations to the Governor and General Assembly in such areas as capital and operating budget planning, enrollment projections, institutional technology needs, and student financial aid.

Virginia State Board for Community Colleges: This Board administers the Virginia Community College System.

Is there a policy to admit or not to admit undocumented immigrants into curriculum programs at public colleges?

Yes. Virginia law provides that the board of visitors or other governing body of each institution is authorized to establish rules and regulations for the acceptance and assistance of students.¹⁴⁶ The statute does not include specific admission requirements relating to the citizenship or immigration status of prospective students. However, the Virginia Attorney General issued an opinion in 2002 recommending that institutions “prohibit the enrollment of undocumented aliens, illegal aliens and those without proper visas.”¹⁴⁷ According to news reports, a SCHEV poll in early 2008 revealed that four of the fifteen Virginia colleges and universities admit undocumented students.¹⁴⁸ Some community colleges also accept undocumented students, but will charge those students out-of-state tuition.¹⁴⁹

If undocumented immigrants are admitted, do they pay in-state or out-of state tuition?

Undocumented students are not eligible for in-state tuition.¹⁵⁰

Are undocumented students defined? If so, how?

Virginia regulations refer to undocumented students as “students unable to present valid, current INS documentation of their alien status.”¹⁵¹

¹⁴⁶ Va. Code Ann. §23-9.2:3 (2008); Va. Code Ann. §23-9.6:1 (2008).

¹⁴⁷ Immigration Law Compliance Update, prepared by Alison P. Landry, Assistant Attorney General, dated September 5, 2002.

¹⁴⁸ “ODE defends its policy on undocumented students,” by Julian Walker and Matthew Bowers, Virginia Pilot, January 18, 2008.

¹⁴⁹ See Northern Virginia Community College Administrative Counsel meeting minutes, September 8, 2003. See 2008-2009 NVCC Catalog referencing undocumented students not eligible for in-state tuition.

¹⁵⁰ 8 VAC 40-120-110(I) (2008).

¹⁵¹ 8 VAC 40-120-110(I) (2008).

In order for undocumented immigrants to qualify, what additional criteria or conditions must be satisfied? What disclosure and documentation must they provide?

Any additional requirements imposed on undocumented immigrants to qualify for admission are the decision of the individual institutions of higher education, and were not reviewed in this survey. As noted above, undocumented immigrants are not eligible for in-state tuition.

What pending legislation, judicial proceedings, or Attorney General opinions, if any, exist with regard to the admission of undocumented students?

One bill, S.B. 1037, was introduced in the current session of the Virginia legislature. The proposed legislation would permit an undocumented student to receive in-state tuition if the applicant:

- 1) Resides with parent, guardian or other person standing as *loco in parentis* while attending a high school in the state;
- 2) Graduated or received a GED from a school in the state;
- 3) Lived in the state for 3 years as of the date of graduation from high school, or 1 year if a veteran or active duty military;
- 4) Has registered as a student entering a postsecondary institution;
- 5) Provides an affidavit indicating the student has filed an application to become a permanent resident, or will do so as soon as he/she is eligible; and
- 6) Submitted evidence that he/she or parent/guardian has paid VA tax returns for 3 years prior to entrance into higher education institution.

S.B. 1037 passed the Virginia Senate on January 26, 2009 and is currently referred to the Virginia House Subcommittee on Education.

What are the verification processes to determine who is “lawfully present”? What are the estimated costs of that process?

Aliens or immigrants with a lawful immigration status are required to present valid, current INS documentation of their status to establish eligibility for in-state tuition.¹⁵² All Virginia colleges report asking for citizenship and residency status at the time of the student’s application for admission, which is typically handled by the Admissions Office, at a cost of \$18,000 for 1.7 staff, while the task for undocumented students takes less than 20 percent of their time¹⁵³.

If verification is not completed, what are the student sanctions, and who administers them?

Virginia law provides that it is the student’s responsibility to register under the proper domicile classification for purposes of determining eligibility for in-state tuition.¹⁵⁴ Failure to provide

¹⁵² 8 VAC 40-120-110 (2008).

¹⁵³ Appendix D.

¹⁵⁴ 8 VAC 40-120-140 (2008).

information can result in a student's reclassification. The law further states that a student who knowingly provides erroneous information to evade payment of out-of-state fees shall be charged out-of-state tuition fees for each term attended and may be subject to dismissal from the institution.¹⁵⁵ In the absence of fraud or knowingly providing false information, the student is not responsible for paying the out-of-state tuition differential for terms completed prior to the change in the student's residence status.¹⁵⁶

If verification of a student's status as an undocumented student is not completed, are there specific sanctions imposed on the college?

Our research did not identify any specific sanctions that would be imposed upon an institution for failure to abide by standards relating to undocumented students. Virginia institutions are generally required to abide by all SCHEV rules and regulations.¹⁵⁷ Colleges and universities, as well as community colleges, are also measured by their performance on specific performance benchmarks and are required to complete an annual assessment of institutional compliance which may examine the college's admissions and tuition decisions.

What reporting requirements exist?

Our research did not identify data reporting requirements related to the citizenship of the students. Virginia law authorizes SCHEV to develop a comprehensive information database. Public and not-for-profit private institutions are required to submit data to SCHEV, including data on admissions, degrees conferred, courses, enrollments, financial aid, and any other information requested by SCHEV. The enrollment reports provide information on numbers of in-state and out-of-state students, as well as data on the domicile of new undergraduates.¹⁵⁸

¹⁵⁵ Va. Code Ann. §23-7.4(D) (2008); 8 VAC 40-120-130 (2008).

¹⁵⁶ 8 VAC 40-120-120(C)(2) (2008).

¹⁵⁷ Va. Code Ann. §23-9.6:1 (2008).

¹⁵⁸ Va. Code Ann. § 23-9.6:1 (9) (2008). Student data are available at SCHEV's website at: <http://research.schev.edu/topicpages.asp>.

Chapter 5: Discussion of Key Policy Issues

Core Issues: Admission and In-State Tuition

Two fundamental questions are at the heart of the dilemma faced by NCCCS and other state systems with respect to undocumented students. The first question is whether to admit such students to state colleges and universities. The second is whether to charge them in-state tuition or out-of-state tuition.

Admission of undocumented students is not regulated by federal law. According to the Department of Homeland Security's July 9, 2008 letter to the North Carolina Attorney General, each state may decide whether to admit undocumented students to public post-secondary institutions.¹⁵⁹

Currently, North Carolina state regulations require the NCCCS system to “maintain an open-door admission policy to all applicants who are high school graduates or who are at least 18 years of age.”¹⁶⁰ As noted in the summary of events included in Chapter One of this report, NCCCS has taken several different policy positions with respect to the admission of undocumented students during the past nine years.

Under current NCCCS policy, undocumented students may be admitted to community colleges in North Carolina only if they fit into one of three narrow categories, as follows:

- (1) High school students enrolled in college level courses consistent with the concurrent enrollment policy and the cooperative program agreement;
- (2) Students enrolled in non-college level courses or programs, such as GED programs;
or
- (3) Students able to produce documentation demonstrating that they are considered to be a “qualified alien” as defined under federal law, 8 U.S.C. §1641.¹⁶¹

Federal law mandates that states may not offer postsecondary education benefits, on the basis of residence, to undocumented immigrants, unless the same benefit is available to U.S. citizens regardless of residence.¹⁶² This law has been widely interpreted to signify that in-state tuition may be made available to undocumented students only where such benefit is provided to all American citizens without regard to whether or not they are state residents. That said, ten states have created legislative exemptions and redefinitions to allow in-state tuition for their state high school graduates, including 5 in this study. Under North Carolina law, undocumented students are generally not eligible to pay in-state tuition for attendance at community colleges. Only

¹⁵⁹ See Appendix A: Task 3.1 Compendium/Timeline Appendix, p. 161.

¹⁶⁰ N.C. Gen. Stat. §115D-5.; 23 NCAC 02C.0301(a). The statute authorizes the State Board of Community Colleges to establish and administer standards for admissions and graduation.

¹⁶¹ See Appendix A: Task 3.1 Compendium/Timeline Appendix, August 15, 2008 Board decision, p. 213.

¹⁶² 8 U.S.C. §1623(a) (2008).

certain non-citizen aliens who are “lawfully admitted” to the United States and satisfy other residence requirements are eligible to receive in-state tuition.¹⁶³

Nationally, individual states have made diverse choices on whether to admit undocumented students to state colleges and universities and, if so, on whether to charge them in-state or out-of-state tuition. As was detailed in Chapter Four of this report, the state survey research determined that the eleven states surveyed fell into three general categories.

Type 1: **Access/Low-cost** – where undocumented students can enroll in community college and pay in-state tuition if they meet requirements related to high-school attendance in the state and additional documentation requirements;

Type 2: **Access/High-cost** – where undocumented students can enroll, but pay out-of-state tuition; and

Type 3: **No access** – where undocumented students cannot enroll.

