



**Judicial  
Watch®**

*Because no one  
is above the law!*

**VIA FACSIMILE  
AND U.S. MAIL**

April 11, 2011

Elaine Johnson  
Chair of the Board of Trustees  
County College of Morris  
214 Center Grove Road  
Randolph, NJ 07869-2086

**Re: Admissions Policy of County College of Morris allowing “Undocumented”  
Individuals Reduced Tuition**

Dear Ms. Johnson:

Judicial Watch, Inc. is an educational organization that seeks to promote transparency, integrity, and accountability in government and fidelity to the rule of law. We frequently work with like-minded citizens and taxpayers across the United States who share our respect for law enforcement and dedication to the rule of law.

Recently, we read an article in the *New Jersey Star Ledger* stating that the County College of Morris (CCM) had adopted a policy on February 16, 2011 that would allow illegal alien students to receive in-state and in-county tuition rates. Star Ledger Staff, “County College of Morris votes to allow illegal immigrants to enroll in classes,” *New Jersey Star Ledger*, February 18, 2011. Because such policy would be in clear violation of federal law, we obtained a copy of the new Admissions Policy when it became publicly available.

The Admissions Policy that was approved and adopted by the Board of Trustees on February 16, 2011 states that admission will be open to all college-able individuals who do not hold a non-immigrant visa, who (i) provide proof of entrance into the United States before the age of 16 and are under the age of 35, (ii) provide proof of having resided in the United States for at least five (5) years without interruption, (iii) provide proof of having graduated from an American high school or possess a GED or equivalent. The policy also states that the “tuition rate charged to an undocumented individual... shall be based upon his/her residence.” The current tuition rates are: \$115 per credit for in-county residents, \$250 per credit for out-of-county but in-state residents, and \$ 326 per credit for out-of-state residents. These discounted tuition

rates are a local public benefit which federal law prohibits CCM from providing to such individuals if they are unlawfully residing in the United States.

Under federal law, unlawfully present aliens generally are ineligible for state or local public benefits, including post-secondary education benefits such as reduced tuition, unless a state has enacted a law affirmatively providing for such eligibility. Specifically, Section 1621 of Title 8 of the United States Code states, in pertinent parts:

**(a) In general**

Notwithstanding any other provision of law and except as provided in subsections (b) and (d) of this section, an alien who is not—

- (1) a qualified alien (as defined in section 1641 of this title),
- (2) a nonimmigrant under the Immigration and Nationality Act [8 U.S.C. § 1101 et seq.], or
- (3) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. § 1182 (d)(5)] for less than one year,

is not eligible for any State or local public benefit (as defined in subsection (c) of this section).

**(d) State authority to provide for eligibility of illegal aliens for State and local public benefits**

A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) of this section only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility.

8 U.S.C. §§ 1621(a) and (d).

The state of New Jersey has not enacted a law affirmatively providing that unlawfully present aliens are eligible to receive reduced, in-county tuition at public institutions of higher education, including community colleges such as CCM.

There is no way to reconcile CCM's policy with federal law. The policy provides a public benefit to individuals who are clearly ineligible for benefits under 8 U.S.C. § 1621(a), and New Jersey has not authorized the provision of such benefits under 8 U.S.C. § 1621(d). CCM may not ignore federal laws when those laws are not consistent with its own policy preferences. We hope that CCM will reevaluate its new policy and conform it to the requirements of federal law.

Thank you for your attention to this matter.

Sincerely,

JUDICIAL WATCH, INC.



Thomas J. Fitton  
President