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College financial aid rules loosened

But challenges await drug-conviction policy

By Mary Beth Marklein
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Some college students or would-be students who were denied federal financial aid for past drug convictions will regain eligibility under a measure passed last week by Congress and expected to be signed soon by President Bush.

But students convicted of a drug felony or misdemeanor in college will still be disqualified from receiving federal aid for at least one year.

Now, the American Civil Liberties Union is preparing to challenge the constitutionality of that law. And other groups opposed to the drug penalty are pursuing reforms on the state level.

The measure passed last week by Congress scales back a 1998 law denying federal financial aid to applicants who indicated they had been convicted of a drug offense. Juvenile offenses don't count; offenders can regain eligibility by completing certain drug treatment programs.

Groups fighting for a repeal of the drug penalty say the revised version will help a small number of older students but doesn't go far enough.

"Someone who was caught using or dealing drugs long ago now will get financial aid," says Chris Mulligan of the Coalition for Higher Education Act Reform, whose members include civil rights, education, health and criminal justice groups. But "a student caught with a joint in college is still going to lose financial aid."

How the states differ

Each state deals with the federal Higher Education Act drug provision differently:

Deny all or most state financial aid to students with drug convictions:

Alabama	Maine	South Carolina
Alaska	Massachusetts	South Dakota
Colorado	Montana	Tennessee
Florida	New Hampshire	Texas
Georgia	New Jersey	Utah
Hawaii	Oklahoma	Washington
Idaho	Oregon	West Virginia
Louisiana	Rhode Island	

Decisions are made by individual educational institutions and other factors

Arizona	Maryland	North Carolina
Connecticut	Michigan	North Dakota
Delaware	Mississippi	Ohio
Kansas	Nebraska	Virginia

Grant financial aid to all or most students, regardless of drug convictions:

Arkansas	Minnesota	Vermont
California	Missouri	Wisconsin
Illinois	Nevada	Wyoming
Indiana	New Mexico	District of Columbia
Iowa	New York	
Kentucky	Pennsylvania	

Source: Coalition for Higher Education Act Reform
(<http://raiseyourvoice.com/statereport/fallingthrough.pdf>)

Using Department of Education data, the reform coalition and other groups estimate about 175,000 applications have been disqualified since the government began asking about drug convictions on financial aid forms in 2000. That doesn't account for students who didn't apply because they assumed they would be denied.

Mulligan says many students are penalized again at the state level. A coalition study released today shows that 35 states deny educational funding because of drug convictions even though their legislatures in most cases have never voted to do so. Most follow federal policies out of convenience, the report says.

The coalition is urging those states to adopt policies that grant aid regardless of drug convictions.

Meanwhile, others are taking the question to court. Students for Sensible Drug Policy recently sued the U.S. Education Department over a technical dispute as it seeks a state-by-state breakdown of students who have lost federal aid based on how they answered a question about drug convictions on the Department of Education's Free Application for Federal Student Aid.

And the ACLU Drug Law Reform Project is preparing to file a nationwide class-action lawsuit against officials "who have ultimately denied student aid" to students with drug offenses, staff attorney Adam Wolf said. He declined to give details but said lawyers have worked with "literally hundreds" of students.

The law has had a rocky history. It was the brainchild of Rep. Mark Souder, R-Ind., who said it would deter students from using or selling drugs, encourage abusers to get treatment and hold students accountable for taxpayer money. Souder also introduced the bill to soften the law, saying it reached beyond his intent.

But a congressionally created advisory committee suggested last year that the drug issue be dropped, calling it "irrelevant" to aid eligibility.