



Federal Restrictions on State Student Financial Aid Report

Prepared by:

Maryland Higher Education Commission

Office of Student Financial Assistance

As Requested by the

Report of the Chairmen of the

Senate Budget and Taxation Committee

And

House Appropriations Committee

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Introduction

Legislation was introduced during the 2006 Maryland General Assembly session, HB 1310 Higher Education – State Student Financial Assistance – Eligibility, to change how the Maryland Higher Education Commission’s Office of Student Financial Assistance (OSFA) defines eligibility for State financial aid. This legislation would have authorized OSFA’s use of the Free Application for Federal Student Aid (FAFSA) for determining eligibility for need-based aid programs and at the same time, it would have prohibited OSFA from canceling a student’s need-based aid award if federal eligibility is not met. Under the bill, a need-based aid award could not be cancelled due to federal restrictions that are more restrictive than the Maryland statute governing the financial aid program. In addition, OSFA would have also been required to implement a process to determine the reasons why students are denied federal aid, to compare these students to students who receive State aid, and to ensure that those students denied federal aid would be considered for State aid.

Although the legislation did not become law, the budget committees requested that the Maryland Higher Education Commission (MHEC) submit a report on the number of students denied State financial assistance due to federal student aid restrictions. The request asked that the report focus on the following categories of students denied assistance due to federal restrictions:

1. students who are not registered for Selective Service;
2. students who are in default of federal student loans;
3. students who do not qualify as eligible non-citizens; and
4. students who have been convicted of drug offenses.

Due to the financial aid awarding cycle, the request asked that information be provided in two reports. The first report is due September 1, 2006 reporting on cancelled awards from FY 2004 to FY 2006. The second report is due December 1, 2006 reporting on cancellations from initial awards in the fall 2006 semester. This first report explains OSFA’s current awarding process, discusses why federal student aid restrictions have been followed by OSFA, and summarizes the number of students whose awards were cancelled from FY 2004 through FY 2006 due to federal restrictions.

Current OSFA Award Process:

OSFA currently administers 28 State financial assistance programs, many of which require a separate application process. However, the Free Application for Federal Student Aid (FAFSA) is used to determine or assist with determining eligibility in the following programs: 1) Guaranteed Access Grant; 2) Educational Assistance Grant; 3) Part-Time Grant; 4) Graduate and Professional Scholarship Program; 5) Senatorial Scholarship; 6) Nursing Scholarship Living Expenses Grant; 7) Jack F. Tolbert Student Grant; and 8) the William Donald Schaefer Scholarship program. The Part-Time Grant and the Graduate and Professional Scholarship programs are campus-based while the other programs are administered by OSFA. Title 18, Subtitle 2, of the Education Article establishes OSFA and enumerates the powers and duties of the Office. Section 18-204 gives OSFA the authority to adopt any rule or regulation necessary to

carry out its powers and duties, and with respect to federal scholarship and grant programs, do anything necessary to comply with any federal law relating to federal scholarships or grants. Overarching guidelines and program specific guidelines have been developed to guide OSFA and higher education institutions in making and verifying awards made in these programs. While some of these guidelines relate specifically to federal requirements, most of them relate to Maryland residency and specific program eligibility criteria. Since the eight programs listed above use the FAFSA to determine award eligibility, Title IV federal eligibility requirements are used by OSFA and Maryland's higher education institutions for ease of program administration.

In addition, Maryland receives federal dollars from the Leveraging Educational Assistance Partnership Program (LEAP) for use in the Educational Excellence Award (EEA) program, which encompasses the Guaranteed Access Grant and the Educational Assistance Grant. Until recently, it was thought that to qualify for the LEAP funds the Title IV federal eligibility requirements needed to be followed for the administration of the EEA program. Title IV requirements, which apply to all programs that receive federal funds, state that only citizens or eligible non-citizens may receive assistance from programs containing federal funds and that certain individuals convicted of a drug related offense may not receive federal funds during periods of ineligibility. During the past legislative session, OSFA received clarification from the U.S. Department of Education that it only needed to comply with federal eligibility criteria for use of the federal funds received and any matching funds necessary to draw down the federal dollars. To receive these federal LEAP funds, Maryland must provide a funding match each year. The funding match and federal dollars received total approximately \$9.9 million out of a total allocation of \$75.7 million for EEA in FY 2007. Therefore, Title IV requirements apply to the administration of only \$9.9 million of the EEA allocation.

With respect to non need-based financial aid programs that do not require the FAFSA, awards are generally not cancelled because of Title IV federal eligibility requirements. The applications developed for these programs do not collect information on these requirements, which means that OSFA would not be aware if any of these situations apply. Occasionally, a higher education institution may report that a student is not a U.S. citizen or an eligible non-citizen. In this instance, the award is then cancelled because Maryland residency is dependent upon an individual's capacity to establish domicile in Maryland. A recent Opinion of the Attorney General of Maryland confirmed that, "an individual who is neither a citizen of the United States nor lawfully admitted to this country does not have the legal capacity to be domiciled in Maryland." 91 Op. Att'y Gen. 92 (May 4, 2006) This standard is applicable to the establishment of residency for those programs requiring a FAFSA to determine eligibility regardless of whether federal funds are received.