The state policy research also revealed that colleges in the eleven states employ a variety of methods to verify a student’s citizenship status for admission or tuition purposes. These verification methods include: student self-certification, local document review, and use of the national Systematic Alien Verification of Entitlement (“SAVE”) system. Characteristics of the three models and verification methods used are presented in Chapter Four.

This chapter identifies key policy considerations associated with the three policy categories identified in the state research. Such considerations pertain to verification options and processes, as well as other significant aspects attributable to each particular category and option.

1. Cross-State Findings and Key Policy Considerations for NCCCS

Note at the outset that any policy option or verification methodology considered or adopted by NCCCS may be impacted by the North Carolina legislature or by changes in federal immigration law. For example, two bills are currently pending in the North Carolina legislature which, if enacted, would impact any NCCCS policy with respect to the admission of undocumented students.¹⁶⁴

Below is a summary of key policy considerations that impact each of the three policy categories that were revealed by the state survey.

¹⁶³ Under N.C. Gen. Stat. §115D-39, only certain non-citizen aliens who are “lawfully admitted” to the United States and satisfy other residence requirements are eligible to receive in-state tuition.

¹⁶⁴ Senate Bill 155, titled “an Act to Prohibit Illegal Aliens From Attending North Carolina Community Colleges” was introduced to the Senate on February 11, 2009. House Bill 362, titled “An Act to Prevent the Board of Governors of the University of North Carolina and the State Board of Community Colleges From Soliciting Information Regarding the Immigration Status of Prospective Students” was introduced on March 3, 2009.

Type 1: Access/Low-Cost: California, Illinois, New Mexico, New York, and Texas

The first category, labeled “access/low-cost,” is reflective of the policies adopted in the five surveyed states that permit undocumented students to be admitted and to pay in-state tuition. As was detailed in Chapter Four, these states have implemented criteria other than residency to permit students to become eligible for in-state tuition as a means of establishing compliance with current federal law.

Under this approach, in-state tuition is available to those undocumented students who attended an in-state high school for a designated period of time, and/or graduated from an in-state high school. States in this category typically require undocumented students to submit documentation demonstrating that the student satisfies the high-school attendance requirement, and a self-certification, such as an affidavit, certifying that the undocumented student will take steps to legalize the student’s immigration status.

Key policy considerations impacting the Type 1 access/low cost approach include the following:

The verification process followed by states in this category is relatively streamlined. Most college systems, including NCCCS, request information regarding a student’s citizenship status on the application for admission. Typically, verification of the student’s citizenship for Type 1 states is conducted via self-certification, and the student’s eligibility for in-state tuition is completed by a local review of the student’s high school transcript. Should NCCCS adopt this approach, it could elect to use self-certification, local review, or some combination of the two verification methods.

For NCCCS to adopt this policy option would entail revisions to current North Carolina law, which limits in-state tuition to U.S. citizens and certain non-citizens who have been lawfully admitted to the United States.¹⁶⁵ Legislative changes to in-state tuition standards (but not to the admission standards) would be required to establish non-residency based qualifications for in-state tuition, such as attendance at and graduation from a North Carolina high school.

The access/low cost model also entails some risk of litigation. States in this category, including California, New York, and Texas, have faced complaints and challenges to their practice of admitting undocumented students and providing them in-state tuition. If the California Supreme Court rules against the University of California and the California Community Colleges in the

¹⁶⁵ See N.C. Gen. Stat. §115D-39.

pending *Martinez* case,¹⁶⁶ California public colleges and universities could be required to alter the system that is currently in place.

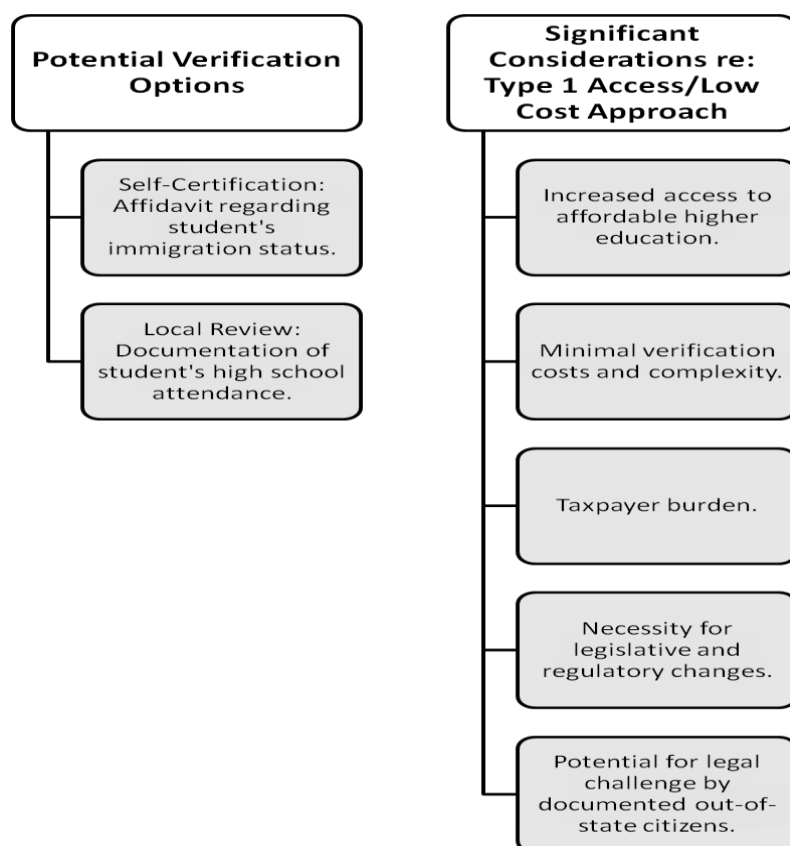
Implementing the access/low cost approach could financially affect the NCCCS system, although the full impact of the approach cannot be accurately estimated, as it is dependent on several factors. Increased in-state tuition enrollments may increase system expenditures, whereas the cost of educating an undocumented student who is charged out-of-state tuition may be revenue-neutral or positive.

Implementation of this approach would increase access to higher education. In contrast to recent NCCCS experience with respect to enrollment of undocumented students at out-of-state tuition rates, it is reasonable to speculate that this low-cost option would increase the number of students in the NCCCS system. Research has shown that making higher education accessible and affordable ensures a more educated populace, which increases tax revenues and decreases the costs of social programs and spending on law enforcement. Moreover, barriers to further education may lead students to greater high school dropout rates.¹⁶⁷

¹⁶⁶ *Martinez, et al. v. Regents of the University of California et al.*, 166 Ca. App. 4th 1121 (2008) (granted review in the California Supreme Court, 198 P. 3d 1).

¹⁶⁷ Frum, J.L. (2006). Postsecondary Educational Access for Undocumented Students: Opportunities and Constraints. *American Academic*, 81-108.

Figure 5: Summary of Key Policy Issues for Type 1: Access/Low Cost Approach



Type 2: Access/High Cost: Arizona, Colorado, Florida, Georgia, and Virginia

The access/high-cost category is reflective of the five surveyed states that permit the admission of undocumented students, but do not allow undocumented students to be eligible for in-state tuition.¹⁶⁸ As was detailed in Chapter Four, these states generally require students to list citizenship information as part of the application process.

¹⁶⁸ Notably, individual colleges in Florida and Virginia have discretion under local rules to determine whether or not to admit undocumented students. Absent legislative changes, this option is likely not available to community colleges in the North Carolina system because current N.C.G.S. §115D-20(4) requires local colleges to apply the standards and requirements for admission adopted by the State Board. The North Carolina Attorney General has opined in prior legal opinions that local colleges may not therefore adopt admission criteria in addition to those adopted by the State Board. See May 9, 1997 Letter to Patricia A Montgomery V.P., Personnel & General Counsel, Wake Technical Community College, from Thomas Ziko, Special Deputy Attorney General and Sylvia Thibaut, Assistant Attorney General, North Carolina Department of Justice.

Colleges in these five states employ a range of verification methods to ascertain the student's citizenship or residency status. Verification processes utilized in the states include self-certification and local review of documents to ascertain the student's immigration status, and thereby determine whether the student is eligible for in-state tuition. One state in this category, Colorado, requires that agencies in the state use the SAVE system to verify the status of aliens applying for state benefits such as in-state tuition.¹⁶⁹

Key policy considerations impacting the Type 2 access/high cost approach include the following:

Under this approach, the need to determine student status for out-of-state tuition purposes may place more focus on the verification process. This policy option requires the college to categorize the prospective student as documented or undocumented. Based upon the three primary verification methods utilized by the survey states to implement such a policy approach --

- NCCCS could use self-certification or local document review of citizenship and/or immigration documents, such as passports or alien registration visas, to make this determination.
- Alternatively, NCCCS could use a national database such as SAVE to verify the legal status of non-U.S. citizens.

Increased verification burdens associated with the access/high cost approach could result in increased staffing and administrative costs, to the extent that more complex or stringent verification protocols are recommended and utilized.

