Students convicted under federal or state law of the sale or possession of illegal drugs are suspended from federal financial assistance programs\textsuperscript{219} Prior to July 1, 2006, eligibility was suspended for individuals convicted of drug offenses either while enrolled or prior to enrolling in higher education. As of July 1, 2006, however, a student will become ineligible for aid only if the conviction is for conduct that occurred during a period of enrollment for which the student was receiving Title IV program assistance\textsuperscript{220}.

Eligibility may be suspended for one year from the date of a first conviction on a drug possession charge, two years from the date of a second conviction, and indefinitely for a third.\textsuperscript{221} Students convicted of selling drugs lose eligibility for two years from the date of a first conviction and indefinitely for a second.\textsuperscript{222} Determinations or adjudications arising out of juvenile proceedings are not considered convictions.\textsuperscript{223}

Eligibility can be restored if the student satisfactorily completes a drug rehabilitation program\textsuperscript{224} or if the conviction is reversed, set aside, or removed from his or her record.\textsuperscript{225}

Research has demonstrated that the policy of suspending student aid eligibility due to drug convictions is ineffective at deterring illegal drug use and reduces college access for individuals with such convictions.\textsuperscript{226}

For example, a study by the National Bureau of Economic Research concluded that the law barring federal financial aid to students with drug convictions negatively affected their college-going rates.\textsuperscript{227} However, the U.S. Government Accountability Office (formerly known as the General Accounting Office) was unable to find any evidence that suspending student aid eligibility helped to deter drug use.\textsuperscript{228}

In 2016, Senators Bob Casey and Orrin Hatch introduced a bipartisan bill,\textsuperscript{229} called the Stopping Unfair Collateral Consequences from Ending Student Success (SUCCESS) Act, which proposes to repeal the section of the Higher Education Act that denies financial aid to students convicted of a drug offense. A similar bill was introduced in the House of Representatives in March 2017.\textsuperscript{230} As of March 2019, these bills have not been enacted.

Footnotes

\textsuperscript{219} \textsuperscript{219} 20 U.S.C. § 1091(r); 34 C.F.R. § 668.40.

\textsuperscript{220} \textsuperscript{220} 20 U.S.C. § 1091(r); 34 C.F.R. § 668.40(a)(1).

\textsuperscript{221} \textsuperscript{221} 34 C.F.R. § 668.40(b)(1).

\textsuperscript{222} \textsuperscript{222} 34 C.F.R. § 668.40(b)(2).

\textsuperscript{223} \textsuperscript{223} 34 C.F.R. § 668.40(a)(2).

\textsuperscript{224} \textsuperscript{224} 34 C.F.R. § 668.40(c).

\textsuperscript{225} \textsuperscript{225} 34 C.F.R. § 668.40(a)(2) (definition of “conviction”).

\textsuperscript{226} \textsuperscript{226} Detailed information—including updated advocacy efforts about this issue—can be found on the Students for Sensible Drug Policy’s website, available at www.ssdp.org.


The Advisory Committee on Student Financial Assistance has also recommended elimination of the requirement. See Advisory Comm. on Student Fin. Assistance, *The Student Aid Gauntlet: Making Access to College Simple and Certain* [2] 16 (Jan. 23, 2005) (available online as companion material to this treatise).


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