Arizona Attorney General Tom Horne is suing the Maricopa County Community College District over its policy of charging in-state tuition to undocumented immigrants who receive work permits through the federal deferred-action program.

Horne filed a lawsuit in Superior Court on Tuesday, saying the policy violates state law because it gives public benefits to undocumented immigrants.

The suit asks for a judge to rule on the issue, which could affect several hundred students in the 10-college system.

On Wednesday, Tom Gariepy, spokesman for the community-college district, said the colleges will continue the policy until such a ruling.

"We feel it’s a shame the attorney general felt the need to file a lawsuit at all and spend what amounts to double the public funds," he said. "And that's especially true given that the federal immigration law is working its way through Congress and, if approved, will likely make the whole issue moot."

This past spring, community-college district officials had been in talks with Horne’s office. In April, the district sent a letter to Horne stating that the colleges believed they were complying with the law by accepting the federal work permits as a qualifier for in-state tuition.

"We feel it’s a shame the attorney general felt the need to file a lawsuit at all and spend what amounts to double the public funds," he said. "And that’s especially true given that the federal immigration law is working its way through Congress and, if approved, will likely make the whole issue moot."

This past spring, community-college district officials had been in talks with Horne’s office. In April, the district sent a letter to Horne stating that the colleges believed they were complying with the law by accepting the federal work permits as a qualifier for in-state tuition. But the district agreed there was “uncertainty” over the issue, so it proposed asking a judge to rule on the matter.

Tuesday’s lawsuit sets the stage for a ruling to settle the issue.

Last August, President Barack Obama announced the Deferred Action for Childhood Arrivals program, which allows undocumented immigrants who are age 30 and younger and who were brought to this country as minors to apply to stay in the United States to work for two years without the threat of deportation.

The community colleges’ attorneys determined then that the work permits young people received under the program are on the state’s list of documents needed to meet legal-residency requirements for in-state tuition.
Maricopa community colleges sued over in-state tuition for migrants

The district's in-state tuition rate is $78 per credit-hour, compared with an out-of-state tuition rate of $317 per credit-hour.

After Obama’s action, Gov. Jan Brewer issued an executive order telling state agencies to ensure that undocumented immigrants granted deferred action and work permits through the program were blocked from receiving state-issued driver’s licenses and public benefits. The order did not address tuition specifically, but Brewer has said that allowing undocumented immigrants to pay in-state tuition, even if they receive deferred action and work permits, would violate state law.

“We’re accepting federal work permits as a proof of lawful presence because that’s what the set of documents said we should do,” Gariepy said on Wednesday. “A new category of people is eligible because of the president’s action, but we haven’t changed anything.”

On Wednesday, Stephanie Grisham, Horne’s press secretary, said he would have no comment on the lawsuit.

Right now, undocumented students at the state universities pay out-of-state tuition, which can be nearly three times what in-state students pay. Students have been pushing regents to change the policy. But regents say a state law prohibits the universities from giving these students in-state tuition rates.

At a regents meeting this month, the board scheduled an executive session to discuss the matter and get legal advice. But the regents didn’t take any action in public.

“The board is continuing to monitor the issue in other states and at the federal level, and regents are looking for a solution that is in the best interest of Arizona,” said Katie Paquet, a spokeswoman for the regents.

Republic reporter Anne Ryman contributed to this article.
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39 comments  Add a comment

David Lucier · Top Commenter · Works at Arizona Veterans & Military Leadership Alliance
Tom Horne is the poorest excuse for an AG...ever. Barred for life by the SEC for securities violations, using his staff for personal gratification, and too distracted to stop and leave a courtesy note on a car he hit and then left the scene, and plenty of evidence to suggest that he participated in some serious campaign finance violations.

Would you want Tom Horne teaching ethics to your children?
Reply · 10 · Like · June 27 at 6:20am

Donald Mey · Top Commenter · San Lorenzo, California
Would you ever ask a lawyer to teach anyone ethics?
Reply · 7 · Like · Friday at 11:34pm

Geoff Tan · Works at Ware Manufacturing, Inc.
Why would someone from another country not a citizen get a reduced tuition compared to a citizen from another state. Home is right. If you want a free or reduced tuition go back to your country's schools.
Reply · 7 · Like · June 27 at 7:11am

Paul Reno · Top Commenter · Phoenix, Arizona
Horne is NOT right he's simply playing to the racists in our state, the very same anti-hispanic and anti-illegals who rush to post their negative and divisive thoughts on these pages.
According to the federal government they do have a right to be here and have been permitted by our government to remain in our state. Many of them have never known any other country and have grown up here along side all of us. They've grown up in our neighborhoods, in our schools and in our cities and some of you would send them to a country they do NOT know or have any loyalty to! How convenient for some of you!

Reply · 7 · Like · June 27 at 7:25am

Matthew Field
Paul, The federal government has not said that they have a right to be here. The federal government has said that they have chosen to ignore the existing laws and not deport these people. The question about is it the "right" thing to do to allow these people to stay here and gain citizenship means nothing. If you want to do the "right" thing, change the law to allow them to stay. Until then, enforce the laws that are on the books.
Reply · 2 · Like · June 27 at 12:39pm

Robert Unferth · Top Commenter · Phoenix, Arizona
Horne sure knows how to push latinos and gays out - way, way out - of the Republican Party. Well over a third of the population of the state.

