

MCC encouraged as Supreme Court declines to hear appeal of law on in-state tuition for immigrants

The U.S. Supreme Court declined June 6 to hear an appeal of a decade-old California law that allows undocumented immigrants and others without state residency to attend college at in-state tuition rates.

The action allows the policy to continue.

Without comment, the court declined to hear the appeal of a November ruling by the California Supreme Court upholding the statute. The court often declines to intervene in issues until there are rulings from lower federal courts or state supreme courts that are in conflict on matters of federal law.

Since January 2002, California has allowed students to pay lower in-state tuition if they graduated from a California high school after attending the school for three or more years.

A similar law, passed this year in Maryland, was based on the California legislation.

Mary Ellen Russell, executive director of the Maryland Catholic Conference, which supports the Maryland law, reacted to the Supreme Court's decision not to hear the California appeal, saying, "The positive outcome of the United States Supreme Court's refusal to take the California case means that the law still stands and should deter any efforts to challenge Maryland's law."

In the case of students without lawful immigration status, California requires them to file to legalize their status as soon as possible and requires that information about immigration status remain confidential.

Eleven other states have similar laws. In Maryland, which passed its version this year, opponents are gathering signatures to put a question on the 2012 ballot seeking to repeal the law.

Another 12 states explicitly refuse to allow in-state tuition for people who are not in

the country legally.

Russell noted that while the court's refusal to take the California case sends a significant sign that the law is constitutional and legal, the decision will not have a direct, legal effect on the petitioners' efforts to bring a referendum to the voters.

"Nevertheless, Maryland's Catholics and all Marylanders are urged not to participate in the petition drive which will put the law on hold and therefore needlessly inhibit Maryland's undocumented immigrant students from attending community college because they cannot afford the out-of-state tuition rates," she said.

The California Supreme Court ruled that the law did not conflict with a federal prohibition on states granting residency status to undocumented immigrants, because it also allows U.S. citizens who meet its provisions to attend California colleges at in-state rates even though they lack state residency.

The Los Angeles Times reported that about 41,000 students took advantage of the provision last year, with the vast majority of them attending community colleges. The paper said that in 2009, 2,019 university students paid in-state tuition under the law, with about 600 of them believed to lack legal immigration status.

Nationally, legislation known as the DREAM Act would allow students who were brought to the United States as children the chance to legalize their immigration status by attending college or serving in the U.S. military. The Development, Relief and Education for Alien Minors Act passed the House in 2010 but failed to get the 60 votes necessary to override a filibuster threat in the Senate.

It was reintroduced in the Senate May 11.

Russell, who leads the public policy arm for the bishops of Maryland, which includes the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, Del., praised the state law. "Maryland's new DREAM Act, similar to California's law, will give our immigrant friends, neighbors and fellow parishioners - with legal and illegal status - a chance at an affordable college education.

"These students, who have proven themselves academically and whose families must

prove that they pay state income taxes, still must pay tuition at the in-state rate and they will not be eligible for scholarship assistance.”

Russell noted that the call to welcome foreigners is rooted in the Gospel, and that the church has always been a leading advocate for those who are new to the country. “Our Catholic faith calls us to respond to immigrants and migrants with generosity - to welcome the stranger. These students and their families are in our communities and praying with us in our churches,” she said.

“America is unique. We are a land of immigrants,” Russell said. “It is important to remember that our grandparents and forefathers all left their homes in Ireland, Italy and Poland searching for a better life.

“They were not deterred by the complicated and broken immigration process that exists today. They often didn’t speak English and were shunned by those already here,” she said.

Contributing to this story were Patricia Zapor in Washington and Christopher Guntz in Baltimore.