Unlike the Type 1 access/low-cost model, transitioning to the Type 2 access/high-cost model would not require legislative changes.¹⁷⁰ Charging out-of-state tuition to undocumented students is consistent with current North Carolina law on tuition standards, and with the approach NCCCS and the UNC System have historically followed for those undocumented students admitted to state institutions.

The Type 2 access/high cost option also poses a diminished risk of litigation such as California is facing in the *Martinez* case. The Department of Homeland Security confirmed in its July 9, 2008 letter that admission decisions are not regulated by current federal law. Students would not be receiving the in-state tuition benefit that has been the catalyst for litigation such as the *Martinez* case.

¹⁶⁹ Colo. Rev. Stat. §24-76.5-103(2008).

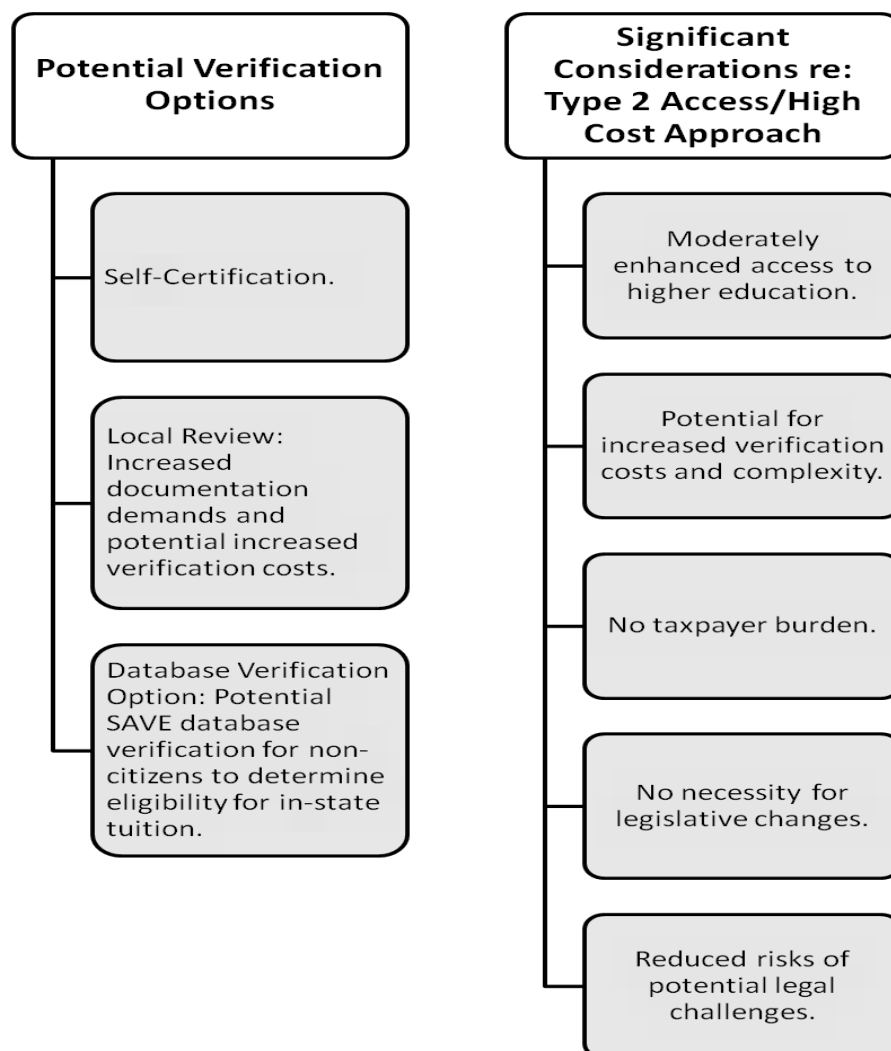
¹⁷⁰ Transitioning to the Type 2 option, rulemaking and/or policy clarification procedures may be warranted to clarify the NCCCS tuition and admission policies.

As was discussed in Chapter Three, students who enroll and pay out-of-state tuition are not a cost to NCCCS. Research indicates that charging out-of-state tuition rates to undocumented students generates revenue for the NCCCS system. Based on state and local appropriations revenue data from the U.S. Department of Education's Integrated Postsecondary Education Data System (IPEDS) for academic year 2006-2007, and year-round FTE enrollment data for academic year 2006-2007 from NCCCS, the estimated average amount of local and state appropriations across all 58 North Carolina community colleges was \$5,344 per full-time equivalent student (FTE). Out-of-state full-time tuition for 2006-2007 was \$7,024. Therefore, the public cost per full-time equivalent students is an estimated \$1,680 of revenue per FTE to NCCCS.

Based upon the most recent enrollment data on undocumented students, it is speculated that this policy approach would likely have a modest impact upon the volume of enrollment in the NCCCS system. NCCCS data indicate that 112 undocumented students enrolled in the community college system in 2007-2008.¹⁷¹

¹⁷¹ See Chapter 3.

Figure 6: Summary of Key Policy Issues for Type 2: Access/High Cost Approach



Type 3: No Access: South Carolina

Only one of the eleven states surveyed is in the no access category. As the result of legislation enacted in 2008, South Carolina denies undocumented students access to public higher education. South Carolina requires that the status of any alien that applies for a state benefit such as in-state tuition be verified through the national database SAVE program operated by the Department of Homeland Security. South Carolina specifically prohibits institutions from making an independent determination regarding an alien's immigration status using any method other than the SAVE system.

Key policy considerations impacting the Type 3 no access approach include the following:

Because South Carolina does not admit undocumented students, South Carolina institutions must employ a verification process to determine whether an applicant is “documented” for purposes of admission. The initial process is similar in scope and complexity to the verification processes utilized in Type 2 states to determine in-state tuition eligibility. However, the Type 3 category requires additional steps to verify the legal status of non-U.S. citizens. South Carolina mandates the use of the SAVE system to verify the immigration status of non-citizens. The use of the SAVE system does impose increased transaction costs of a minimum of \$25/month and up to \$1.00 per transaction.¹⁷²

Should NCCCS elect to adopt a Type 3 policy, a multi-level process of document collection and verification would be required. However, NCCCS could elect to employ any of the three primary verification methods to implement such a policy approach.

- For admission, the college could use self-certification (e.g., the student indicates on the admission application if he or she holds legal or non-legal status. If a student is not legal, colleges would not admit.
- If a more rigorous process is implemented, such as that employed in South Carolina, documentation of the student’s status would require a local document review of immigration documents or use of a national database such as SAVE to verify the legal status of non-U.S. citizens. Any student who does not clear that process would not be admitted.

Transitioning to the no access model would likely entail rulemaking proceedings, because current regulations applicable to NCCCS provide for an open-door admission policy. The current open-door regulation states that “each college shall maintain an open-door admission policy to all applicants who are high school graduates or who are at least 18 years of age.”¹⁷³

Implementing the Type 3 no access approach would not impact current NCCCS enrollment levels, because the existing interim policy already precludes the admission of undocumented students, except in very limited circumstances.

The no access option would eliminate increased public costs related to enrolling undocumented students at in-state tuition rates, to the extent that such costs may be occasioned by the admission of some undocumented students. While research has shown that making higher education

¹⁷² Appendix E.

¹⁷³ 23 NCAC 02C.0301(a)

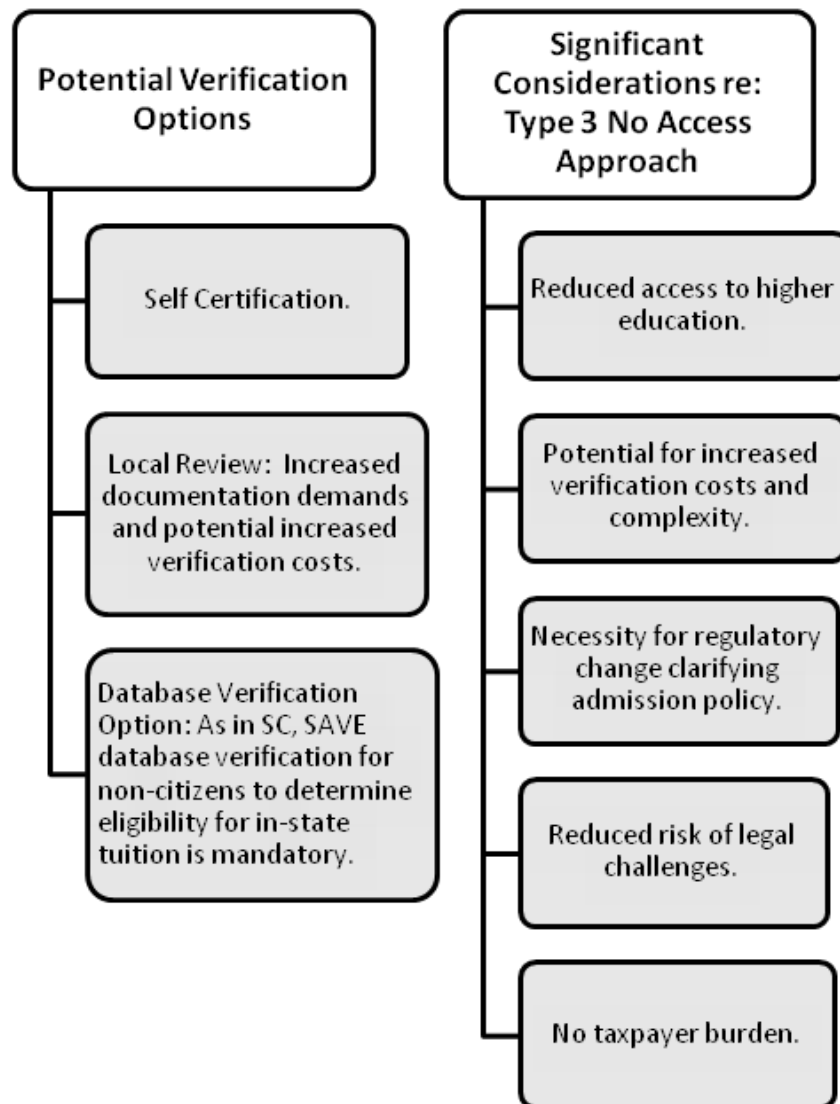
accessible and affordable ensures a more educated populace, which increases tax revenues and decreases the costs of social programs and spending on crime,¹⁷⁴ any examination of the societal and economic costs that may be attributable to restricted access is beyond the scope of this report.

