

# GARDEN STATE DREAMS: In-State Tuition for Undocumented Kids

By Anastasia R. Mann

Rewarding hard work is thought to be a typically American ideal. We want to believe that if people work hard enough and are resourceful, they will succeed. But that's not necessarily the case for children born outside the United States but brought here as children by parents who don't have proper documentation. In New Jersey, these children, like all others, are provided a free education through 12th grade. Then, because New Jersey does not guarantee them the opportunity of a college education at more affordable in-state tuition rates, their opportunities are often cut short.

This report recommends the state change its tuition policy to allow these undocumented young people the opportunity to make the most of their lives by paying the same in-state tuition for higher education as their schoolmates. It examines the impact of this policy—on these young people, the colleges and the state.

New Jersey Policy Perspective is grateful to the Sandra Starr Foundation for providing the funding for this important project. We are also deeply indebted to Peter Yerkes for his extraordinary editorial skills.

—*Mary E. Forsberg, Interim President*

## INTRODUCTION

Mary and Maria went through grade school, middle school and high school together in Lawrence Township. They were best friends and classmates; played on the same sports teams; were admitted to the National Honor Society together; practically lived at each other's houses. Both applied to Rutgers and got in.

But then they learned they were very different in the eyes of the state. Mary's yearly tuition bill is \$11,886. Maria's is just about double—\$22,796. The reason: New Jersey's strict immigration laws. Mary was born in the United States. Maria was brought to the U.S. as an infant by parents who came to the country illegally. So Maria is considered "out of status," undocumented. Some would say illegal. She can only go to Rutgers if she pays the higher, out-of-state tuition rate. Maria and her parents, a landscaper and nanny, struggle to raise the extra money. For now, she takes a single course per term at Mercer County College.

For Maria's family the tuition policy means extra stress and extra debt. For others, the policy means an insurmountable barrier that will keep them from college, closing the door to the upward mobility that the United States prides itself on offering anyone willing to work hard for it. The policy also undercuts New Jersey's need to cultivate a highly educated workforce that will attract and keep businesses in the state—and it runs counter to President Obama's goal of an additional five million college graduates by 2020.

An in-depth New Jersey Policy Perspective investigation reveals serious problems with the fairness and wisdom of New Jersey's college tuition policy for undocumented immigrants. This NJPP study follows a comprehensive report on immigration in New Jersey, *The Faces of Immigration in Mercer County* from June 2008. Like the earlier study, this just-completed report focuses on Mercer County as a microcosm of the state.

Just how many students like Maria live in New Jersey is hard to say, but estimates from the New Jersey Public Advocate's office put the number in the very low four figures. According to the New Jersey Immigration Policy Network, the range is between 1,500 and 2,000. Maria wouldn't have this tuition problem if she lived in Illinois, California, New York or eight other states, where students can qualify for in-state tuition rates regardless of their immigration status.

Across the nation, a growing number of critics, including educators, policy analysts, labor and business leaders and civil rights activists—as well as immigrants themselves—are going public with their opposition to policies such as New Jersey's. They argue that the policies deny today's immigrant children the ability to better themselves and their families, an opportunity available to previous generations. Today's immigrants are following the classic American formula of hard work and persistence. They have succeeded in school and are prepared for college to build better lives for themselves and for their children. Yet New Jersey and other states are, in effect, severing the link between hard work and success. Critics question why New Jersey is turning academic strivers away from the doors of its public colleges.

In addition, they charge that it's unfair to create hurdles for children who didn't choose to come here illegally, but were brought by parents. Punishing children for the acts of their parents seems inherently unfair. For these young people, returning to their country of birth is not realistic. New Jersey is the only home Maria has ever known. She would be lost in the country she left when she was only a few months old.

Pitted against these critics are those who argue that undocumented students take up slots that rightfully belong to legal immigrants and citizens. Some suggest subsidizing students who are here illegally condones law breaking, while others claim incorrectly that undocumented immigrants do not pay taxes and don't deserve a college-tuition subsidy. Finally, some say federal statutes preclude states from deciding the matter for themselves—although federal guidelines are ambiguous.

### **WHAT THE NUMBERS SHOW**

New Jersey schools educate approximately 28,000 undocumented students in kindergarten through 12th grade annually.<sup>1</sup> About 100 graduate from Mercer County's 12 districts each year.

