

## Background on the HEA Drug Provision

- The Higher Education Act (HEA) was originally signed into law over three decades ago by President Lyndon Johnson to open the doors to college education for students to whom they had previously been closed. It established federal financial aid programs such as Perkins Loans, Pell Grants, Supplemental Educational Opportunity Grants, PLUS Loans, and Work-Study Programs. The HEA is periodically reviewed and updated by Congress to ensure adequate funding and access to college for millions of Americans. But during the 1998 revision, Rep. Mark Souder (R-IN) slipped an obscure provision into the HEA that delays or denies federal financial aid to students with drug convictions. There was no debate or recorded vote on the provision.
- Since the drug question was added to the financial aid application in 2000, more than 175,000 students have been affected by the HEA Drug Provision. This number doesn't account for students who didn't even apply for aid because they thought they'd be denied.
- Putting up roadblocks on the path to education will do nothing to solve our nation's drug and crime problems; it will only make them worse. Forcing students convicted on drug charges to drop out of school makes them more likely to continue abusing drugs and engaging in criminal activity (thus becoming costly burdens on the criminal justice system) and less likely to become productive taxpaying citizens (thus reducing the nation's economic productivity).
- Drug convictions are the only infractions for which students are denied financial aid. Murderers, rapists, burglars, arsonists, and other criminals are all eligible to receive aid.
- The Drug Provision disproportionately affects minorities. Because of racial profiling and the discriminatory enforcement of drug laws, the Drug Provision is keeping minorities out of school at a much higher rate than the general population. There are more African-American men in prison than in college.
- The Drug Provision hurts only students from low- and middle-income families – the same people the HEA is intended to assist. Students from wealthier families can afford to pay for tuition without public assistance and can frequently afford the cost of a lawyer to avoid a drug conviction in the first place.
- Students who cannot afford tuition are frequently also unable to afford the private drug rehabilitation programs required by the Drug Provision to get their aid back.
- Removing students' financial aid and forcing them to leave college decreases the likelihood that they'll eventually return to complete their studies.

- The Drug Provision punishes individuals twice for the same infraction. Victims of this law have already been punished by the criminal justice system. Taking away their access to education after they've already paid their debt to society is unnecessary.
- The Drug Provision usurps judges' and college administrators' authority to administer punishments for violations of the law and campus policies. Judges can already revoke federal student aid from people convicted of drug offenses and college administrators already have the ability to expel problem students when they deem appropriate.
- Entering or returning to college reduces the likelihood that an individual will return to engaging in illegal activity. The more education a person receives, the less likely they are to commit further crimes and continue to be a costly drain on the criminal justice system.
- The HEA already has minimum GPA requirements for receiving aid. Thus, the Drug Provision only affects students who are doing well in school.
- The mere appearance of the drug question on the student aid application can deter students from applying, even if they are actually eligible for aid.
- More than 240 organizations have called for the full repeal of the Drug Provision, including the National Education Association, the National Association of Student Financial Aid Administrators, the Association for Addiction Professionals, the NAACP, and the United States Student Association. See [www.raiseyourvoice.com/supporters.shtml](http://www.raiseyourvoice.com/supporters.shtml) for a full list.
- In January 2005, the congressionally-appointed Advisory Committee on Student Financial Assistance recommended that Congress remove the drug question from the financial aid application, calling it "irrelevant" to aid eligibility.

### **Rep. Mark Souder's proposal to reform his own law**

- Rep. Mark Souder (R-IN), the Drug Provision's author, has proposed scaling back his own law. After it was widely criticized, Rep. Souder announced that the Department of Education had been "misinterpreting" it in a "draconian" way. Rep. Souder's proposal would modify the Drug Provision to stop its application to students with convictions in the past. In effect, it would mean that the Drug Provision would *continue to strip aid* from those who get convicted while in school.
- While this new proposal would allow some students with prior drug convictions to receive aid, students who get convicted while attending college would continue to lose their eligibility. The partial reform will only help a small portion of affected students and will leave tens of thousands behind. Unfortunately, this is only a 10 percent solution to a law that is 100 percent flawed; it's like slapping Band-Aid on a gaping wound.
- Rep. Souder's backtracking doesn't address the fundamental problems with the Drug Provision. Under his proposal, the Drug Provision would still disproportionately affect minorities and students from low- and middle-income families. It would still only affect students who are doing well in school. The drug question's appearance on the financial aid application would still deter thousands of eligible students from applying. None of the 240 organizations mentioned above feel that Rep. Souder's partial reform proposal is adequate.