Finally, any consideration of the Type 3 no access policy should clarify the exceptions made with respect to discrete categories of students, including, for example, currently enrolled high school students who attend community colleges, and those undocumented students that fall within the three categories that are eligible for admission under current policy.¹⁷⁵

¹⁷⁴ Frum, J.L. (2006). Postsecondary Educational Access for Undocumented Students: Opportunities and Constraints. *American Academic*, 81-108.

¹⁷⁵ N.C. Gen. Stat. § 115D-20(4).

Figure 7: Summary of Key Policy Issues for Type 3: No Access Approach



2. Definition of Undocumented Students:

Whatever policy choice is considered and adopted by the NCCCS State Board, consideration must be given to the definition of which students are considered to be “undocumented.” The state survey indicated that the majority of the surveyed states categorize an undocumented student as a non-U.S. citizen that does not hold a valid visa or other recognized immigration status authorizing the student to be lawfully present in the United States. The undocumented student definitions utilized by the eleven states fall into three general categories.

- The statutes or regulations from Arizona, California, and New York refer to undocumented students as students *without lawful immigration status*.¹⁷⁶
- Illinois and Texas statutes and regulations refer to undocumented students as students who are *not a citizen or a permanent resident of the United States* for the purpose of determining which students must execute an affidavit to demonstrate the student qualifies for in-state tuition.¹⁷⁷
- Colorado and Georgia do not have specific statutory or regulatory language applicable to undocumented students. However, each state requires that a non-citizen who applies for an in-state benefit, such as in-state tuition, must demonstrate that he or she is a *qualified alien or nonimmigrant under the federal Immigration and National Act and is lawfully present in the United States*.¹⁷⁸ The South Carolina statute also refers to undocumented students as those individuals who are “aliens unlawfully present in the United States.”¹⁷⁹

These definitions are generally consistent with the operational definition currently used by the NCCCS colleges. In the spring of 2008, NCCCS conducted a system-wide conference call and survey to examine how the NCCCS colleges used the student information system to identify undocumented students. Eight colleges responded to the survey, so the results are not necessarily representative of the system-wide processes. However, the survey did indicate that NCCCS colleges are consistent in their operational definition of “undocumented student.” Under that operational definition, a non-US citizen who has no visa or other valid immigration document is “undocumented.”¹⁸⁰

3. Other Issues to Consider

Another issue to consider under any policy proposal is clarification for dependent students who are U.S. citizens with undocumented parents. Some states in the survey have adopted specific standards authorizing in-state tuition for citizen students whose parents are undocumented. Colorado, for example, recently enacted a statute providing in-state tuition for U.S. citizens with undocumented parents.¹⁸¹ This is a nuanced issue that impacts dependent students, but one that could be addressed in a written policy providing guidance for citizen students who are dependent on undocumented parents and who may also be considered legal state residents.

Lastly, any policy proposal on whether to admit undocumented students and whether to charge them in-state or out-of-state tuition should not be divorced from the associated implementation

¹⁷⁶ Ariz. Rev. Stat. §15-1825 (2008); Cal. Educ. Code §68130.5 (2008); N.Y. Educ. Law §355(2)(h)(8) (2008).

¹⁷⁷ Illinois adopted Public Act 093-0738 which incorporated this provision into the authorizing acts for each of the Illinois public colleges and universities; Tex. Educ. Code Ann. §54.053(3)(B) (2008).

¹⁷⁸ Colo. Rev. Stat. §24-76.5-103(b) (2008); Ga. Code Ann. §50-36-1(d)(2).

¹⁷⁹ S.C. Code Ann. §59-101-430(B) (2008).

¹⁸⁰ See April 2, 2008 Memo to Fred Williams from J. Keith Brown, Assoc. VP Research and Performance Management regarding Data Analysis of 2006-2007 College Survey, Task 3.1 Compendium Appendix, p. 111.

¹⁸¹ Col. Rev. Stat. §23-7-110.

processes. The ensuing verification costs, such as the use of a national database or a protocol for local document review, may have a material impact upon the administrative burdens, staff time and training costs, technology and required support available, and local feasibility of any given policy. Because North Carolina's community colleges have a centrally-processed admission application, there may be opportunities to integrate the process of data collection and verification of citizenship status with other central data collection efforts. As the State Board considers the pros and cons of the various policy and implementation options, it would be beneficial to bring together an ad hoc group to supplement the policy committee of the board. That group would bring members of the community college family to the table. The college community's perspective should be included in developing the verification process that is ultimately recommended in association with any changed policy.

Appendices

Appendix A Note: The full appendix for Task 3.1 Timeline/Compendium is available electronically. Submit request to NCCCS.

Appendix B Note: Full appendix for each state in Task 3.4 State Policy Studies is available electronically. Submit request to NCCCS.

Appendix C AACRAO Survey

PDF export

Undocumented Students in the U.S.: Admission and Verification

The primary goal of this survey is to better understand the processes related to undocumented students that are used by U.S. postsecondary education institutions. To do so, some of the survey questions address the verification of residency for all students.

The survey will provide AACRAO members with U.S. national and state data on admissions and verification procedures. The data will be reported only in the aggregate; individual institutional data will be kept confidential.

Student Citizenship/Residence Status and Verification

*** 1: Does your institution seek information about applicants' citizenship/residence status on its admissions application?**

Please choose **only one** of the following:

- ☐ Yes
☐ No

*** 3: Do you verify the status of applicants claiming U.S. citizenship/legal residence?**

Please choose **all** that apply:

- ☐ Yes, we verify all such applicants.
☐ We verify applicants for financial aid.
☐ We verify applicants seeking in-state tuition (we are a public institution).
☐ No

Other:

*** 4: Is yours an open admission institution?**

Please choose **only one** of the following:

- ☐ Yes
☐ No

[Only answer this question if you answered 'No' to question '4 ']

5: If your institution is not open-admissions, at what stage do you verify students' citizenship/residence status?

Please choose **only one** of the following:

- ☐ Receipt of application
☐ Consideration for admission
☐ After determination that student is eligible for admission based on qualifications, in order to complete eligibility check
☐ When student is admitted, in order to determine whether tuition is at in-state or out-of-state rate
☐ We do not verify students' citizenship/residence status

[Only answer this question if you answered 'Yes' to question '4 ']

6: For open admissions institutions: at what stage do you verify students' citizenship/residence status?

Please choose **only one** of the following:

- ☐ Receipt of application, to complete eligibility check
☐ When student is admitted, in order to determine whether tuition is at in-state or out-of-state rate
☐ At time of registration

☐ We do not verify students' citizenship/residence status

Make a comment on your choice here:

[Only answer this question if you have NOT answered 'We do not verify students' citizenship/residence status' to question '6 ']

7: If you verify the student's status as marked on the application, how do you verify?

Please choose *all* that apply:

- ☐ We require submission of evidence, such as a birth certificate or passport
☐ Student self-report or relevant form(s) completed by student
☐ Local document check
☐ National verification system

Other:

[Only answer this question if you answered 'We require submission of evidence, such as a birth certificate or passport' to question '7 ']

8: What type of evidence do you require to verify the student's status as marked on the application?

Please choose *all* that apply:

- ☐ Birth certificate
☐ passport

Other:

[Only answer this question if you answered 'National verification system' to question '7 ']

9: If you use a national verification system, what system do you use?

Please choose *all* that apply:

- ☐ SAVE
☐ E-Verify

Other:

Undocumented Students

*** 10: Does your college KNOWINGLY admit undocumented students to degree or diploma programs under certain circumstances?**

Please choose *only one* of the following:

- ☐ Yes
☐ No

11: Is this a state policy or an institutional policy?