Tuition is free, regardless of immigration status. Federal and state laws prohibit school officials from even asking students about their status. Many of the students thrive, achieving honors and winning accolades.

Graduation means the end of that tuition policy. Undocumented students applying to a state or county college find that they face tuition fees that are not only high, but higher than those paid by other New Jersey residents. The tangle is even more confusing because tuition rates vary among institutions and may be affected by where the students live, what major they choose and other unpredictable variables. State law offers no guidance. It says only that students must have maintained their primary residence in the state for 12 months or more.<sup>2</sup> There is no mention of immigration status, leaving administrators complete discretion.

### **Tuition and Fees at Mercer County Colleges Plus Rutgers**

Colleges	In-County/State Tuition	Non-Mercer Tuition	Out-of-State Tuition
Mercer County Community College (18 credits)	\$2,142	\$2,862	\$4,302
The College of New Jersey	\$6,284	n/a	\$10,337
Thomas Edison State College	\$4,695	n/a	\$6,520
Rutgers University (New Brunswick)	\$11,886	n/a	\$22,796
Rider University	n/a	n/a	\$28,890
Princeton University	n/a	n/a	\$34,290

Compiled by the author from various sources

## Different Policies at Different N.J. Colleges

Most public colleges in Mercer County charge undocumented students the out-of-state rate, which runs anywhere from 65 to 100 percent higher than the resident rate.

For almost all New Jersey families, college tuition means financial hardship. For undocumented families, whose average earnings are about 40 percent less than the earnings of legal immigrants or citizens, the burden is even heavier. Combined with federal law that prevents undocumented students from receiving federal student aid, the effect on college applicants is chilling. National statistics suggest the effect in New Jersey. Only about five to ten percent of undocumented U.S. high school graduates go to college, compared to approximately 75 percent of their non-immigrant classmates.<sup>3</sup>

## STATES THAT HELP UNDOCUMENTED COLLEGE STUDENTS

Lawmakers in 11 states have enacted in-state tuition rates for undocumented students because they think it makes financial and moral sense.

### States with Statutes Allowing Undocumented Students to Pay In-State Tuition Rates and Year Passed

2001	Texas, California
2002	New York, Utah
2003	Washington, Oklahoma, Illinois
2004	Kansas
2005	New Mexico
2006	Nebraska
2009	Wisconsin

Source: Olvidas, 2009 (updated by the author)

Most require that an undocumented student attend a state high school for anywhere between two and four years. A student must also file an affidavit signaling his or her intention to become a United States citizen when the opportunity arises.

## IN NEW JERSEY, A PATCHWORK OF POLICIES

In New Jersey, where the state government sidesteps the issue, illegal immigrants face not only higher tuition fees than other residents, but also a confusing and inconsistent patchwork of policies at the state's public colleges and universities. Since New Jersey restructured its higher education governance in 1994, each of the state's public colleges and universities speaks with its own voice on policy matters such as tuition for students without legal status.

In Morris County, where Mayor Donald Cresitello has made a national name for himself with a strict policy on illegal immigrants, the county college bans undocumented students outright. By contrast, Montclair State University's policy might best be described as "don't ask, don't tell." Dr. Karen Pennington, vice president of Student Development and Campus Life, explains, "if [students] disclose that they are undocumented then they would get charged out-of-state [rates]." If they don't, Pennington adds, "we would have no way of knowing."<sup>4</sup>

### Policies Vary at Mercer County Public Colleges:

- **Mercer County Community College:** Regardless of immigration status, all students studying English as a Second Language pay the same in-county fee. For all other credits, students unable to prove their legal presence may pay out-of-state rates.<sup>5</sup>
- **Thomas Edison State College:** Primarily a distance learning institution, TESC does not have a residency requirement. According to Dr. Raymond Young, vice provost and director of the Office of Learner Services, the application does ask about citizenship. If the student meets the state's residency requirement of living in New Jersey for 12 months or more, that student qualifies for the resident rate.<sup>6</sup>
- **The College of New Jersey:** Until the academic year 2007-2008, all New Jersey residents were admitted at the resident rate. In 2008, the college sought guidance from Anne Milgram, New Jersey's Attorney General. Based on her response, entering undocumented students are no longer eligible for in-state tuition. Undocumented students admitted under the previous policy have been grandfathered in at the resident rate.<sup>7</sup>

