

Colleges Can Bar Illegal Immigrants; Ruling by U.S. Judge On Va. Schools Is Said To Be First in Nation

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Body

A federal judge in Alexandria ruled yesterday that Virginia's colleges and universities may deny admission to illegal immigrants -- a ruling that experts said was the first of its kind in the nation.

The decision by U.S. District Judge T.S. Ellis III came in a lawsuit filed against seven Virginia schools accused of violating the rights of the immigrants by refusing them entry.

"It is clear that denying illegal aliens admission to public colleges and universities simply removes another public incentive for illegal immigration," Ellis wrote. He stopped short of dismissing the case, however, ruling that it could proceed to trial because the plaintiffs have a right to try to prove whether the schools are using federal standards to identify applicants who are in the country illegally.

Virginia Attorney General Jerry W. Kilgore (R), who is defending the schools, said he was pleased by the ruling. Kilgore's 2002 memo to Virginia's public colleges and universities, which urged them to reject illegal immigrants, was one impetus for the lawsuit, Ellis wrote. The suit was filed in September in U.S. District Court in Alexandria.

"Legal immigration has made this country what it is," Kilgore said in a statement. "I continue to believe that it is not too much to ask that people obey the laws of our society before they take advantage of what our society has to offer."

Tisha Tallman, an attorney for the plaintiffs, who include a high school senior who is an illegal immigrant, said she is "delighted" the case is allowed to continue. "We are reviewing the judge's decision," she said, ". . . and will then make a determination on what next steps we will be taking."

The lawsuit names the University of Virginia, Northern Virginia Community College, Virginia Tech, the College of William and Mary, Virginia Commonwealth University, George Mason University and James Madison University as defendants.

The issue of granting access to higher education for illegal immigrants has become increasingly controversial in recent years.

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The Virginia House of Delegates this month passed a bill that would prohibit admission of illegal immigrants by public colleges and universities. The measure, which lawyers said also is the only one of its kind in the nation, is pending in the Senate.

The Virginia bill and Ellis' s ruling run counter to a recent national trend in which seven states have allowed illegal immigrants to pay in-state tuition rates at public colleges, said Josh Bernstein, director of federal policy for the National Immigration Law Center. Maryland passed such a bill last year, but it was vetoed by Gov. Robert L. Ehrlich Jr. (R).

The U.S. Supreme Court ruled in 1982 that illegal immigrants are entitled to a primary and secondary education, but it has been silent on higher education. In 1998, a federal judge in California struck down the state's Proposition 187 ballot initiative limiting services to immigrants, including access to higher education. Lawyers said that is the only other time a federal judge has considered the issue before Ellis' s ruling yesterday.

One of the schools that was sued in the Alexandria case, Northern Virginia Community College, allows admission of illegal immigrants but does not let them pay in-state tuition, said Everett Vann Eberhardt, the school's director of legal affairs.

"Why we were part of that lawsuit, I'm not sure I understand," he said.

Staff writer Amy Argetsinger contributed to this report.

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