



Coalition for Higher
Education Act Reform
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Questions and Answers on the HEA Drug Provision

last updated May 2006

What is the HEA drug provision?

The Higher Education Act (HEA) drug provision (section 484(r), also known as the "Aid Elimination Penalty") excludes students with drug convictions from receiving federal financial aid to attend institutions of higher learning. The provision even applies to misdemeanor possession offenses, and, in some cases, those whose convictions occurred before the law was enacted. (Since being partially reformed in January 2006, it at least no longer applies to offenses committed when the applicant was not in school and receiving federal aid.)

How many students have lost their financial aid because of this law?

According to the U.S. Department of Education statistics, over 180,000 students have been denied financial aid since the law took effect in fall 2000.

Shouldn't we punish those who use illegal drugs?

Students with drug convictions have already been punished by the criminal justice system. In addition to sentencing drug offenders to jail or prison, judges also have the discretion to withhold federal benefits from them. Further, school administrators have the discretion to discipline or expel students who violate university policies. Blanket federal policies like the HEA Drug Provision not only overstep the authority and discretion of those who know the students best, but they punish students a second time for a single infraction.

Doesn't the drug provision save taxpayers' money?

Possibly not -- the Congressional Budget Office's analysis of the 1998 HEA reauthorization estimated that the drug provision "would have little or no budgetary impact" (H. Rept. 105-481, pp. 178-179). In fact, it is likely that large sums of money have been spent to create a bureaucracy in the Department of Education to implement and enforce a law that potentially applies to everyone who seeks financial aid for college.

Doesn't the drug provision deter would-be drug users?

There is no evidence to support the claim that the HEA Drug Provision has deterred individuals from using illegal drugs. Since the law's passage in 1998, drug use among young people has remained relatively constant. Most students and even many high school counselors are unaware that the provision even exists.

Would a repeal of the drug provision "soften" our policy on drug use?

No, but it would "smarten" our policy on drug use. Repeal of the drug provision would allow students to move on with their lives, educate themselves, and become productive citizens and taxpayers. Studies have shown that college graduates are far less likely to engage in illegal activity than those without a college education. Criminal laws and punishments pertaining to the use of controlled substances would remain in full effect.

Who supports the repeal of the HEA drug provision?

Over 250 education, civil rights, religious, criminal justice and education organizations from around the country have called for the repeal of the HEA drug provision, including the American Bar Association, the US Students Association, the National Education Association, American Council on Education, American Public Health Association, the ACLU, and the NAACP. Over 110 student governments have called for its repeal as well.