

**PRESS RELEASE**

Colorado Department of Law  
Attorney General John W. Suthers

**FOR IMMEDIATE RELEASE**

June 19, 2012

**CONTACT**

David Blake  
303-866-5792

**ATTORNEY GENERAL RELEASES FORMAL OPINION FINDING THAT STATE SCHOOLS  
CANNOT UNILATERALLY GRANT TUITION BENEFITS TO UNDOCUMENTED STUDENTS**

DENVER — In response to a question posed by the Colorado Community College System, Colorado Attorney General John W. Suthers today released a formal opinion on whether Colorado’s state-supported institutions of higher education have authority to create discounted tuition categories for undocumented students without legislative approval.

“After carefully reviewing the state and federal law in this area, my office has concluded that Colorado’s state-supported higher-education institutions cannot create discounted tuition categories for students who are unable to prove their lawful presence in the United States,” commented Attorney General Suthers. “Although federal law allows state legislatures to pass statutes affirmatively providing tuition benefits to undocumented students, the General Assembly has repeatedly declined to legislate in this area.”

“Just this year, the General Assembly again considered a bill—the ASSET bill—intended by its sponsors to create a new discounted tuition category for undocumented students. Once again, the bill failed. The decision by Metropolitan State College of Denver to proceed on its own to create a new tuition category, undeterred by the legislature’s repeated rejection of specific authorizing legislation, is simply not supported by governing law.”

“The General Assembly may continue to consider this issue,” Attorney General Suthers said. “In the meantime, however, state-supported institutions of higher education in Colorado cannot act unilaterally. Under federal law they must await a decision by the legislature. I am disappointed Metro State decided to proceed in this manner without consulting our office.”

The following are pertinent excerpts of the opinion:

- “Federal law [] requires an affirmative choice by the state legislature to provide benefits to individuals who cannot prove their lawful presence in the United States. The ASSET bill was one of many efforts by the Colorado legislature to satisfy this federal mandate. But the General Assembly has consistently refused to make the affirmative choice required by federal law to grant discounted tuition to undocumented students.”

- “Discounted tuition to a state-supported university [] falls within the plain meaning of the term ‘public benefit.’”
- “Reasonable people of good intentions and good faith can disagree about the wisdom of granting discounted tuition to undocumented students. But that decision is one that under existing law must be made by the legislature, not individual institutions of higher education.”

The opinion, attached to this statement, represents the Department of Law’s non-binding interpretation of applicable law.