**At Private Colleges, A Different Picture:**

- **Princeton University:** According to Dean of Students Nancy Malkiel, Princeton “does not consider immigration status in making admission decisions.” Recent graduates include Dan-El Padilla Peralta from the class of 2006. A classics major and salutatorian who graduated with a 3.9 average, Peralta, a native of the Dominican Republic, came to the United States with his mother when he was just four years old. Grants from Princeton made his undergraduate education possible.
- **Rider College:** Rider University charges all students the same tuition rates, according to Aimee Thomson, who manages international admissions. Undocumented students can compete for merit-based scholarships, but—since they are classified as international students—not for need-based aid.
- **Outside of Mercer County’s borders, Rutgers** charges applicants who are not citizens or legal permanent residents (green card holders) the higher out-of-state rate. Privately, the Chancellor of the Board of Regents has said that he supports a change that would allow undocumented residents to pay resident rates.

**MIXED SIGNALS FROM THE FEDERAL GOVERNMENT**

Maria and her fellow undocumented students have received no help from the federal government. Washington, in fact, has failed to even issue clear guidelines for states to follow.

In a landmark 1982 decision, *Plyler v. Doe*, the U.S. Supreme Court guaranteed all residents of the U.S., whether legally documented or not, the right to attend free public school from kindergarten through 12th grade.<sup>8</sup> Passage of the federal Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996 muddied the waters. One section of the statute prohibited states from providing undocumented immigrants with a college tuition benefit based on residency. Elsewhere, however, the same statute acknowledged that states could set their own policies.<sup>9</sup>

As if things were not complicated enough, later that year Congress enacted the “Personal Responsibility and Work Opportunity Reconciliation Act.” Alternately touted and criticized for

its attempt to “end welfare as we know it,” the statute led to significant short-term savings. It also made undocumented immigrants ineligible for benefits such as Temporary Assistance for Needy Families and the Women, Infants and Children (WIC) nutrition program. It also barred undocumented students from federal student assistance such as subsidized work-study programs, Pell Grants and other forms of federal student aid, and federal loans like those provided by the Perkins Program.

The immediate effect of these laws was to shift authority down to the states. The new laws also provided that “states that wish to provide legal benefits to undocumented immigrants must pass specific laws to do so.”<sup>10</sup> Far from bringing clarity to the issue, the vagueness of the statutes led to more confusion. Residents in Kansas, Texas and California have gone to court to argue that it is unlawful to charge non-resident U.S. citizens higher tuition than unauthorized immigrants who are residents. In Kansas a federal district court found for the state. Courts in Texas and California are likely to take up the issue in 2010.

Federal action could relieve the pressure on Maria and her fellow students. Pending legislation in Congress, known as the “DREAM Act,” the most recent version of which was introduced by Representative Louis Gutierrez (D-IL) in early December, would make students brought to the U.S. before their 16th birthday eligible for conditional legal status if they attend college or serve in the armed forces.

Another option is a federal amnesty such as the one Congress approved in 1986, which allowed three million undocumented individuals already living in the United States to acquire legal status.

**REFORM WOULD BENEFIT ALL NEW JERSEYANS**

The benefits of such reforms to a high-immigration state such as New Jersey could be enormous. A recent economic study suggests that legalizing undocumented immigrants would yield “significant income gains” for all American households. Purchasing power of these immigrants would rise; they would pay more in taxes; and the net effect would be overall growth in the economy. This in turn would create more openings for native-born American workers in higher skilled occupations. By 2019, “the positive impact for U.S. households of legalization . . . would be 1.27 percent of GDP or \$180 billion.”<sup>11</sup>

## Immigrants as Taxpayers

Critics argue that undocumented immigrants don't deserve the discounted tuition available to residents who are here legally and support public institutions with their tax dollars. But this ignores key facts. Like all New Jersey residents, illegal immigrants pay property tax, either as homeowners or as renters where their taxes are part of the rent they pay their landlords. They pay sales taxes and many have payroll taxes deducted from their weekly earnings. Finally, there is evidence to suggest that a growing number pay income taxes. In 2006 over 100,000 individual filers living in New Jersey used an Individual Taxpayer Identification Number (available from the IRS for those without Social Security Numbers) to pay these taxes.<sup>12</sup>

## Economic Stimulus and a Stronger Workforce

From the GI Bill of 1944 to the current federal funds provided to county colleges for training and workforce development, investments in higher education have often served as economic stimulus. When unemployment is high, expanding access to college keeps workers off relief and prepares them to meet the demands of a healthy economy.

