

## **Legislation that Partially Repeals the Federal Financial Aid Ban for Individuals with Drug Convictions Signed Into Law**

On Wednesday, February 8<sup>th</sup> 2006, the President signed into law a large piece of legislation that includes a provision that modifies the ban on student federal financial aid for people convicted of drug crimes. Approved by both chambers of Congress this past winter, Public Law 109-171 partially repeals the ban on student federal financial aid for people convicted of drug crimes so that only students who are convicted of a drug offense while they are in school and receiving federal financial assistance will be affected by the ban. As of July 1, 2006, the ban will no longer apply to students who were convicted of drug crimes prior to their enrollment and application for federal financial aid. The timetable in the current law, outlining how an individual's aid would be delayed or denied according to type and number of offenses, will still apply to students convicted of drug crimes while receiving aid.

### **Background**

In 1998, Congress reauthorized the Higher Education Act (HEA), which funds educational financial aid for students. During consideration of the HEA, Congress approved an amendment to the legislation that delayed or denied federal financial aid for students who were convicted of a drug offense. Students applying for federal financial aid by filling out the FAFSA (Free Application for Federal Student Aid) form were asked if they had ever been convicted of "possessing or selling illegal drugs." If an applicant's answer was anything other than "no," the applicant was then required to fill out a worksheet to determine if and when the applicant would resume eligibility for federal student financial aid. It has been estimated that over 128,000 students applying for federal financial aid were denied assistance because of this provision.

Under the old law, a student who was convicted of a drug offense was unable to receive federal grants, loans or work assistance for higher education or had to wait a certain amount of time before he or she would become eligible to receive federal student aid. A student's eligibility for aid was suspended or revoked according to the following schedule:

For convictions involving the possession of a controlled substance, the ineligibility period was:

First offense	1 year
Second offense	2 years
Third offense	Indefinite

For convictions involving the sale of a controlled substance, the ineligibility period was:

First offense	2 years
Second offense	Indefinite

Although the drug provision did provide that a student could resume eligibility for aid if that student satisfactorily completed a drug rehabilitation program that met certain requirements prescribed by regulation, accessing treatment services can be extremely difficult. The federal Substance Abuse and Mental Health Services Administration and the Institute of Medicine have estimated that only 20% of the individuals who need drug and alcohol treatment in any given year receive care. Waiting lists in some jurisdictions are six months long.

Under the new law, only individuals who have been convicted of drug crimes while enrolled in higher education and receiving federal financial assistance will be affected by the ban. The above ineligibility timetables will apply to these individuals convicted with drug offenses while receiving aid. More information about Public Law 109-171 can be found at: <http://thomas.loc.gov>.