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Why is Full Repeal of the HEA Drug Provision Necessary?

Rep. Mark Souder (R-IN) has proposed a partial reform amendment to the Drug Provision he added to the Higher Education Act (HEA) in 1998. After the law was widely criticized, Rep. Souder announced that the Department of Education had been “misinterpreting” it in a “draconian” way. Rep. Souder’s proposal would modify the Drug Provision to stop its application to students with convictions in the past. In effect, it would mean that the Drug Provision would *continue to strip aid* from those who get convicted while in school. Rep. Souder’s partial reform language is included in the House HEA reauthorization bill and is likely to be included in the Senate version as well.

For the following reasons, the proposed partial reform to the HEA Drug Provision leaves many of the fundamental problems with the law unaddressed:

- Students convicted on drug charges will still be forced to drop out of school, making them more likely to continue abusing drugs and engaging in criminal activity (thus becoming costly burdens on the criminal justice system) and less likely to become productive taxpaying citizens (thus reducing the nation’s economic productivity).
- The partial reform will only help a portion of affected students and will leave tens of thousands behind. Traditionally, students enroll in college after graduating high school around age 18. Since juvenile convictions aren’t taken into account under the Drug Provision, most traditional students affected by the policy are convicted while in college and wouldn’t be helped by the partial reform.
- Since there are already minimum GPA requirements for receiving financial aid, the Drug Provision will still only affect students who are doing well in school.
- Because of the discriminatory enforcement of drug laws, the Drug Provision will still disproportionately affect minorities.
- Because of the need-based eligibility determination of financial aid, the Drug Provision will still only affect students from low- and middle-income families, while better-off students can afford to pay for tuition on their own (and hire good lawyers to avoid convictions in the first place).
- The law still won’t fund treatment programs it requires students to complete to regain eligibility.
- National organizations that have called for the Drug Provision’s full repeal include the National Association of Student Financial Aid Administrators, the American Council on Education, the Association for Addiction Professionals, the United Methodist Church, and the Presbyterian Church. For a full list of all 240 organizations, see www.raiseyourvoice.com/supporters.shtml.
- In January, the congressionally-created Advisory Committee on Student Financial Assistance recommended that Congress completely remove the drug question from the financial aid application, calling it “irrelevant” to aid eligibility and stated that the question’s mere appearance on the form deters some students from applying. Under the partial reform, applicants will still have to answer a confusing drug conviction question on the financial aid form. Many eligible students will continue to be deterred from applying because of past convictions they mistakenly think make them ineligible.