Maybe Horne is counting on his well known family values to save him.
Reply · 6 · Like · June 26 at 10:54pm

Steve Cohan · Top Commenter · Phoenix, Arizona
He's a lawyer sworn to uphold the laws of the State. You turned his actions into racism. The laws are the laws and you don't enforce them based on attracting a certain political group. That's the President's modus operandi.
Reply · 6 · Like · June 26 at 11:54pm

Paul Reno · Top Commenter · Phoenix, Arizona
Steve Cohan do you really admire Tommy Horne, the same man who has been found to be unethical, banned from stock-trading and a caught cheating on his wife? Does Tommy Horne sound like a man who RESPECTS the Rule of Law?
No one is pushing anybody out of anything. Horne is correct to file this lawsuit to force the court's opinion in this matter. Anyone who is here illegally should not receive any type of benefit, especially in-state tuition rates. This is one of the reasons tuition rates keep increasing in order to give free (or nearly free) educations to illegal alien invaders from everywhere.

They are not yet here legally; Horne is right. And the immigration bill doesn't appear to have good odds. The House probably won't pass full-on amnesty and grant citizenship, the Senate probably won't pass it without it.

FYI - The in state tuition is use based, meaning not only is it supposed to be only for residents, it is designed to lower the cost for residents. The amount is determined by a budget, not use....so the more students that use it, the less their discount. So allowing people to use it that should not be eligible takes away from those it was designed for. Just about every year students protest increases in fees. A recent study done by a NAU student suggests that if ALL students who abuse the system (out of state students that claim they live in state, illegal residents/alien) paid full price, the in state amount would drop by 11%!

As illegals, they have none of the rights that citizens have. Hence the term, illegal.

Yes, they pay taxes—but no where near the amount they benefit. I don't have college numbers but, for example, if a family lives in Phoenix and owns a 200k house, their school tax assessment will be about 380 dollars a year. The cost to educate the child is over 5200 per year.

Most of these kids have grown up as Americans and you would turn them away because of their parents actions to bring them here?

You're all heart Ma.

I disagree Paul. As illegals, they have none of the rights that citizens have. Hence the term, illegal. Why not offer a mandatory citizenship class as their first course and get them legal so we won't have this issue? As adults, they are making the choice to be illegal. It is not because their parents brought them here. College age students are not helpless children so don't act like they are.

I assure you, Ma Spats or whoever you really area, illegals PAY taxes and have every right to collect on what they have paid into our school as tax payers! How about boning up on the correct information next time before making a fool of yourself?

Why not offer a mandatory citizenship class as their first course and get them legal so we won't have this issue? As adults, they are making the choice to be illegal. It is not because their parents brought them here. College age students are not helpless children so don't act like they are.

This 

Horne has shown that ideology and a negative agenda is more important than anything else, especially when Tommy wants to run for governor!!! I sincerely doubt he can win anything without the Latino vote anyway and he's got too much garbage associated with himself!
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Scott, in 2011 bank robberies made up 1.4% of all robberies in the United States. Since it is such a small amount, does that mean that we should just ignore the laws and not try to arrest bank robbers? Should we let them just keep the money that they steal since it is such a small percentage? Enforce the laws that are out there. If you want to allow them to have in-state tuition, change the law.

Matthew Field

Scott Pfister

The P/L statement on the cost to enforce this POLICY don't make sense. This aspect of the immigration issue is not a law. BTW, the Field surname immigrated from England in the 17th Century to avoid persecution and starvation in their homeland. Hmmmm.

Robert Decker

What a silly waste of resources by Horne. I guess, however, that this is how his political compass points: always looking for popular windmills to attack.

Paul Reno

You are so very correct!
His wife must be a forgiving saint or indifferent to his cheating ways!!!
What a poor example of a AG this man has turned out to be!

Pepin Bexato

Racist mean spirited Arizona elected officials continue to do all they can to hurt defenseless blameless young people who have done no harm.

Otra lastima y dolor en nuestro “Estado de Verguenza” y sinverguenzas.

Pepin Bexato

Dysfunctional Arizona continues to be at the mercy of a this career racist political persecutor who stole the Attorney Generals office with personal impunity.

Rick Mueller

WHAT THE HECK!!!! "We feel it’s a shame the attorney general felt the need to file a lawsuit at all and spend what amounts to double the public funds,"
You are wasting MY public funds on illegal aliens!!! Make 'em legal and then we can talk.

Paul Reno

Like it or not illegals have PAID taxes, the very SAME taxes that you and I have paid!
YOU would accept their tax money to support our school, but would NOT support their use of our school?
How does that work Ricky?

Matthew Field

Paul, saying that an illegal has a right to in-state tuition because they pay taxes is a fallacy.
I may taxes that go to many programs that I don't get to benefit from.
I pay a tax on my phone bill that goes to help people pay their phone bills.
I don't get to take part in that program.
I pay taxes that go toward food stamps.
I don't get to use food stamps. Just paying a tax doesn't mean that you are qualified for the benefit.
Like it or not, these people do not qualify for in-state tuition.

Eric Marshall

Matthew Field you might have a point, but the bigger issue is Horne is just doing this to distract from his refusal to turn his case over to an independent prosecutor. IE he broke the law, and now thinks by digging into the issue of immigration you and others will just forget about his transgressions...DON'T hold him accountable for his actions, just like any other citizen. Otherwise, it sends a message. You can break the law if you are a politician who is against "illegals".

Hubert McMinn

Illegal aliens that break our laws and show disrespect to its citizens by blatantly defrauding the government for benefits do not deserve the same privileges as citizens. Obama's lack of enforcing the laws does not change an illegal aliens status. I support our Attorney General.

Paul Reno

Settle down Hubie McMinn...your political affiliation has been noted along with the blinders that you were so proudly!
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Michael Bjerkness · Cook County High School
Paul Reno is proof that liberism taken to extremes ... is a disease.
Reply · Like · Saturday at 1:01pm

David L Cunico · Top Commenter · House Boy at Cyndi Cunico
I remember when in state tuition at MCC was $10/hr. sigh
Reply · Like · June 27 at 11:06am