



MALDEF

Mexican American Legal Defense and Educational Fund
34 Peachtree Street NW, Ste. 2500
Atlanta, GA 30303

September 24, 2008

**BY U.S. MAIL, FACSIMILE TRANSMISSION
AND ELECTRONIC MAIL**

Dr. Mary Jane Caylor
District 8
Alabama State Board of Education
P. O. Box 18903
Huntsville, Alabama 35804

Dear Dr. Caylor:

For the past forty years, the Mexican American Legal Defense and Educational Fund ("MALDEF"), a national civil rights organization has been protecting the civil rights of Latinos living in the United States through advocacy and litigation. We write to express our strong opposition to the proposed policy to be considered by the Alabama State Board of Education (the "Board") that would prohibit admission of undocumented students to two-year colleges in Alabama. We understand that on September 25, 2008, the Board will vote on whether to implement this proposed policy. We believe this policy is unwarranted and is not supported by law. It also has the potential to generate significant unintended consequences. Finally, such a policy will have far-reaching social and economic implications that run contrary to the spirit and principles of equal opportunity in our American educational system. Accordingly, we urge you to vote against the adoption of this policy.

No court has held that admission of undocumented students to institutions of higher education may be prevented and federal law does not mandate this. In fact, the U.S. Department of Homeland Security has recently stated that admission to public post-secondary educational institutions is not deemed a federal public benefit under federal immigration laws and therefore federal law does not prohibit such admission.¹

In addition, adoption of this policy could result in imposing a potentially costly and burdensome immigration status verification duty on the community colleges. And it may also have the unintended consequence of discriminating against certain students who may look or sound "foreign," based on perceived citizenship or immigration status.

Although the purported justification for the proposed policy is economic, Chancellor Bradley Byrne has stated he does not believe Alabama has a large number of illegal immigrants enrolling in state schools and thus the policy would have minimal effect.² Indeed, Wallace

¹ See Letter from Sheriff (Ret.) Jim Pendergraph, Executive Director, Office of State and Local Coordination, U.S. Dept. of Homeland Security to Thomas J. Ziko, Special Deputy Attorney General, N.C. Department of Justice (July 9, 2008).

² See <http://www.abc3340.com/news/stories/0908/552719.html>

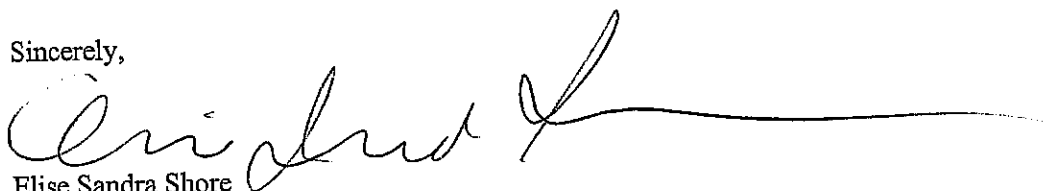
Community College officials have concluded that only five undocumented students enrolled at the community college this school year.³ Those five students account for .1% of the total student body. In light of these figures, the economic considerations justifying the proposed policy appear to be unfounded.

A policy barring admissions of undocumented students to community colleges in Alabama would not only hinder these students' ability to obtain higher education but would also hurt the State of Alabama both economically and socially.⁴ Evidence shows that the American economy has reaped major benefits from immigrants over the past three decades through tax payments, job creation, entrepreneurial activity, consumer spending and neighborhood revitalization.⁵ Thus, these students have the potential to make significant societal and economic contributions to the State of Alabama. The College Board's "Education Pays, Benefits of Higher Education for Individuals and Society" 2007 Report confirms the importance of higher-education to both immigrants and non-immigrants alike. This report found that "higher levels of education corresponds to lower unemployment and poverty rates . . . [I]n addition to contributing more to tax revenues than others do, adults with higher levels of education are less likely to depend on social safety-net programs."⁶

In conclusion, we urge you to vote against a policy denying admission to undocumented students and to adopt a more inclusive policy. In American society, children are not punished for the actions of their parents. These students should be provided the opportunity to achieve their dreams of attending college, while allowing the State of Alabama to reap the benefits of their economic and social contributions.⁷

Please feel free to contact our office at 678-559-1071 should you wish you discuss this matter further or if you need additional information for your consideration of this important issue.

Sincerely,



Elise Sandra Shore
Regional Counsel
Mexican American Legal Defense and Educational Fund

Enclosure

cc: Chancellor Bradley Byrne

³ See <http://www.wtvynews4.com/home/headlines/28579719.html>

⁴ See Janie Alfred, Note, *Denial of the American Dream: The Plight of Undocumented High School Students Within the U.S. Educational System*, 19 NYL Sch. J. Hum. Rts. 615, 618 (2003).

⁵ *Id.* At 641, n. 171.

⁶ See http://www.collegeboard.com/prod_downloads/about/news_info?trends/ed-pays_2007.pdf

⁷ Alfred, *supra* n. 1 at 649-50.