For those need-based programs in which a FAFSA is required, there are a number of situations in which an initial award is made to a student despite the federal government's rejection of the student's FAFSA. Situations that cause the U.S. Department of Education to deny federal aid to a student include: 1) no parent signature on dependent student's FAFSA; 2) student or parent taxes paid amount greater than or equal to adjusted gross income; 3) mismatch on parents' SSN, name or birth date; 4) mismatch on student's SSN, name or birth date; 5) student's SSN matches date of death on Social Security Administration's (SSA) database; 6) student not matched as being registered for selective service; 7) student ineligible for aid due to loan limits having been

exceeded; 8) Department of Homeland security could not match student as an eligible non-citizen; 9) SSA could not match student as an eligible U.S. Citizen; 10) student is in default of a student loan; 11) student owes a refund on federal grant aid; 12) student failed drug conviction question; 13) student and/or parent did not complete asset information, but was required to; or 14) the student/parents did not complete all required information on FAFSA. OSFA is notified on the FAFSA if one of these situations impact a student, however, students are still initially processed for consideration of a State award and the information is sent to the higher education institution. The exception would be when the information provided on the FAFSA clearly indicates that the individual is not a citizen or eligible non-citizen of the United States. In this instance, the student would not be considered for State financial aid. In all the other instances, if the higher education institution resolves the situation, the student will receive State aid and may regain federal aid eligibility. If the student's situation is not resolved, the student's State award is cancelled. Typically, a higher education institution resolves most of the matters listed above and the students receive State aid.

Other State's Financial Aid Policies

To determine what criteria other states use for state financial aid eligibility, a poll was developed and sent to state higher education agencies through the National Association of State Student Grant and Aid Programs (NASSGAP) website. This poll asked other state agencies whether their state allows students to apply for and receive state aid regardless of federal requirements (specifically regarding selective service, loan default, citizenship, and drug convictions) or if the state cancels awards based on any or all of these federal restrictions.

Of the eighteen states that responded to the NASSGAP poll, all utilized federal restrictions at some point in their need-based financial aid awarding process. Nine of the eighteen states require students to meet all federal requirements in order to apply for state aid. Three states use certain federal requirements in their award process and another three allow all students to apply for aid, but cancel financial aid awards based on federal eligibility. Arkansas was the only state that responded who said that students can apply and receive state financial aid regardless of federal eligibility, however, they noted in their comments that federal restrictions were taken into account for their LEAP program, which is the primary Arkansas state need-based aid program. Although only 18 states responded to the NASSGAP poll, it would appear that their responses demonstrate the wide-spread use of federal qualifications in state financial aid processes. (See **Appendix**)

Data Analysis

Overview

Specific tracking codes are assigned to document the reasons why an award is cancelled, such as due to defaulted loans, citizenship, drug convictions, not registered for selective service, etc. Institutions are given a specific list of cancellation codes that they may use when canceling student awards. Deviation from this list of codes will cause the cancellation to be rejected. When a student does not meet the federal eligibility criteria, the institution will report the cancellation to OSFA with the appropriate cancellation code. To obtain the data to analyze for this report, cancellation reports were run for all programs. It is noted that the cancellations predominantly occurred in the EAG program.

In the data analyzed, there were very few cases of State financial aid awards cancelled due to federal restrictions. From FY 2004 (2003-2004 academic year) to the present, only one student was ineligible because they had not registered for selective service, 38 students had defaulted on loans, and 15 students were not citizens or eligible non-citizens. There was no record of any students losing awards due to drug related offenses. Additionally, 58 students lost awards because of other problems with their FAFSA application. Cancellations by fiscal year totaled 24 in FY 2004, 31 in FY 2005, and 57 in FY 2006. These cancellations are out of a total number of awards made in FY 2004 of 44,851, 47,646 awards in FY 2005, and an estimated number of awards in FY 2006 of 52,172. In other words, less than .0004% of the total awards were cancelled due to those four federal restrictions. Overall federal restrictions were infrequently the cause of award cancellations.

Selective Service

For the three years surveyed, there was only one reported financial aid award that was cancelled because the student had not registered for selective service. Therefore, this federal requirement has no significant impact on MHEC's award process.

Loan Defaults

In FY 2004, there were 22 awards cancelled for 17 individuals because of loan defaults. That number dropped to 12 cancellations in FY 2005 for 11 individuals and is down to 4 in FY 2006. Based on the data, very few awards are cancelled due to loan defaults.

Non-Citizens

In FY 2004, one student was cited for not being a United States citizen or eligible non-citizen. In FY 2005, there were 4 ineligible non-citizens, and in FY 2006, 10 cancellations were tied to citizenship. In addition to these cancellations, there was also one award cancelled because the student was ineligible based on the G-4 Visa¹ and one award cancelled because the student was ineligible under I-94 (DHS)². The citizenship requirement did not preclude a large number of students from eligibility.

