

Background on the Higher Education Act Drug Provision

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Issue

Added in 1998 as an amendment to the Higher Education Act, the “Drug Provision” (section 484(r)) excludes students with drug convictions from receiving federal financial aid to attend institutions of higher learning. To date, the Drug Provision has disqualified more than 175,000 determined, low- to middle-income students from receiving financial assistance to go to college for what are often relatively minor drug offenses. The Drug Provision hurts the U.S. economy, violates the basic American principle of local control, punishes people twice for the same crime, and does nothing to deter drug use.

Background on HEA

The Higher Education Act (HEA) was a measure originally enacted by Congress in 1965 under President Lyndon Johnson with the goal of “...expand[ing] postsecondary education opportunities, particularly for low-income individuals, and to increase the affordability of postsecondary education for moderate-income families.” Last reauthorized in 1998, the HEA continues to fund educational aid for students in the form of Pell Grants, Federal Work-Study Programs, Stafford and PLUS loans, loan forgiveness programs, and other programs to improve educational opportunities for historically underserved populations.

The Drug Provision

The 1998 reauthorization of the HEA included a new provision that blocked eligibility for students revealing drug convictions on the Free Application for Federal Student Aid (FAFSA). It provides that a student’s eligibility for aid is suspended or revoked according to the schedule specified in the following table:

<i>If convicted of an offense involving—</i>	
The possession of a controlled substance:	Ineligibility period is:
First offense	1 year
Second offense	2 years
Third offense	Indefinite
The sale of a controlled substance:	Ineligibility period is:
First offense	2 years
Second offense	Indefinite

The Drug Provision also provides that a student may resume eligibility for aid if that student satisfactorily completes a drug rehabilitation program which meets certain requirements prescribed by regulation, however it does nothing to fund these treatment programs.

Question 31 asks on the FAFSA asks applicants to indicate if they have ever been convicted of “possessing or selling illegal drugs.” If the applicant’s answer is anything other than “no,” the

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applicant is then required to fill out a worksheet to determine if and when the applicant will resume eligibility for federal student financial aid.

Why should Congress repeal the HEA Drug Provision?

It's fiscally irresponsible.

By keeping determined students from competing in the 21st-century workforce, the Drug Provision dulls our nation's competitive edge at a time when we need to remove every impediment to American initiative and enterprise. The average full-time worker with a college degree earns 62 percent more and pays more than twice as much in income taxes than the average worker with only a high school diploma. Furthermore, college graduates don't burden U.S. taxpayers. The government pays between \$800 and \$2700 less per year on social programs on college graduates. Congress's role is not to blunt our competitive ability, but to allow American ingenuity to sharpen it continuously. Simply put, America cannot afford the Drug Provision.

It violates the American principle of local control.

The Drug Provision usurps the authority of the justice system to punish people for violations of the law. Judges already have the ability to hold those who break the law accountable, and under the Anti-Drug Abuse Act of 1988, they have the discretion to revoke a student's federal educational aid. Officials in Washington who do not and *cannot* know what is best for individual students should not make blanket policies that overstep the discretion of parents, judges, and school administrators to deal appropriately with students who use illegal drugs. Additionally, judges handling drug cases already have the option of denying drug offenders federal benefits, and school administrators have the power to expel problem students. Repealing the Drug Provision puts decision making back in the hands of families and communities who know best how to handle individual students, which is exactly where it belongs.

It steers at-risk students away from education and into a cycle of failure and recidivism.

Forcing students who leave college as a result of having lost their financial aid discourages them from returning to finish their degrees. According to the U.S. Department of Education, 36% of those who left four-year institutions after their first year did not return within five years; 50% leaving two-year institutions did not return within five years. Further, receiving education reduces the likelihood that an individual will return to engaging in illegal activity. According to the Federal Bureau of Prisons, there is an inverse relationship between recidivism rates and education. The Correctional Education Association also reports that prisoners who receive at least two years of higher education have a 10% arrest rate, compared with a national re-arrest rate of about 60%. Denying education to low-income and at-risk students only dooms them to lives without the financial opportunities bestowed by a college degree and makes them more likely to repeat the poor choices they may have made in the past.

It does not fund the drug abuse treatment programs that restore financial aid eligibility.

Studies reported by the White House Office of National Drug Control Policy show that for every \$1 spent on treatment, \$7 is saved in criminal justice, health care, or welfare costs that otherwise would be borne by society. But treatment accounts for only a fraction of the drug control budget; consequently, many of those who need it don't get it. While financial aid can be restored after

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successful completion of a qualifying treatment program, the Drug Provision does not authorize any money for such treatment. The same students who can't afford college without public aid are also likely to be unable to afford private treatment, much less to afford the cost in time off from work or school necessary to participate in such programs.

It will not solve our nation's drug problem.

The goal of the Higher Education Act is to make it easier, not more difficult, for all students to obtain a full education. To limit the number of deserving students eligible for federal aid is counterproductive. Denying students the opportunity for a college education brings us no closer to solving the nation's drug problem. Even the General Accounting Office, Congress's own research arm, recently indicated that it could find no evidence that the Drug Provision "actually helped to deter drug use." The Drug Provision is neither a deterrent to drug use nor a measure which provides for the rehabilitation of those with addictions.

Join your colleagues in Congress now in the campaign to repeal the failed and ineffective HEA Drug Provision. America simply cannot afford to keep tens of thousands more students out of college and out of the modern workforce. Shouldn't seven years of a failed policy be enough for Congress to repeal it?