
Drug Convictions - How They Affect Your Financial Aid

A 40-year-old seeking a college education could – up until recently – be ineligible for federal financial aid because of a marijuana conviction more than 20 years ago. The Higher Education Act (HEA) was signed into law over three decades ago by President Lyndon Johnson. It opened the door to higher education for many students. It establishes federal financial aid programs such as Perkins Loans, Pell Grants, Supplemental Educational Opportunity Grants, PLUS Loans, and Work-Study Programs. The Act has been periodically reviewed and updated by Congress.

In 1998, Congress enacted an amendment to the Higher Education Act that denies loans, grants, even work study jobs to tens of thousands of would-be students every year who have drug convictions. These restrictions were harsh because they could prevent past offenders from obtaining a college education for a joint smoked years ago. They also forced students to spend more time working to pay for school, reduce their course loads, or drop out of school entirely.

Section 484, subsection R of the Higher Education Act of 1998 (HEA) delays or denies federal student financial aid eligibility to applicants with any misdemeanor or felony drug conviction. Applicants with a single possession conviction lose eligibility for one year from conviction date; those with a second possession conviction or one sales conviction lose eligibility for two years; and three possession convictions or two sales convictions cost an applicant eligibility indefinitely. In early 2006 the law was scaled back to be limited to offenses committed while a student is enrolled in college and receiving federal Title IV aid.

This law has many critics. Some of their concerns include:

It hurts lower income families. Denying financial aid to students hurts only those students who need the aid the most. Students that are well-to-do don't have to worry about losing educational opportunities. They can afford the legal representation necessary to avoid drug convictions as well as the price of tuition without financial aid.

It is discriminatory. A large number of those in prison for drug offenses are people of color. The fact is that the majority of people and the majority of drug users are white. According to The Sentencing Project, African Americans, who comprise approximately 13% of the population and 13% of all drug users, account for more than 55% of those convicted for drug offenses. Hispanics are over represented as well. More than half of all federal powder cocaine prosecutions are against Hispanics, even though they do not use drugs at a greater rate than their population. There is no reason to believe that the racial impact of drug law enforcement won't impact higher education via this law.

It punishes students twice for the same crime. The students having their aid cut have already paid whatever price the criminal justice system demands. It doesn't make sense to punish young people in such a way that limits their ability to get an education and improve their lives. Judges handling drug cases already have the option of denying drug offenders federal benefits without the law.

It does not support the drug abuse treatment programs in which it purportedly seeks to enroll students. Studies reported by the White House Office of

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National Drug Control Policy show that for every \$1 spent on treatment, \$7 is saved in criminal justice, health care, or welfare costs. Treatment accounts for less than 15% of the drug control budget – most of those who need it don't get it. While financial aid can be restored after successful completion of a qualifying treatment program, the provision does not allocate any money for treatment. The same students who can't afford college without public aid are also unlikely to afford private treatment. The measure also does not distinguish between mere use and true substance abuse. Students who merely experimented with marijuana, for example, might be unable to find a program willing to accept them. They might take up scarce slots in rehab needed by actual addicts seeking help.

It will not solve our nation's drug problem. The primary goal of the Higher Education Act is to make it easier, not more difficult, for all students to obtain an education. Limiting the student's eligibility for federal aid is counterproductive. Denying students the opportunity for a college education brings us no closer to solving the nation's drug problem.

It doesn't take the seriousness of the crime into account. Misdemeanors are treated the same way as felonies. The law makes all controlled substance violations subject to the regulations and does not distinguish between marijuana or heroin possession. It also seems irrational to deny aid to a person with a misdemeanor marijuana conviction, while giving aid to a person with a felony rape conviction.

It ignores the major drug problem on college campuses. The biggest drug problem on college campuses is alcohol abuse. No one would seriously suggest that revoking eligibility for financial aid would be a sensible approach to that very serious problem. Additionally, the treatment provision is very broad and fails to distinguish between casual use and serious abuse. The fact that a student has been caught smoking a joint is no more an indicator

of addiction than underage drinking is an indicator of alcoholism.

One in every 400 students applying for federal financial aid for college is rejected because of a drug conviction. According to the Department of Education, Indiana has the highest percentage of federal financial aid rejections due to drug convictions, with one in 200 students denied financial aid. Other states ranking above the national average are Oregon, California, Washington, Rhode Island, North Carolina, Connecticut, Arkansas, Texas, Kentucky, Oklahoma, Iowa and Alaska. Remember, even if you are not eligible for federal aid, you may be eligible for state or school financial aid.

The process of denying financial aid does not involve the colleges themselves. On the FAFSA, question 31 asks "Have you been convicted for possession or sale of illegal drugs for an offense that occurred while you were receiving student aid." Students who do not answer the question are disqualified from receiving aid. If they answer yes, they are sent a worksheet to fill out. This worksheet will determine whether the conviction will affect their aid. After completing the second questionnaire, the student's eligibility is referred to a campus administrator, who handles each case individually.

A student can regain eligibility, however, by completing a rehabilitation program that includes random drug tests. It must also be qualified to receive funds from federal, state, or local government, or a state-licensed insurance company or be administered or recognized by a federal, state, or local government agency or court, or a state-licensed hospital, health clinic, or medical doctor. Some of these programs are difficult to get into. Students are finding that many of the approved treatment facilities will not enroll students who have used or possessed drugs, but are not technically addicted.

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Legislators may still be clinging to the hope that suspending financial aid for drug offenders could be the magical incentive needed to finally win the so-called war on drugs. A report from the U.S. Government Accountability Office suggests otherwise. It was “unable to find conclusive research” that the restriction deters future drug use.

Posted on 11 Dec

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