Students and families feel the impact of such investments immediately. As tuition becomes more affordable, families can use their tuition savings to meet other needs, circulating this money back into the economy. A new in-state tuition policy will also have a broad social impact, leading to savings in corrections, welfare, healthcare and other social services. Middle-class taxpayers will be among the beneficiaries.

Another benefit would be an increase in the number of well-educated, skilled workers New Jersey employers need. The undocumented workers could, in fact, fill jobs that are now going begging. County colleges, the institutions most undocumented students would attend, turn out engineers, medical assistants, teachers and other professionals cited by the New Jersey Department of Labor and Workforce Development as experiencing shortages.

In New Jersey, workers with a BA earn significantly more per year than those with just a high school diploma. They also pay more of their earnings in taxes. Some of these students will eventually become entrepreneurs who will create jobs for others. The National Small Business Association points out that one in five new business owners in New Jersey is foreign-born.

Every undocumented immigrant student is potentially a documented professional. The Association for Children of New Jersey has found that—probably because they are more likely than immigrants to other states to seek higher education—immigrants to New Jersey are more likely to take the steps to become American citizens. These steps include passing tests of English and other subjects, and relinquishing citizenship in another country.<sup>13</sup>

## BENEFITS FOR UNDOCUMENTED STUDENTS

### **In-state Tuition Rates Needed to Help Offset Discrimination.**

Research shows that even without the burden of higher college tuition, immigrant parents confront unique cultural, economic and linguistic hurdles that diminish their children's chances for educational success. One recent study revealed that Latinos in New Jersey were more likely than those in California, Texas, Florida and New York (the four other states with the largest Latino populations) to say that discrimination, particularly in schools, kept them from succeeding in the U.S.<sup>14</sup>

New Jersey's Latino parents and their children often learn early on to expect obstacles from many school officials in their drive for education. A 2008 survey by the American Civil Liberties Union found that more than one in five New Jersey public school districts violate federal and state law by "asking for information that would reveal a parent or child's Social Security number or immigration status as a prerequisite for enrollment." Mercer is not immune: Five of the offending schools (including charter schools) were located in Trenton with one each in Ewing and Hightstown.<sup>15</sup>

Policies such as these, combined with the knowledge that they will be expected to pay significantly higher tuition than other students, almost certainly contribute to low graduation rates among undocumented students. An estimate by the Migration Policy Institute suggests that nationally, as many as 60 percent of undocumented Hispanic males aged 18 to 24 and who arrived in the U.S. before age 16, drop out of high school. A survey by the Mexican American Legal Foundation and the National Women's Law Center found that more than 40 percent of all Latinas in the U.S. (both documented and undocumented) will not graduate with a standard diploma.<sup>16</sup>

While there are no concrete data to tie current tuition policy to drop-out rates among the undocumented, some experienced educators are convinced that there is a connection. One is Kathy Patten, who has taught in Princeton public schools for more than 20 years and chairs the Princeton Minority Education Committee. As their classmates become absorbed with post-graduation plans, she says, certain students simply “check out.” Privately, Patten says, students often make it clear that they see their immigration status as a main factor working against them.

As one Latina student told researchers,

I've seen many of my friends, they're really into school but they had to quit because of their immigration status. They have to work and they don't have the money to keep on going, and . . . it's more expensive and they don't have the money.<sup>17</sup>

### Attacking the Problem of High Tuition Rates

The extra burden in tuition costs that New Jersey imposes on undocumented students is especially important since tuition at state colleges and universities is already high. The state's public colleges charge on average the second highest in-state tuition rates in the nation, an average of \$9,984 per year.