Please choose *all* that apply:

- ☐ State policy
☐ Institutional policy

Other:

[Only answer this question if you answered 'Yes' to question '10 ']

12: If you admit undocumented students to degree or diploma programs under certain circumstances, what are the requirements that those undocumented students must satisfy to be eligible for admission? Space is provided in case you would like to be more specific about any of the choices.

Please choose all that apply and provide a comment:

- ☐ Attendance at an in-state high school for a specified minimum amount of time
- ☐ Graduation from an in-state high school or GED
- ☐ Proof of length of residence
- ☐ Affidavit, statement, or certification of the student's intent to resolve his or her immigration status
- ☐ Other (please specify)

[Only answer this question if you answered 'Yes' to question '10 ']

13: What happens if applicants specifically seeking admission as undocumented students do not provide the required information?

Please choose all that apply and provide a comment:

- ☐ They are not permitted to enroll
- ☐ If already enrolled, they are asked to withdraw

- ☐ They are permitted to enroll without conditions
- ☐ They are permitted to enroll under certain conditions
- ☐ They are charged higher tuition
- ☐ Other

14: What happens if you find out or have reason to believe students who claimed otherwise are undocumented?

Please choose all that apply and provide a comment:

- ☐ They are not permitted to enroll
- ☐ If already enrolled, they are asked to withdraw
- ☐ They are permitted to enroll without conditions
- ☐ They are permitted to enroll under certain conditions
- ☐ They are charged higher tuition
- ☐ Other

Cost of Verification

*** 15: Which office is responsible for the verification process?**

Please choose *only one* of the following:

- ☐ Admissions

- ☐ Registrars
☐ Student Affairs
☐ Bursar/Student Accounts
☐ Other

16: Approximately how many full-time equivalent (FTE) staff persons are used to verify students' residence status for purposes of admission and tuition determinations?

Please write your answer here:

*** 17: Do you have adequate staffing to manage the verification process?**

Please choose *only one* of the following:

- ☐ Yes
☐ No

Make a comment on your choice here:

*** 18: Estimate the percentage of this estimated FTE staff time that is attributable to verifying the residence status of UNDOCUMENTED students:**

Please choose *only one* of the following:

- ☐ 1 - 20 percent
☐ 21 - 40 percent
☐ 41 - 60 percent
☐ 61 - 80 percent
☐ 81 - 100 percent
☐ Do not know
☐ Not applicable

19: What are the estimated financial costs to your institution of verifying students' residence status for admission and tuition determinations?

Please write your answer(s) here:

direct costs per academic year:

indirect costs per academic year:

*** 20: Estimate the percentage of the estimated costs to verify residence attributable to UNDOCUMENTED students:**

Please choose *only one* of the following:

- ☐ 1 - 20 percent
☐ 21 - 40 percent
☐ 41 - 60 percent
☐ 61 - 80 percent
☐ 81 - 100 percent
☐ Do not know

☐ Not applicable

Reporting Requirements

*** 21: Is your institution required to report information on undocumented students??**

Please choose *only one* of the following:

☐ Yes

☐ No

[Only answer this question if you answered 'Yes' to question '21 ']

22: To what offices/entities is your institution required to report information about undocumented students?

Please choose all that apply and provide a comment:

☐ To an office or offices within your institution (please specify which)

☐ To a state entity (please specify which)

☐ Other (please specify)

[Only answer this question if you answered 'Yes' to question '21 ']

23: What data are you required to report, and how often?

Please choose the appropriate response for each item:

	The count of undocumented students enrolled	The count of all enrolled students who pay in-state and out-of-state tuition	The count of enrolled undocumented students who pay in-state and/or out-of-state tuition	Other information
once a year	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
twice a year	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

24: Is there a web site or URL for additional information (policy statements, forms, or checklists) on your institution's method for identifying undocumented students and the verification process? If so, please provide it:

Please write your answer here:

General

25: If you have other explanations or comments you would like to make, please provide them below. You might include your thoughts on the non-monetary costs of verification.

Please write your answer here:

26: What is your U.S. Department of Education IPEDS ID number? If you do not have one, please leave this space blank.

Please write your answer here:

27: Please provide your title and the office in which you work:

Note:
This is the
final
question
of the
survey. If
you would
like to
save or
return to
a
previous
question,
please do
now.
Once you
have
completed
the
survey,
responses
cannot be
modified.

Please write your answer here:

Submit your survey.
Thank you for completing this survey..

Appendix D AACRAO Survey Data Tables

Data Tables from AACRAO Survey: Undocumented Students and the Verification Process

STUDENT CITIZENSHIP / RESIDENCE STATUS AND VERIFICATION

1: Does your institution seek information about applicants' citizenship/residence status on its admissions application?

Type 1

	# Yes	Total Respondents
CA	10	11
IL	6	9
NM	1	2
NY	18	25
TX	21	23

Type 2

AZ	8	12
CO	11	13
FL	7	9
GA	6	7
VA	10	10

Type 3

NC	7	7
SC	5	6

3: Do you verify the status of applicants claiming U.S. citizenship/legal residence? Please choose *all* that apply:

Type 1

	Yes, we verify all such applicants	We verify applicants for financial aid	We verify applicants seeking in-state tuition (we are a public institution)	No	Total Respondents
CA	1	6	4	2	11
IL	1	1	0	4	9
NM	0	0	0	1	2
NY	2	7	7	7	25
TX	5	5	6	5	23

Type 2

AZ	7	4	4	0	12
CO	5	3	6	0	13
FL	1	2	6	0	9
GA	3	2	5	0	7
VA	3	1	3	4	10

Type 3

NC	1	2	4	0	7
SC	4	4	4	0	6

4: Is yours an open admission institution?

Type 1

	# Yes	Total Respondents
CA	6	11
IL	4	9
NM	1	2
NY	10	25
TX	14	23

Type 2

AZ	8	12
CO	7	13
FL	5	9
GA	2	7
VA	3	10

Type 3

NC	3	7
SC	1	6

[Only answer this question if you answered 'No' to question '4 ']

5. If your institution is not open-admissions, at what stage do you verify students' citizenship/residence status?

Please choose *only one* of the following:

Type 1

	Receipt of application	Consideration for admission	After determining that student is eligible for admission based on qualifications, in order to complete eligibility check	When student is admitted, in order to determine whether tuition is at in-state or out-of-state rate	We do not verify students' citizenship/residence status
CA				3	
IL		1			1
NM					
NY			1	3	
TX	3	1			2

Type 2

AZ					
CO				1	
FL				1	
GA				3	
VA			1	1	2

Type 3

NC	1	1			
SC			4		

[Only answer this question if you answered 'Yes' to question '4 ']

6: For open admissions institutions: at what stage do you verify students' citizenship/residence status?

Please choose *only one* of the following:

Type 1

	Receipt of application, to complete eligibility check	When student is admitted, in order to determine whether tuition is at in-state or out-of-state rate	At time of registration	We do not verify students' citizenship / residence status	Total Respondents to Q6
CA	2	3	0	0	5
IL	0	1	1	1	3
NM	1	0	0	0	1
NY	1	3	0	5	9
TX	4	6	0	3	13

Type 2

AZ	0	7	1	0	8
CO	3	2	1	1	7
FL	1	4	0	0	5
GA	1	1	0	0	2
VA	0	2	0	0	2

Type 3

NC	2	1	0	0	3
SC	0	1	0	0	1

[Only answer this question if you have NOT answered 'We do not verify students' citizenship/residence status' to question '6 ']

7: If you verify the student's status as marked on the application, how do you verify?

Please choose *all* that apply:

Type 1

	We require submission of evidence, such as a birth certificate or passport	Student self-report or relevant form(s) completed by student	Local document check	National verification system	Total Respondents
CA	1	5	0	0	11
IL	1	1	0	0	9
NM	0	1	0	0	2
NY	5	4	1	0	25
TX	6	9	2	0	23

Type 2

AZ	7	0	2	2	12
CO	3	2	1	0	13
FL	3	1	1	0	9
GA	6	0	0	0	7
VA	4	1	0	0	10

Type 3

NC	1	4	0	0	7
SC	3	1	3	3	6

[Only answer this question if you answered 'We require submission of evidence, such as a birth certificate or passport' to question '7 ']

8: What type of evidence do you require to verify the student's status as marked on the application?

Please choose *all* that apply:

Type 1

	Birth Certificate	Passport	Other	Total Respondents
CA	0	1		11
IL	0	0		9
NM	0	0		2
NY	3	5		25
TX	4	4		23

Type 2

AZ	7	7		12
CO	1	1		13
FL	1	1		9
GA	2	6		7
VA	2	3		10

Type 3

NC	0	0		7
SC	3	3		6

[Only answer this question if you answered 'National verification system' to question '7 ']
 9: If you use a national verification system, what system do you use?

