

# Students Convicted of Possession or Sale of Drugs

Drug Convictions  
HEA Section 484(r)  
34 CFR 668.40

## Drug Abuse Hold

The Anti-Drug Abuse Act of 1988 includes provisions that authorize federal and state judges to deny certain federal benefits, including student aid, to persons convicted of drug trafficking or possession. The CPS maintains a hold file of those who have received such a judgment, and it checks applicants against that file to determine if they should be denied aid. This is separate from the check for a drug conviction via question 23; confirmation of a student in the drug abuse hold file will produce a rejected application and a separate comment from those associated with responses to question 23. See the ISIR Guide for more information.

A federal or state drug conviction can disqualify a student for FSA funds. The student self-certifies in applying for aid that he is eligible; you're not required to confirm this unless you have conflicting information.

Convictions only count if they were for an offense that occurred during a period of enrollment for which the student was receiving Title IV aid—they do not count if the offense was not during such a period. Also, a conviction that was reversed, set aside, or removed from the student's record does not count, nor does one received when she was a juvenile, unless she was tried as an adult.

The chart below illustrates the period of ineligibility for FSA funds, depending on whether the conviction was for sale or possession and whether the student had previous offenses. (A conviction for sale of drugs includes convictions for conspiring to sell drugs.)

	<b>Possession of Illegal Drugs</b>	<b>Sale of Illegal Drugs</b>
<b>1st Offense</b>	1 year from date of conviction	2 years from date of conviction
<b>2nd Offense</b>	2 years from date of conviction	Indefinite period
<b>3+ Offenses</b>	Indefinite period	

If the student was convicted of both possessing and selling illegal drugs, and the periods of ineligibility are different, the student will be ineligible for the longer period.

Schools must provide each student who becomes ineligible for Title IV aid due to a drug conviction a clear and conspicuous written notice of his loss of eligibility and the methods whereby he can become eligible again.

A student regains eligibility the day after the period of ineligibility ends or when he successfully completes a qualified drug rehabilitation program or, effective beginning with the 2010–2011 award year, passes two unannounced drug tests given by such a program. Further drug convictions will make him ineligible again.

Students denied eligibility for an indefinite period can regain it after successfully completing a rehabilitation program (as described below), passing two unannounced drug tests from such a program, or if a conviction is reversed, set aside, or removed from the student's record so that fewer than two convictions for sale or three convictions for possession remain on the record. In such cases, the nature and dates of the remaining convictions will determine when the student regains eligibility. It is the student's responsibility to certify to you that she has successfully completed the rehabilitation program; as with the conviction question on the FAFSA, you are not required to confirm the reported information unless you have conflicting information.

When a student regains eligibility during the award year, you may award Pell, ACG, National SMART, TEACH, and Campus-based aid for the current payment period and Direct and FFEL loans for the period of enrollment.

### **Standards for a qualified drug rehabilitation program**

A qualified drug rehabilitation program must include at least two unannounced drug tests and must satisfy at least one of the following requirements.

- Be qualified to receive funds directly or indirectly from a federal, state, or local government program.
- Be qualified to receive payment directly or indirectly from a licensed insurance company.
- Be administered or recognized by a federal, state, or local government agency or court.
- Be administered or recognized by a licensed hospital, health

If you are counseling a student who will need to enter such a program, be sure to advise the student of these requirements. If a student certifies that she has completed a drug rehabilitation program, but you have reason to believe that the program does not meet the requirements, you must find out if it does before paying the student any FSA funds.