The reason is clear. In 1990, the state of New Jersey subsidized almost half the cost of public higher education. By 2008, that share had dropped to one-fifth of the total cost. Costs have outpaced state support in many states. But New Jersey is among the worst cases. In FY 2009, the state spent \$4.51 per \$1,000 of personal income on higher education funding, putting it in 44th place nationally.<sup>18</sup>

As a result, families in New Jersey dedicate a larger share of their income to paying college costs than do those in most states. Even after accounting for aid, two-year college costs consume 40 percent of the income of poor and working-class families living in the state.<sup>19</sup>

In theory, various kinds of financial assistance should offset the high cost of tuition for those who need it. New Jersey is generous in this respect. In 2007-2008 the state awarded more than \$260 million in student aid (need-based grants, merit-based grants and loans) to 60,000 students statewide, an average of \$3,875 per student.<sup>20</sup>

But, in another blow to undocumented students aiming for a college education, they are barred from receiving important forms of aid. Undocumented status prevents them from receiving Tuition Assistance Grants, a means-tested entitlement, or funds from NJ Stars, which allows the top 15 percent of every high school graduating class to attend community college for free. At the federal level, undocumented students are ineligible for grants, scholarships, loans and work-study.

Making the picture even bleaker, most private scholarships require applicants to provide proof of U.S. citizenship. The number of undocumented students far outstrips the supply of private scholarship dollars available.<sup>21</sup> Only a few organizations exist to help fill the gap, such as Mercer County's Latina Women's Council and 101 (formerly Princeton Regional Scholarship Fund).

If New Jersey's ‘need-based’ college tuition aid truly lived up to its name, undocumented students would be among the first in line. Census data show that nearly half of New Jersey immigrant families earn less than \$25,000 per year. Undocumented immigrants tend to earn even less. Some of New Jersey's poorest residents are effectively shut out of the state's public higher education system.

### No Reward for Hard Work

State policy also undermines a system intended to reward academic talent and hard work—and drives gifted students to colleges out of state. High achieving students who would otherwise be prime candidates for merit-based awards cannot qualify due to their legal status. One such student is Sylvia Sanchez. Born in Costa Rica, Sylvia arrived in Trenton as an adolescent. For the better part of a decade her mother has cleaned area homes while her father has worked long days at a nearby factory. An A student who excelled at science and math, Sylvia set her sights on a career in pediatric medicine. Two years studying English and other subjects at Mercer County Community College convinced Sylvia that her status would make medical certification impossible.

With the support of her advisers at Mercer County Community College, Sylvia chose to pursue her studies at a higher level. With its top-notch social science faculty and its close proximity to home, Rutgers University was an obvious first choice. But out-of-state tuition rates meant Rutgers was out of the question for this honor student. After an intensive search, Sylvia found

that some top colleges and universities, (including Vassar, Princeton and Hampshire College), offer financial assistance without regard to legal status. Thanks to a full scholarship at one of these northeastern schools (she asked that it not be identified to protect her privacy), Sylvia is on a fast track to an honors degree in a self-designed major combining law and sociology. Grateful as she is, she sometimes sounds as if she might have preferred to study in New Jersey, at Rutgers. Sylvia reports feeling isolated from her classmates at the expensive private school and she laments the distance from her family. New Jersey, which for decades has tried to stop a “brain drain” of top students to out-of-state colleges, is working at cross-purposes when it comes to students such as Sylvia.

Four states (Nebraska, New Mexico, Oklahoma and Texas), have found a way to do better by students like Sylvia. Undocumented students there pay resident tuition rates and qualified applicants may receive financial aid. Like their classmates, students must simply submit the Free Application for Federal Student Aid (FAFSA), a form that verifies payment of taxes and level of household income.

### **Reform Unlikely to Squeeze Out Legal Residents**

Some argue that admitting undocumented students at the resident rate will crowd out legal residents. The facts suggest otherwise. It is certainly true that with fewer seats than either the national average or many states of comparable size, competition at New Jersey’s four-year state colleges can be fierce. The New Jersey Association of State Colleges and Universities reports that New Jersey’s nine state colleges and universities received a record 54,000 applications for only 10,500 seats for students entering this Fall 2009.

Evidence from the 11 states with resident tuition laws, however, shows that relatively few undocumented students tend to pursue the four-year route. This has been true in states like Kansas, where students cannot qualify for tuition-assistance, as well as in New Mexico and Texas where some can.<sup>22</sup>

### **Benefits for County Colleges**

Allowing in-state tuition rates for illegal immigrants could actually be a boon for New Jersey’s county colleges, at a time when educators and political leaders—including President Obama—are calling for greater use of county colleges.