Please choose *all* that apply:

Type 1

	SAVE	E-Verify	Other	Total Respondents
CA	0	0		11
IL	0	0		9
NM	0	0		2
NY	0	0		25
TX	0	0		23

Type 2

AZ	1	1		12
CO	0	0		13
FL	0	0		9
GA	0	0		7
VA	0	0		10

Type 3

NC	0	0		7
SC	3	0		6

UNDOCUMENTED STUDENTS

10: Does your college KNOWINGLY admit undocumented students to degree or diploma programs under certain circumstances?

Type 1

	# Yes	Total Respondents
CA	7	11
IL	4	9
NM	1	2
NY	11	25
TX	17	23

Type 2

AZ	7	12
CO	3	13
FL	3	9
GA	6	7
VA	2	10

Type 3

NC	3	7
SC	0	6

11: Is this a state policy or an institutional policy?
Please choose *all* that apply:

Type 1

	State Policy	Institutional Policy	Total Respondents to Q11
CA	6	1	7
IL	3	1	4
NM	1		1
NY	11	4	15
TX	16	5	21

Type 2

AZ	6	2	8
CO	3	2	5
FL		4	4
GA	5	2	7
VA	3	5	8

Type 3

NC	3	1	4
SC	5	3	8

12: If you admit undocumented students to degree or diploma programs under certain circumstances, what are the requirements that those undocumented students must satisfy to be eligible for admission? Please choose all that apply:

Type 1

	Attendance at an in-state high school for a specified amount of time	Graduation from an in- state high school or GED	Proof of length of residence	Affidavit, statement, or certification of the student's intent to resolve immigration status	Other
CA	6	6	2	2	1
IL	2	2	1	2	
NM	1				1
NY	5	8	1	4	5
TX	9	12	9	10	5

Type 2

AZ					6
CO					2
FL		1			2
GA	2	3	1	1	2
VA	1				1

Type 3

NC		1			2
SC					

[Only answer this question if you answered 'Yes' to question '10 ']

13: What happens if applicants specifically seeking admission as undocumented students do not provide the required information?

Please choose all that apply and provide a comment:

Type 1

	They are not permitted to enroll	If already enrolled, they are asked to withdraw	They are permitted to enroll without conditions	They are permitted to enroll under certain conditions	They are charged higher tuition	Other	Total Respondents
CA	1	0	0	1	6	0	11
IL	1	0	0	0	1	0	9
NM	0	0	0	0	0	1	2
NY	0	0	3	0	9	0	25
TX	3	0	3	2	12	1	23

Type 2

AZ	0	0	1	0	5	0	12
CO	1	0	0	0	1	0	13
FL	1	0	0	1	1	0	9
GA	3	0	2	0	2	1	7
VA	1	0	0	0	1	0	10

Type 3

NC	1	0	0	1	1	0	7
SC	0	0	0	0	0	0	6

14: What happens if you find out or have reason to believe students who claimed otherwise are undocumented?

Please choose all that apply:

Type 1

	They are not permitted to enroll	If already enrolled, they are asked to withdraw	They are permitted to enroll without conditions	They are permitted to enroll under certain conditions	They are charged higher tuition	Other	Total Respondents
CA	1			1	4	2	11
IL			1	1		1	9
NM						1	2
NY				1	6	7	25
TX	1		1	1	10	5	23

Type 2

AZ	1	2			5	1	12
CO		1	1	1	4	1	13
FL	1	1			4		9
GA	1		1		5		7
VA	5	3			1		10

Type 3

NC	1	1		1	1	1	7
SC	5	5					6

COST OF VERIFICATION

15: Which office is responsible for the verification process?

Please choose *only one* of the following:

Type 1

	Admissions	Registrars	Student Affairs	Bursar / Student Accounts	Total Respondents to Q15
CA	3	4	0	0	7
IL	1	1	0	0	2
NM	1	0	0	0	1
NY	6	0	0	3	9
TX	11	6	0	0	17

Type 2

AZ	4	1	0	0	5
CO	3	1	0	0	4
FL	3	0	0	0	3
GA	4	1	0	0	5
VA	4	1	1	0	6

Type 3

NC	4	0	0	0	4
SC	2	3	0	0	5

16: Approximately how many full-time equivalent (FTE) staff persons are used to verify students' residence status for purposes of admission and tuition determinations?

Type 1

	Average # of FTE staff	Total Respondents to Q16
CA	2.5	6
IL	1.3	2
NM	3	1
NY	2.9	10
TX	6.9	17

Type 2

AZ	4.7	6
CO	4.5	4
FL	6.7	3
GA	3.8	6
VA	1.7	6

Type 3

NC	3.8	4
SC	1.4	3

17: Do you have adequate staffing to manage the verification process?

Type 1

	# Yes	Total Respondents to Q17
CA	5	6
IL	2	3
NM	1	1
NY	6	11
TX	14	18

Type 2

AZ	4	6
CO	4	5
FL	1	3
GA	5	6
VA	6	6

Type 3

NC	3	4
SC	1	3

18: Estimate the percentage of this estimated FTE staff time that is attributable to verifying the residence status of UNDOCUMENTED students:

Please choose *only one* of the following:

Type 1

	1 - 20 percent	21 - 40 percent	41 - 60 percent	61 - 80 percent	81 - 100 percent	Do not know	Not applicable	Total Respondents to Q18
CA	3	1	1	0	0	1	0	6
IL	1	0	0	0	0	0	2	3
NM	1	0	0	0	0	0	0	1
NY	6	0	0	0	0	4	1	11
TX	13	1	1	1	0	2	0	18

Type 2

AZ	1	1	0	1	2	1	0	6
CO	2	0	0	0	0	3	0	5
FL	0	2	0	0	0	0	0	2
GA	3	1	0	1	0	1	0	6
VA	4	0	0	0	0	1	1	6

Type 3

NC	2	0	0	0	0	0	2	4
SC	1	1	0	0	0	0	1	3

19: What are the estimated financial costs to your institution of verifying students' residence status for admission and tuition determinations?

Type 1

Type 1	Average direct costs per academic year	Total Respondents to Q19a		Average indirect costs per academic year	Total Respondents to Q19b
CA	\$4,500	4		\$0	1
IL	\$0	1		\$0	1
NM		0			0
NY	\$7,622	5		\$9,253	4
TX	\$9,857	8		\$18,000	7

Type 2

AZ	\$18,000	2		\$4,250	2
CO	\$11,000	2		\$25,000	2
FL		0			0
GA	\$0	1		\$0	1
VA	\$7,417	3		\$11,000	2

Type 3

NC	\$11,000	2		\$15,000	1
SC	\$3,750	2		\$2,000	1

20: Estimate the percentage of the estimated costs to verify residence attributable to UNDOCUMENTED students:

Type 1

	1 - 20 percent	21 - 40 percent	41 - 60 percent	61 - 80 percent	81 - 100 percent	Do not know	Not applicable	Total Respondents to Q20
CA	5	0	0	0	0	1	0	6
IL	0	0	0	0	0	1	2	3
NM	1	0	0	0	0	0	0	1
NY	3	0	1	0	0	5	1	10
TX	9	0	1	0	0	7	1	18

Type 2

AZ	3	0	0	0	0	0	0	3
CO	3	0	0	0	0	2	0	5
FL	1	1	0	0	0	0	0	2
GA	4	0	0	0	0	0	1	5
VA	3	0	0	0	0	2	1	6

Type 3

NC	1	0	0	0	0	1	2	4
SC	0	0	0	0	0	1	1	2

REPORTING REQUIREMENTS

21: Is your institution required to report information on undocumented students?

Type 1

	# Yes	Total Respondents to Q21
CA	2	6
IL	0	3
NM	0	0
NY	3	9
TX	13	18

Type 2

AZ	3	3
CO	1	5
FL	0	2
GA	0	5
VA	1	6

Type 3

NC	2	4
SC	0	2

[Only answer this question if you answered 'Yes' to question '21 ']

22: To what offices/entities is your institution required to report information about undocumented students?

Type 1

	To an office(s) within your institution	To a state entity	Other	Total Respondents to Q22
CA	1	1	0	2
IL	0	0	0	0
NM	0	0	0	0
NY	1	2	0	3
TX	1	13	0	14

Type 2

AZ	1	2	0	3
CO	1	0	0	1
FL	0	0	0	0
GA	0	0	0	0
VA	0	1	0	1

Type 3

NC	1	1	1	3
SC	0	0	0	0

[Only answer this question if you answered 'Yes' to question '21 ']

23: What data are you required to report, and how often?

Type 1

	The count of undocumented students enrolled			The count of all enrolled students who pay in-state and out-of-state tuition			The count of enrolled undocumented students who pay in-state and out-of-state tuition			Other information		
	Once a year	Twice a year	Other	Once a year	Twice a year	Other	Once a year	Twice a year	Other	Once a year	Twice a year	Other
CA	1											
IL												
NM												
NY	1	1			1			1			1	
TX	2	1	8			10			10			4

Type 2

AZ		2			2			2			1	
CO			1		1				1			
FL												
GA												
VA	1			1			1					

Type 3

NC	1	1										
SC												

Appendix E SAVE Program Transaction Charges



[Home >](#)

[SAVE >](#)

[SAVE Program Transaction Charges](#)

SAVE Program Transaction Charges

SAVE Fee Structure

The Systematic Alien Verification for Entitlements (SAVE) Program is a fee-for-service program. User agencies that choose to access the SAVE Program are billed per transaction. User agencies submitting an initial electronic query incur a base transaction fee; if that initial query requires additional verification, then the user agency is charged an additional transaction. Fees vary by access method and level of verification.