Convicted of Drug Offenses

In the three years reviewed, there were no cancellations that cited drug convictions as the reason. The majority of drug-related aid denials are resolved at the institutional level. Some students mistakenly identify themselves as ineligible due to an arrest, but many of those students are, in fact, eligible for aid because they were never convicted. It is possible that for FY 2004 institutions reported drug-related cancellations “other” to MHEC. However, during FY 2005, OSFA instituted a policy where the institution must report all drug-related cancellations as such. It may also be true that there are few awards cancelled for this reason because the on the FAFSA drug-related offenses are self-reported. The FAFSA has no match with any federal or state entity to verify the accuracy of the responses. Based on the available information, drug-related denials do not appear to be a barrier to state aid.

FAFSA

Problems with the FAFSA form caused one cancellation in FY 2004, 15 cancellations in FY 2005, and 42 cancellations in FY 2006. These cancellations were due to blank financial information, missing forms, and missing signatures on the FAFSA. Although this study does not focus on the FAFSA’s role in determining eligibility, these statistics are good to note as a comparison.

¹ G-4 Visa Classification is for international organization officers or employees and the members of their immediate family. This classification is considered an ineligible citizen by federal guidelines.

² I-94 refers to the Department of Homeland Security form, which is an arrival-departure record for visitors.

Table: Number of Awards Cancelled Due to Federal Restrictions

Reason for Cancelling State Financial Aid	Fiscal Year		
	2004	2005	2006
Failure to Register for Selective Service	0	0	1
Loan Default	22	12	4
Ineligible (Non)-Citizen	1	4	10
Convicted Drug Offender	0	0	0
FAFSA-Related	1	15	42
Total	24	31	57

Conclusions

Based on the NASSGAP poll, it can be said that Maryland is following the norm in state financial aid by following the federal regulations as many other states do as well. All of the 18 states who responded to the NASSGAP poll cited using federal restrictions as at least a qualification for their need-based programs, with nine of the responding states not allowing students who do not meet federal eligibility to even apply for state aid.

From the information analyzed so far, federal restrictions do not appear to be a predominant reason for canceling State financial aid awards. More definitive conclusions will be drawn once OSFA examines the fall FY 2007 cancellation data.

Appendix 1.

Federal Restrictions State Poll Responses

State	students who do not meet all federal requirements can not apply for state aid	students who do not meet certain federal restrictions can not apply or receive for state aid	students can apply and receive state aid regardless of federal eligibility	students can apply for state aid regardless of federal eligibility, but federal ineligibility causes awards to be cancelled
Alaska	1			
Arkansas			1	
California				1
Delaware				1
Illinois		1		
Indiana	1			
Louisiana				1
Maine	1			
Minnesota		1		
Nebraska	1			
New Hampshire	1			
Oregon	1			
Rhode Island	1			
Tennessee	1			
Utah	1			
Washington		1		
Total	9	3	1	3

Appendix 2.

Federal Restrictions State Poll Comments

State	Comments
Alaska	
Arkansas	The above applies to programs other than our LEAP programs. Our LEAP programs require compliance with federal requirements. Our state programs all have citizenship requirements, but we don't look at FAFSA data for that, we use our own application.
California	The correct option did not appear for California. A student may apply for an award, but if they do not meet the federal eligibility requirements they will not receive the award.
Delaware	Students can apply but cannot receive awards if they don't meet federal eligibility requirements
Illinois	To be eligible for MAP, students must be citizens or eligible non-citizens, cannot be in default on student loans, and must comply with Selective Service registration requirements. A drug conviction may disqualify a student for federal aid, but if they are otherwise eligible it doesn't disqualify them for Illinois funded aid. All requirements must be met before a student is determined to be eligible for aid.
Indiana	
Louisiana	LA has a decentralized need based program (LEAP) that does require that the Federal eligibility requirements be met, but those are verified at the school level. LA also has a centralized merit based program that "requires" the FAFSA as its application, but the student does not have to meet all federal eligibility requirements, but must meet similar state requirements, such as citizenship and criminal (drug) conviction.
Maine	
Minnesota	Minnesota State Grant is not available to students who default on a federal loan or who are not citizens or eligible non-citizens.
Nebraska	
New Hampshire	
Oklahoma	Students must meet all federal requirements except citizenship. Certain Undocumented students are eligible for in-state tuition and state financial aid if they: meet admission standards, graduate or receive their GED in Oklahoma, have resided in Oklahoma for 2 or more years and filed paper work to gain legal immigrant status.
Oregon	For Oregon, LEAP/SLEAP funds are combined with state funds for our state need-based grant program. As such, all recipients have to meet Title IV eligibility requirements
Rhode Island	
Tennessee	
Utah	
Virginia	
Washington	Re: Drug conviction and selective service - There are no similar provisions in state statute. We find that there are very few students who fail to meet these federal eligibility requirements who also wind up receiving state aid. If they do, it is because in the professional judgment of the school there are sufficient other resources to permit the student to afford the cost of education. Re: Default on Loans - Schools are permitted to withhold state aid awards from students who owe on loans or funds to the school itself and they do so. Re: Undocumented student - Any student, including undocumented students, who attend a Washington high school for at least three years and receive a diploma are considered state residents for tuition and fee purposes. They are not however eligible to participate in the state's major student aid grant program.