Across New Jersey, 19 county colleges offer more than 1,700 credit, non-credit and professional certification programs to over 350,000 students every year. County colleges generally show an extremely elastic capacity. Jacob C. Farbman, Director of Communications for the New Jersey Council of County Colleges, notes that between 2008 and 2009, enrollment at county colleges grew by more than 10,000, prompting colleges to “find innovative ways to deliver instruction.” More classes are now scheduled on weekends and evenings. Others take place in high schools after school hours. Online offerings are also at an all-time high. Today 17 of New Jersey’s 19 county colleges offer some courses online, with three (Bergen, Atlantic and Mercer) offering full degrees online.

A change in state law could lead to a small bump in county college tuition revenue as students who could never previously have entertained the possibility of attending college would find ways to make it work.

Strengthening New Jersey’s county colleges is important for the state economy. A 2008 report by The National Commission on Community Colleges notes that in a globalizing market, two-year colleges are “indispensable to the American future.” Referring to their unique status as ports of entry to higher education and to successful lives in the United States, the National Commission characterized county colleges as “the Ellis Island of American higher education.”<sup>23</sup>

### **COSTS OF REFORM WOULD BE LOW**

Some critics warn that a change in New Jersey’s in-state tuition law would lead to a deluge of undocumented students that would further strain already stretched college budgets. That, however, is not what has happened in other states. Texas recorded the largest student influx, with just over 8,000 students. But even there, undocumented students only account for seven-tenths of one percent of the total student population. In other states for which data are available the proportions have been similarly minuscule.<sup>24</sup>

### Undocumented Students in Five States

	Number of undocumented students (most recent estimate)	Total in-state enrollment	Undocumented students as share of total in-state students
CA**	20,000	2,000,000	1.0%
TX*	8,000	1,126,643	0.7%
IL*	2,000	395,403	0.51%
KS**	221	1,239,323	0.02%
NM**	41	112,680	0.04%

\*2008, \*\*2005

One reason relatively few undocumented immigrants take advantage of resident rates is that even with subsidized tuition, most can't afford to. Others may fear deportation, or simply lack knowledge about college opportunities.

Given the low numbers of undocumented students who would take advantage of in-state tuition rates, the dollar cost is likely to be low. Exact projections are difficult, since no one knows exactly how many undocumented immigrants live in New Jersey or how many would take advantage of the new rates.

Perhaps the best estimate came in 2002, from the New Jersey Office of Legislative Services. In a fiscal impact statement on the short-term costs of offering in-state tuition rates, the office reached the following conclusion:

This bill has no direct effect on State revenues or expenditures:

higher education tuition revenues are not part of State budgeted expenditures. Based on available data, there are relatively few individuals who will meet all five criteria for exemption from paying the nonresident rate of undergraduate tuition who will apply to public institutions of higher education, so the potential of the bill to affect total tuition revenues is minimal. The mandatory provisions of the bill apply to students who have not yet entered the colleges; any potential tuition revenue impact of the bill depends on future admissions decisions.<sup>25</sup>

Another way to estimate the potential cost to New Jersey colleges and universities is to assume that 2,300 undocumented high school students will graduate from New Jersey high schools in 2010. According to the Migration Policy Institute, at least ten percent of these students will not meet all of the criteria necessary to qualify for in-state tuition, reducing the potential beneficiaries to just over 2,000 undocumented students. A significant share could not afford to give up their jobs, or to pay the high costs of attending college even with the state resident discount.

Of those who would continue their education, many would go to community college. Of these, many would not even be considering attending college without the resident discount—resulting in an increase in revenue.

These numbers seem to give the worst-case cost scenario, in the unlikely event that the OLS analysis is wrong. They indicate that the average differential between out-of-state and in-state tuition would amount to approximately \$1,400 per student, per year, for a total cost of about \$2.9 million per year.

Distributed across New Jersey's 21 county colleges, nine state colleges, Rutgers, the University of Medicine and Dentistry (UMDNJ) and New Jersey Institute of Technology (NJIT), these costs would be negligible. Moreover, it is reasonable to assume that these funds would be recouped in additional tax revenues paid by college graduates during their first year out of school.