Current transaction fees are listed in the table below.

Standard Billing Rates

SAVE Price Structure Effective October 1, 2008

	Access Method	Initial Verification	Additional Verification	Electronic 3rd Step	Manual G-845	Total Maximum Charge*
	Web 1, 2, and 3	\$0.50	\$0.50	No Charge	— —	\$1.00
	Web Services	\$0.50	\$0.50	No Charge	—	\$1.00
Legacy Access	Batch	\$0.50	\$0.50	N/A	No Charge	\$1.00
	PC1	\$0.50	\$0.50	N/A	No Charge	\$1.00

Batch	PC2	\$0.50	\$0.50	N/A	No Charge	\$1.00
	PC3	\$0.50	\$0.50	N/A	No Charge	\$1.00
	LU 6.2	\$0.50	N/A	N/A	\$0.50	\$1.00
	AS 3270	\$0.50	\$0.50	N/A	No Charge	\$1.00
	Manua 1 G- 845	— —	— —	— —	\$2.00	\$2.00
N/A=Not Available. *Total Maximum Charge based on proper use of the Verification Information System						

Note: A minimum monthly service transaction charge of \$25.00 is automatically billed to user agencies whose SAVE Program query volume charge totals do not exceed \$25.00. However, if there are no SAVE Program queries during the month, there is no charge.

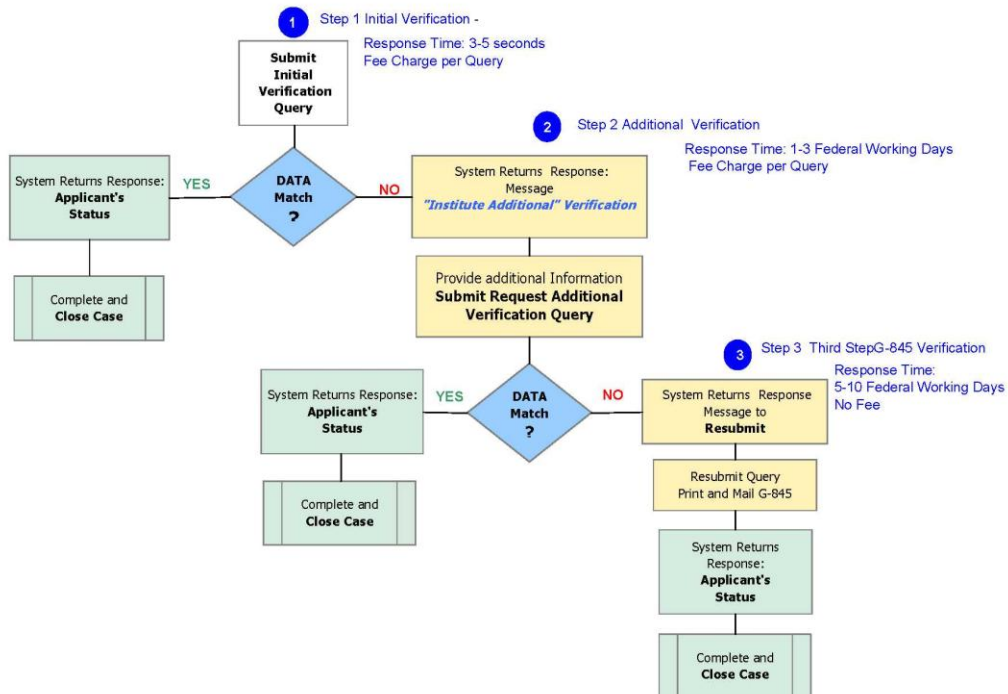
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Appendix F SAVE Verification Process Flowchart



Systematic Alien Verification for Entitlements (SAVE) Program's Verification Information System(VIS) Process



Appendix G Task 3.2: Review of Sanford Report

Review and Evaluation of Key Findings from “*Undocumented Immigrants in the Community College System: Questions of Access and Tuition*”

The purpose of this review is to summarize and evaluate the report *Undocumented Immigrants in the Community College System: Questions of Access and Tuition*.¹⁸² It was prepared to answer the study question, “How can the North Carolina Community College System (NCCCS) uphold its mission of open access with regard to undocumented immigrants?” The report recommends that the NCCCS pursue a statewide admission policy mandating that all member institutions admit undocumented immigrants at out-of-state tuition rates. It also includes a short-term recommendation that the NCCCS encourage institutions to better publicize self-sustaining courses, in order to inform undocumented immigrants of the college-credit options available to high school students.

Our review and evaluation of the report’s key findings revealed the following:

- The report does not emphasize the fact that prior to the May 2008 memorandum from the Attorney General, the majority of North Carolina community colleges reportedly elected to admit undocumented immigrants.
- Although the report presents the status of board policy and the legality of individual board positions, it does not suggest that a state policy may be necessary in order to prevent colleges from creating criteria that add restrictions to the open-door policy.
- Overall, the benefits-cost model underestimates the student cost of attendance because it does not include opportunity costs to the student. It also overestimates the benefits to students because it assumes all students will graduate.
- The highest-ranked alternative presented -- a statewide admission policy -- does not address the administrative process and the cost of implementing a verification process, to determine who would be eligible for in-state tuition.

Background

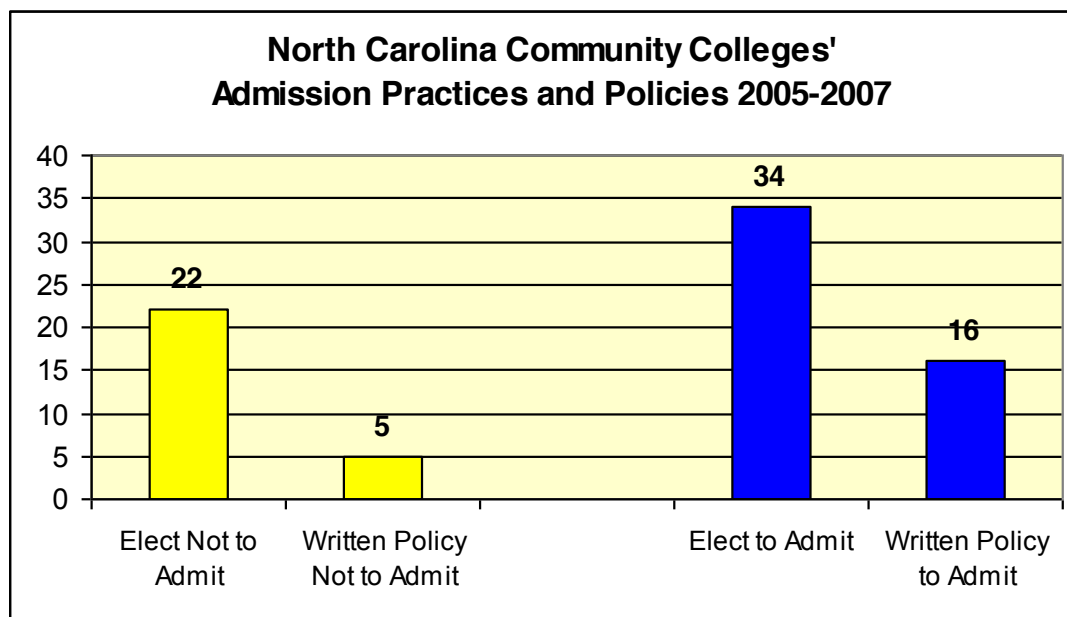
Majority support:

The report provides a brief background of undocumented immigrant access to North Carolina community colleges. It mentions the small proportion of community colleges (16) that have a written policy to admit undocumented immigrants to credit programs, but does not mention the smaller number of colleges with written policies not allowing admission. The report does not

¹⁸² A report by the Terry Sanford Institute of Public Policy, May 2, 2007

emphasize the fact that prior to the May 2008 memorandum from the Attorney General, the majority of North Carolina community colleges reportedly elected to admit undocumented immigrants. Specifically, 34 of the 58 community colleges, or 59 percent, elected to admit such students. Of those 34 colleges, 16 colleges, or 47 percent, had a written policy. On the other hand, 22 of the 58 community colleges, or 38 percent, elected not to admit undocumented immigrants. Of those 22 colleges, just 5, or 23 percent, had a written policy.¹⁸³

Figure G1



-Based on a total of 58 North Carolina community colleges.

-See Appendix J: Admissions Policies, "Undocumented Immigrants in the Community College System: Questions of Access and Tuition".

-Based on survey conducted by NCCCS in April 2005, and updates, where possible, in April 2007.

