

## Notice of Federal Student Aid (FSA) Penalties for Drug Law Violations

The Higher Education Opportunity Act requires institutions to provide to every student upon enrollment a separate, clear and conspicuous written notice with information on the penalties associated with drug-related offenses under existing section 484(r) of the HEA. It also requires an institution to provide a timely notice to each student who has lost eligibility for any grant, loan, or work-study assistance as a result of penalties under 484(r)(1) of the HEA a separate clear, and conspicuous written notice that notifies the student of the loss of eligibility and advises the student of the ways in which to regain eligibility under section 484(r)(2) of the HEA.

Students are hereby notified that federal guidelines mandate that a federal or state drug conviction can disqualify a student for Federal Student Aid funds. 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 he/she was a juvenile, unless the student 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.)

### Possession of Illegal Drugs

### Sale of Illegal Drugs

#### ***1st offense***

1 year from date of conviction

2 years from date of conviction

#### ***2nd offense***

2 years from date of conviction

Indefinite period

#### ***3+ offenses***

Indefinite period

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.)

Students convicted of a federal or state offense of selling or possessing illegal drugs that occurred while they were receiving federal student aid should still complete and submit the FAFSA because they may be eligible for federal aid, and even if they aren’t, they may be eligible for state or institutional aid. Students who leave question 23 blank cannot be paid Title IV aid until they respond by submitting a corrected SAR or ISIR.

Students denied eligibility for an indefinite period can regain it only after successfully completing an approved rehabilitation 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 the school that he/ she has successfully completed the rehabilitation program.

When a student regains eligibility during the award year, schools can award Pell Grants for the current payment period.

**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 federally or state-licensed insurance company.
- Be administered or recognized by a federal, state, or local government agency or court.
- Be administered or recognized by a federally or state-licensed hospital, health clinic, or medical doctor.

**Definition of drug law violations** - Violations of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics- manufactured narcotics which can cause true addiction (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

### **Federal Penalties and Sanctions for Illegal Possession of a Controlled Substance**

- **21 U.S.C. 844(a)** 1st conviction: Up to 1 year imprisonment and fined at least \$1,000 but not more than \$100,000, or both. After 1 prior drug conviction: At least 15 days in prison, not to exceed 2 years and fined at least \$2,500 but not more than \$250,000, or both. After 2 or more prior drug convictions: At least 90 days in prison, not to exceed 3 years and fined at least \$5,000 but not more than \$250,000, or both. Special sentencing provisions for possession of crack cocaine: Mandatory at least 5 years in prison, not to exceed 20 years and fined up to \$250,000, or both, if: (a) 1st conviction and the amount of crack possessed exceeds 5 grams. (b) 2nd crack conviction and the amount of crack possessed exceeds 3 grams. (c) 3rd or subsequent crack conviction and the amount of crack possessed exceeds 1 gram.
- **21 U.S.C. 853(a)(2) and 881(a)(7)** Forfeiture of personal and real property used to possess or to facilitate possession of a controlled substance if that offense is punishable by more than 1 year imprisonment. (See special sentencing provisions re: crack.)
- **21 U.S.C. 881(a)(4)** Forfeiture of vehicles, boats, aircraft or any other conveyance used to transport or conceal a controlled substance.
- **21 U.S.C. 844a** Civil fine of up to \$10,000 (pending adoption of final regulations).
- **21 U.S.C. 853a** Denial of Federal benefits, such as student loans, grants, contracts, and professional and commercial licenses, up to 1 year for first offense, up to 5 years for second and subsequent offenses.
- **18 U.S.C. 922(g)** Ineligible to receive or purchase a firearm.
- **Miscellaneous** Revocation of certain Federal licenses and benefits, e.g. pilot licenses, public housing tenancy, etc., are vested within the authorities of individual Federal agencies.

Note: These are only Federal penalties and sanctions. Additional State penalties and sanctions may apply.

**Standards of Conduct** - The unlawful possession, use, or distribution of illicit drugs or alcohol by any student or employee on School property or as part of or in connection with any School activity is prohibited.

**Disciplinary Sanctions** - The School will impose disciplinary sanctions on students and employees who violate School standards of conduct. In addition, students or employees who violate public law may be subject to criminal prosecution. Conviction may result in fines, imprisonment, and revocation or loss of eligibility to receive federal funding (such as grants and financial assistance) and other privileges. School-imposed discipline may include sanctions up to and including expulsion of a student or termination of employment, in addition to referral for criminal prosecution. Disciplinary sanctions may include participation in a treatment, counseling, or other approved rehabilitation program.

In addition to disciplinary sanctions imposed by the School, all students, faculty, and staff should be aware that federal, state, and some local laws treat illegal use, possession, sale, distribution, or manufacture of drugs or alcohol as serious crimes. Conviction can lead to imprisonment, fines, and assigned community service. Courts do not lift prison sentences in order to allow convicted persons to attend college or continue their jobs. Felony and certain other convictions can prevent you from entering many fields of employment or professions and may have to be listed on applications for employment or admission to graduate or professional schools.

Many cities and towns in Massachusetts have local ordinances and regulations which prohibit public consumption of alcoholic beverages on private property without the owner's consent. Massachusetts laws punish sale or delivery of alcoholic beverage to persons under twenty-one with a fine of up to \$2,000 and six months imprisonment, or both. Misrepresenting one's age or falsifying an identification to obtain alcoholic beverages is punishable by a fine of \$300. First conviction of driving under the influence of alcohol has a penalty of a \$500– \$5,000 fine, a one-year revocation of driver's license, up to two and a half years in prison, and mandatory alcohol rehabilitation.

Massachusetts has criminal penalties for use of controlled substances, or drugs, with penalties varying with the type of drug. In general, use of narcotic and addictive drugs, and drugs with high potential for abuse have heavier penalties. Possession of controlled drugs is illegal without valid authorization. While penalties for possession are generally not as great as for the manufacture and distribution of drugs, possession of a relatively large quantity may be considered distribution. Under both state and federal laws, penalties for possession, manufacture, and distribution are much greater for second and subsequent convictions. Many laws dictate mandatory prison terms and the full minimum term must be served.

Massachusetts makes it illegal to be in a place where heroin is kept and to be "in the company" of a person known to possess heroin. Anyone in the presence of heroin at a private party or in a dormitory suite risks a serious drug conviction. Sale and possession of "drug paraphernalia" is illegal in Massachusetts. Under federal laws and some state laws, participation in drug-related criminal activity can result in seizure or forfeiture of personal property and other assets utilized in conjunction with or stemming from the proceeds of the illegal activity. In addition, conviction of a drug-related offense may entail civil fines and denial or revocation of certain licenses and benefits.

Detailed information about Massachusetts laws can be found at:

**M.G.L. Chapter 90, Section 24 – Driving under the influence**

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter90/Section24>

**M.G.L. Chapter 94C, Sections 31-37 – Classification of controlled substances & penalties for drug law violations**

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter94C>