If New Jersey were to go a step further and allow undocumented students to qualify for state student aid, the number of recipients of state aid would grow by less than five percent.<sup>26</sup> Short-term costs would rise by a slim margin. But the symbolic value of the change and the benefit to a number of ambitious and hard-working students would be much larger and longer lasting.

### An Action Plan for New Jersey

Bills to extend in-state tuition to undocumented students have been introduced in the state Legislature since 2002. None has made it to the floor for a vote. Now, New Jersey has another chance for reform because of legislation introduced early in 2008 by State Senators Ronald L. Rice (D-Essex), M. Teresa Ruiz (D-Essex) and Sandra B. Cunningham (D-Hudson).<sup>27</sup>

The current Senate bill, like legislation enacted in Texas, New York and other states, would allow undocumented students to pay in-state rates if they have done the following:

- ✓ Attended high school in New Jersey for three or more years;
- ✓ Graduated from a high school or received the equivalent of a high school diploma in New Jersey;
- ✓ Registered to enter or be currently enrolled in a public institution of higher education not earlier than the fall semester of the 2008-09 academic year; and
- ✓ Filed an affidavit with the institution of higher education stating that he or she has filed an application to legalize his or her immigration status.

The merit of the legislation is shown by its supporters, who include some of those closest to the issue, including Daryl Greer, president of the New Jersey Association of State Colleges and Universities; Jane Oates, until recently the Executive Director of the New Jersey Higher Education Commission; and Gov. Corzine.

But the legislation has had at least one powerful opponent—Republican Governor-Elect Chris Christie. Christie, who has joined forces with the Latino Leadership Alliance in support of school vouchers, parts company with that organization on in-state tuition. During his gubernatorial campaign, Christie told a reporter that he was “astonished” by Gov. Corzine’s endorsement of the tuition proposal. At the time Christie explained that New Jersey shouldn’t pass tuition equality because “we need to focus our efforts on providing tax relief for middle-class New Jerseyans.”<sup>28</sup>

Paradoxically, some states—including California and Texas—have embraced in-state tuition policies precisely to curb the costs associated with undocumented immigrants. According to the Texas House Research Organization, blocking the paths of undocumented students to college drives up spending on prisons, and leads to higher spending for emergency assistance and other entitlements. It has the negative effect of lowering the overall education level of the state’s workforce. Likewise, a 2006 report by the Massachusetts Taxpayers’ Foundation predicted that offering resident tuition to undocumented students would yield revenues of \$2.5 million over three years by at-

tracting new students to undersubscribed post-secondary institutions.<sup>29</sup>

### An Opportunity for Reform Now

Supporters such as Marlene Lao-Collins of the New Jersey Catholic Conference say the best hope for the bill lies in the current lame duck legislative session. A vote before the new legislative session begins in January might coincide with movement at the federal level on comprehensive immigration reform including the DREAM Act early in 2010.

### CONCLUSION

Making college more accessible for undocumented students doesn’t address their main problem: that they are in the United States without authorization. But being in the U.S. without authorization is a violation of civil, not criminal, law. Denying young people access to college is a misplaced reaction to the fact of their presence. Many of these young people have grown up in our communities and been educated at our schools. Their parents pump our gas, mow our lawns and care for our small children. They are our neighbors and colleagues.

The change is worth making and overdue for both New Jersey’s students and its taxpayers. For the students, New Jersey would be preserving a path well worn by generations of immigrants in America—staying in school, working hard and getting the best education they can. That would be vastly better than the present policy, which punishes the students for decisions made by their parents and forces them to choose between two equally unfair alternatives: to leave New Jersey and the only home most have ever known, or to achieve less than their potential.

For taxpayers, the change would be an investment, made at very little cost. It would be an investment in an educated workforce, vital for New Jersey to compete in today’s global economy. It would be an investment in a more prosperous New Jersey, encouraging hard-working immigrants to get decent jobs at fair wages, pay taxes and spend money on goods and services that will create jobs for other Americans.

Most of all, the change would show the world that New Jersey is a place where hard work is rewarded. As things stand, this is just not the case for undocumented students: hard work is *not*

enough. Maria spends her days as a nanny, and her weekends as a hostess at a restaurant. In between, she attends a single course per term at Mercer County College where she is working painstakingly toward a nursing degree. Even though she was accepted at Rutgers, she can't afford the tuition.