It is important to note that prior to the more recent position changes, NC community colleges were more likely to be in favor of admitting undocumented immigrants than not admitting them. They were also far more likely to have a written policy allowing admission than a written policy not allowing admission. Although not emphasized in the report, these findings lend further support to the report's primary recommendation. A statewide admission policy mandating that all member institutions admit undocumented immigrants would be representative of the majority position previously taken by NC community colleges.

Unauthorized addition of admission criteria by individual boards of trustees:

Prior to the May 2008 memorandum, the NCCCS allowed for individual school discretion on admittance. Five colleges had written policies not to admit undocumented immigrants. Some

¹⁸³ Based on Appendix J in the report "Undocumented Immigrants in the Community College System: Questions of Access and Tuition." Terry Sanford Institute of Public Policy, May 2, 2007.

stakeholders felt that this was contrary to the statutory mandate to provide open access. They also questioned the legality of allowing individual community college Boards of Trustees to establish their own admissions policies.

The report summarizes the status of state board policy, as of May 2007, and provides an interpretation of the legality of allowing individual community college Boards of Trustees to create additional admissions eligibility criteria. Simply stated, the authors report that individual boards of trustees are not authorized to establish their own admissions policies, even if the State Board does not have a policy on undocumented immigrants.

Given the lack of authority of individual colleges to create admissions criteria beyond the open-door admission of all high school graduates, we suggest that, relative to electing to admit, electing *not* to admit undocumented immigrants conflicts more with the absence of state board policy on undocumented immigrants. Although the report presents the status of board policy and the legality of individual board positions, it does not go so far as to suggest that a state policy may be necessary in order to prevent colleges from creating criteria that add restrictions to the open-door policy. Without a clear policy, individual college policies or positions could be legally challenged by students denied admission.

Alternatives

The authors present four alternatives, or approaches, to increase access for undocumented immigrants. This review will summarize the reported pros and cons, and comment on the validity of underlying assumptions and estimates.

1. Statewide admissions policy
2. Lobby for new in-state tuition bill
3. Publicize college-credit, self-sustaining classes
4. Reduce out-of-state tuition rates

We will first address two approaches, to create a statewide admission policy and to lobby for a new in-state tuition bill, and the associated conclusions derived from the benefits-cost analysis.

1. Statewide admissions policy

The statewide admissions policy approach, which was ultimately the primary recommendation of the report, would require all community colleges to accept otherwise qualified undocumented students to curriculum programs at the out-of-state tuition rate. The report succinctly summarizes many of the pros and cons of this approach. It would meet the criterion of open access and could be implemented through a board decision, a memo from the systems office, and changes in each college's admissions manual. The report does not address the administration of

such a policy – the verification of the status of all students at the time of tuition payment. Such a policy would likely encounter resistance from outside stakeholders, and possibly mild resistance from some community colleges concerned about administrative burden, as well as the autonomy of individual colleges.

2. New in-state tuition bill

This approach was for NCCCS to lobby for a new in-state tuition bill similar to bill HB 1183.¹⁸⁴ The new bill would require, for in-state tuition eligibility, three years of attendance at a NC high school, graduation or GED from a NC high school, and (if an undocumented immigrant) proof of application or plans for adjusted status. This approach would increase access for undocumented immigrants by reducing the financial barriers. However, this approach was not recommended. The political landscape is averse to an in-state tuition bill, and even supporters of in-state tuition for undocumented immigrants feel that efforts should be directed toward a statewide policy allowing admission.

The report concludes that the statewide admission policy approach, with out-of-state tuition, would be cost-effective, based on an increase in revenue for the community college system and the contributions of educated workers to the local economy. The report says that a statewide policy admitting undocumented immigrants at out-of-state tuition rates will most likely result in an increase in revenue for the community college system. The report also states that a new in-state tuition approach, involving switching to in-state tuition for undocumented immigrants, would result in a marginal decrease in revenues for NCCCS. The validity of these statements is in question based on the underlying assumptions made and the estimates used. It is not clear if the level of 340 undocumented immigrants (26 percent of the total number of undocumented high school students) used as the basis of future estimates accurately represents the number of enrolled students. How many of them will persist through a community college curriculum program? Will the percentage used to estimate the number of undocumented high school students attending community college remain constant if they are required to pay out-of-state tuition?

These questions lead to a series of considerations. First is the price sensitivity of students. The cost of attendance will reduce the probability of enrollment for low-income students more than it would for higher-income students. For those low-income students, the family income level is relevant. Undocumented students cannot get federal student aid. Therefore, for low-income students, the out-of-state tuition would be a major barrier to enrollment. A student's willingness to pay higher tuition depends on the perceived value of the education. If the combination of direct cost (tuition, books, and other associated costs) plus the opportunity cost (lost wages while attending college) is more than the perceived value resulting from the education, the rational student will not enroll. Although an economic recession, including increasing unemployment, reduces the opportunity cost for those out of a job, it also makes it more difficult for a student to meet the direct cost of attending.

¹⁸⁴ HB 1183, Access to Higher Education and a Better Economic Future.

It is also important to consider the accuracy of the number of students used in the benefit-cost analysis. The model uses the number of students enrolled. The number of students who enroll is always higher than the number of students who persist and complete a program. Most community colleges have a 25 to 30 percent graduation rate, so we need to assume that at least two-thirds of the enrolling students will not graduate. Thus, the calculated benefits and costs would have to be adjusted accordingly. Furthermore, the benefits to students upon completion of a curriculum program also need to be reconsidered. It is assumed that dropouts, especially those leaving without finishing the first year, will receive some benefit from attending college, but that the benefit would not be proportional to that of a graduate. There is a “degree bonus.” Those that drop out early will not realize proportional benefits because they lack the degree or enough courses to represent an employable skill set. Thus, we cannot assign the same long-term benefit to all students who enroll.

Overall, the benefits-cost model underestimates the student cost of attendance because it does not include opportunity costs. It also overestimates the benefits to students because it assumes all students will graduate.

Other costs not included in the model are the loss of skilled workers in North Carolina and other societal costs. Decreased access to community colleges may result in the loss of skilled workers in North Carolina. Human capital is increasingly important as the state moves away from manufacturing, farming, and extraction. If the population of undocumented residents increases, but is excluded from college, the net result will be a less productive workforce in the state. This leads to a lower growth rate in the state’s economic activity. Furthermore, increased education is associated with reduced crime and reduced social program costs. Residents without job skills are more likely to be unemployed and have no health benefits, and thus more dependent on publicly supported programs. The authors acknowledge these exclusions and suggest that they should be considered. These considerations are hard to specify in the model, but if they could be included, they would change the calculation of personal and public benefits resulting from enrolling undocumented immigrants in North Carolina community colleges.

Next we summarize the two other approaches presented in the report, to publicize college-credit to undocumented high school students, and to reduce out-of-state tuition.

3. Publicize college-credit, self-sustaining classes

This approach, which was the secondary recommendation of the report, includes an information campaign to increase awareness among high school students of their opportunities to receive college credit while still in high school. The campaign would target undocumented immigrants in high school to inform them of college credit opportunities, as well as self-sustaining courses offered throughout the summer. According to the authors, preliminary research revealed that high school students were largely unaware of many opportunities. This approach was ultimately recommended because greater awareness of these programs among undocumented immigrants

may increase their likelihood of obtaining college credit prior to graduation, and would not impose on the local autonomy of individual colleges. The authors also presumed that there would be little opposition to an information campaign aimed at undocumented immigrants. Earlier in the report, the authors described how, in 2005, a bipartisan group of North Carolina legislators introduced a provision entitled “Access to Higher Education and a Better Economic Future.” The bill, HB 1183, accorded in-state tuition benefits to undocumented residents who had attended high school in North Carolina. The authors described the vehement protests from anti-immigration groups, the publicity given on conservative talk radio programs, and how many legislative sponsors pulled their names off the bill. Due to the politically charged climate regarding ‘in-state’ access to community college credits, we speculate that an information campaign may raise awareness among anti-immigration groups and may ultimately encounter more opposition than the authors presume.

4. Reduce Out-of-state tuition

This approach to reduce the out-of-state tuition rate through legislative change was not recommended. The report acknowledges that reduced out-of-state tuition could increase access for undocumented immigrants, which in turn could increase community college revenues as well as workforce development for the local economy. However, the report concludes that this approach would induce relatively few undocumented students into the system. Therefore, it would not be likely to generate additional revenue for NCCCS, or improve societal workforce development for the local economy. Furthermore, a change in out-of-state tuition rates would involve legislative cooperation and would likely face resistance.

Conclusion

This report does a good job of depicting the options available to the NCCCS to uphold its mission of open access with regard to undocumented immigrants. It presents the pros and cons of four approaches and reasonably concludes that a statewide admissions policy has full likelihood of success. However, the report does not fully explain the position of NC community colleges prior to 2008, or the legality and potential consequences of individual college admissions policies; it underestimates the student cost of attendance; it overestimates the benefits to students; and it is silent on the administrative and process issues associated with the four approaches.