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Federal Pell Grants for Prisoners

Charmaine Mercer
Analyst in Social Legislation
Domestic Social Policy Division

Summary

In 1994, the Violent Crime Control and Law Enforcement Act amended the Higher Education Act (HEA) to exclude individuals who were incarcerated in a state or federal penal institution from receiving federal Pell Grants. Since the initial enactment, questions have continued to surface about the implementation of the prohibition. This issue may be considered during the HEA reauthorization process. This report includes a brief discussion of the Pell Grant program, and the prior participation of prisoners, as well as a review of the current legislative activity. The report will be updated as warranted.

Introduction

The federal Pell Grant program is the largest single source of grant aid for undergraduate postsecondary education funded by the federal government. The program was first authorized in the Education Amendments of 1972 (P.L. 92-318). The Pell Grant is awarded to undergraduate students on a need basis and is intended to serve as the foundation of all federal student aid awarded. The size of the award is primarily based upon the individual student's and where applicable, their family's ability to contribute to the costs of their education.[1] Students who are incarcerated in a state or federal penal institution are not eligible to receive a Pell Grant or a federal student loan.[2]

[1] For additional information regarding the federal Pell Grant program and student eligibility, see CRS Report RL31668, *Federal Pell Grant Program of the Higher Education Act: Background and Reauthorization*, by James B. Stedman. (Hereafter cited as CRS Report RL31668.)

[2] Individuals who are incarcerated in a state or federal penal institution are eligible to receive assistance from the Federal Work-Study (FWS) and Federal Supplemental Educational Opportunity Grant (FSEOG) programs. For information regarding eligibility and how these programs work, see CRS Report RL31618, *Campus-Based Student Financial Aid Programs Under the Higher Education Act*, by David Smole.

Background

Prior to 1992, individuals who were incarcerated and pursuing a postsecondary education were eligible to receive a Pell Grant. In the 1992 amendments to the Higher Education Act (HEA) (P.L. 102-325), Congress prohibited persons who were sentenced to life in prison without the possibility of parole and those who were sentenced to death from receiving a Pell Grant. Persons who were incarcerated and *not* serving life sentences without the possibility of parole or sentenced to death remained eligible for Pell Grants. However, the only permissible expenses were tuition, fees, books and supplies; room and board could not be covered. Several proponents of the new provisions maintained that prisoners who were sentenced to death or life without the possibility of parole would never reenter society, thus there was no need to educate them. In addition, the opposition's argument that education reduced recidivism was not applicable to individuals with life sentences or those who had received the death penalty.

In 1994, the Violent Crime Control and Law Enforcement Act (P.L. 103-322) amended the HEA and completely eliminated Pell Grant eligibility for persons incarcerated in a state or federal penal institution.[3] During the passage of the 1994 Violent Crime Control and Law Enforcement Act many argued that providing Pell Grants to prisoners was displacing more "deserving" students from the program. But in fact, in any given award year funds are available to ensure that all eligible students attending eligible institutions receive a Pell Grant.[4] Therefore, the number of prisoners receiving a grant does not affect the number of grants available to non-incarcerated students. Nevertheless, an overall increase in Pell Grant recipients does increase the total costs of the program, and would increase the cost of raising the size of the maximum grant.[5]

Previous Participation

Prior to the enactment of the 1994 Violent Crime Control and Law Enforcement Act, prisoner participation in the Pell Grant program was very minimal. It is estimated that in the 1993-1994 program award year, approximately 23,000 prisoners — out of 4 million total Pell Grant recipients — participated in the Pell Grant program.[6] Furthermore, the General Accounting Office (GAO) estimated that during this same program year, inmates received $35 million of the $6 billion awarded in grants. This represented less than 1%. Most inmates who participated in the Pell Grant program were enrolled in programs of at least two years, but less than four years in duration, conducted by public, postsecondary institutions.[7] For example, a local community college might conduct a program in a prison.

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[3] Incarcerated students who are *not* incarcerated in a state or federal penal institution are eligible for a federal Pell Grant, FWS and FSEOG.

[4] For additional information regarding Pell eligibility, see CRS Report RL31668.

[5] For additional discussion on increasing the maximum Pell Grant, see CRS Report RL31668.

[6] General Accounting Office (GAO), *Pell Grants for Prison Inmates*, HEHS-94-224R (letter of Aug. 5, 1994).

[7] Ibid.

Prior Legislative Action

Since the initial enactment of the prohibition of Pell Grants for prisoners, policy makers have continued to debate some issues. For example, opponents contend that the elimination of Pell Grants has resulted in an increase in recidivism because inmates no longer have the means to pay for their education. The proponents of the prohibition maintain that education is a luxury, and prisoners should not be eligible to receive a Pell Grant, especially considering funds for the program are limited. Since the initial passage of the prohibition, various members have introduced legislation to amend and/or eliminate this provision. This section presents a brief discussion of prior legislative activity.

During the 108th Congress, Representative Ric Keller introduced the *No Financial Aid for Sex Offenders Act* (H.R. 3385),[8] which prohibited sex offenders confined to civil commitment facilities from receiving Pell Grants or federal student loans.[9] At present, the HEA does not define either *imprisonment* or *penal institution*. As a result of the absence of a definition it is not clear how to apply the current provisions of the HEA to *civil commitment* facilities. These facilities present an unusual set of circumstances with regard to the inmates who enroll in a postsecondary institution and apply for a Pell Grant.[10] These facilities are considered mental health facilities by the states and courts, and are usually managed by the state's health or social service agency as opposed to a corrections department. Because the person being treated in the facility has been *sentenced* to reside in the facility and cannot leave until he is permitted to do so, many argue that civil commitment centers function as prisons.

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[8] The bill was introduced in the House on Oct. 29, 2003 and referred to the Subcommittee on 21st Century Competitiveness in Nov. 2003. There has been no further action since.

[9] According to Representative Keller, "This past year, 54 violent sexual predators in Florida obtained over $200,000 in Pell Grants at taxpayers expense. They got a free ride by exploiting a loophole, that is, they were involuntarily confined in something called a civil commitment center as opposed to being called a prison." Representative Ric Keller, "No Financial Aid For Sex Offenders Act" (H.R. 3385), remarks in the *Congressional Record*, Daily edition, Oct. 29, 2003, p. 9986.

[10] For additional information regarding civil commitment, see CRS Report RL30890, *Sex Offender Registration: Issues and Legislation*, by Alison M. Siskin and David Teasley.