Maria posed her dilemma—and New Jersey's—succinctly, "New Jersey needs nurses. I have the grades, the skills and the

drive to succeed. All I want is to complete my studies, come out of the shadow economy and give something back."

It is universally accepted that higher education leads to improved health and raises levels of voting and volunteerism. The state should give priority to such investments, seeing to it that undocumented students achieve all they can—for their own sakes and for the sake of the state they call home.

## ENDNOTES

- <sup>1</sup> Susan James, "Borderline Dreams: Undocumented Teens Fight for an Education," *Columbia Journalism News*, 2005, <http://web.jrn.columbia.edu/studentwork>. Susan Donaldson James, "For Undocumented Students: A Harsh Lesson," *The New York Times*, June 15, 2005.
- <sup>2</sup> N.J.S.A 18A:62-4, Residency Requirement For In-State Tuition Statute.
- <sup>3</sup> "Basic Facts about In-State Tuition for Undocumented Immigrant Students," National Employment Law Center. [http://www.nilc.org/immlawpolicy/DREAM/index.htm#adv\\_rsrcs](http://www.nilc.org/immlawpolicy/DREAM/index.htm#adv_rsrcs).
- <sup>4</sup> Email correspondence, Dr. Karen Pennington. May 21, 2009.
- <sup>5</sup> Interview with Dean Diane Campbell, MCCC. May 19, 2009.
- <sup>6</sup> Interview with Dr. Dr. Raymond Young, Vice Provost and Director of the Office of Learner Services, Thomas Edison State College. May 18, 2009.
- <sup>7</sup> TCNJ Board of Trustees, "Resolution Regarding the Tuition Rate for Undocumented Immigrant Students." July 8, 2008.
- <sup>8</sup> The U.S. Supreme Court ruled that all children living in the U.S. are entitled to free public education and that school officials may not ask about a child's immigration status. *Plyler v. Doe*, 457 U.S. 202 (1982).
- <sup>9</sup> Elsewhere the statute noted 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 . . . through the enactment of a State law . . . which affirmatively provides for such eligibility." *Ibid.*, p. 8.
- <sup>10</sup> Marc L. Berk et al., "Healthcare Use among Undocumented Latino Immigrants." *Health Affairs*. vol. 14, no. 4. July/August 2000.

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<sup>13</sup> Association for Children of New Jersey, *Immigrant Kids Count*, 2007. p.13.

<sup>14</sup> "Denied at the Door: Language Barriers Block Immigrant Parents from School Involvement," Advocates for Children of New York and the New York Immigration Coalition, February 19, 2004, p. 55; Pew Hispanic Center, "Latinos In California, Texas, New York, Florida And New Jersey," March 2004. <http://pewhispanic.org/factsheets/factsheet.php?FactsheetID=10>.

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- <sup>21</sup> See “Scholarship List 2008/2009,” <http://maldef.org/leadership/scholarships/general/>
- <sup>22</sup> Jennifer L. Frum, “Postsecondary Educational Access for Undocumented Students: Opportunities and Constraints.” *American Academic*. vol. 3. p. 90.
- <sup>23</sup> “Winning the Skills Race and Strengthening America’s Middle Class: An Action Agenda for Community Colleges,” [professionals.collegeboard.com/profdownload/winning\\_the\\_skills\\_race.pdf](http://professionals.collegeboard.com/profdownload/winning_the_skills_race.pdf).
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- <sup>25</sup> See “Assembly Appropriations Committee Statement to Assembly Committee Substitute For NJ A-2633,” 210th Legislature. December 11, 2003.
- <sup>26</sup> 38th Annual NASSGAP Student Aid Survey.
- <sup>27</sup> NJ S.1036, 213th Legislature. January 28, 2008.
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New Jersey Policy Perspective is a nonprofit, nonpartisan organization established in 1997 to conduct research and analysis on state issues. NJPP is a member of the Economic Analysis Research Network and the State Fiscal Analysis Initiative. For our work on tax policy we're grateful for support from The Fund for New Jersey, Open Society Institute, Annie E. Casey Foundation and Sagner Family Foundation.