

## Notice of Federal Student Financial Aid Penalties for Drug Law Violations

§ 668.40 Conviction for possession or sale of illegal drugs.

### (a)

**(1)** A student is ineligible to receive title IV, HEA program funds, for the period described in paragraph (b) of this section, if the student has been convicted of an offense under any Federal or State law involving the possession or sale of illegal drugs for conduct that occurred during a period of enrollment for which the student was receiving title IV, HEA program funds. However, the student may regain eligibility before that time period expires under the conditions described in paragraph (c) of this section.

**(2)** For purposes of this section, a conviction means only a conviction that is on a student's record. A conviction that was reversed, set aside, or removed from the student's record is not relevant for purposes of this section, nor is a determination or adjudication arising out of a juvenile proceeding.

**(3)** For purposes of this section, an illegal drug is a controlled substance as defined by section 102(6) of the Controlled Substances Act ([21 U.S.C. 801\(6\)](#)), and does not include alcohol or tobacco.

### (b)

**(1) *Possession.*** Except as provided in paragraph (c) of this section, if a student has been convicted—

**(i)** Only one time for possession of illegal drugs, the student is ineligible to receive title IV, HEA program funds for one year after the date of conviction;

**(ii)** Two times for possession of illegal drugs, the student is ineligible to receive title IV, HEA program funds for two years after the date of the second conviction; or

**(iii)** Three or more times for possession of illegal drugs, the student is ineligible to receive title IV, HEA program funds for an indefinite period after the date of the third conviction.

**(2) Sale.** Except as provided in paragraph (c) of this section, if a student has been convicted—

**(i)** Only one time for sale of illegal drugs, the student is ineligible to receive title IV, HEA program funds for two years after the date of conviction; or

**(ii)** Two or more times for sale of illegal drugs, the student is ineligible to receive Title IV, HEA program funds for an indefinite period after the date of the second conviction.

**(c)** If a student successfully completes a drug rehabilitation program described in paragraph (d) of this section after the student's most recent drug conviction, the student regains eligibility on the date the student successfully completes the program.

**(d)** A drug rehabilitation program referred to in paragraph (c) of this section is one which—

**(1)** Includes at least two unannounced drug tests; and

**(2)**

**(i)** Has received or is qualified to receive funds directly or indirectly under a Federal, State, or local government program;

**(ii)** Is administered or recognized by a Federal, State, or local government agency or court;

**(iii)** Has received or is qualified to receive payment directly or indirectly from a Federally- or State-licensed insurance company; or

**(iv)** Is administered or recognized by a Federally- or State-licensed hospital, health clinic or medical doctor.

(Authority: [20 U.S.C. 1091\(r\)](#))

[[64 FR 57358](#), Oct. 22, 1999, as amended at [71 FR 45696](#), Aug. 9, 2006]