

Federal Pell Grant Eligibility for Students in Juvenile Justice Facilities

Questions and Answers for Dear Colleague Letter GEN-14-21

The following Questions and Answers (Q&As) provide additional information for student aid professionals in support of Dear Colleague Letter GEN-14-21 that clarifies that students confined in juvenile justice facilities are eligible for Federal Pell Grant funding if they otherwise meet applicable eligibility criteria. Postsecondary educational institutions must ensure that these students are in compliance with all relevant statutory and regulatory requirements related to the Federal student aid programs. While these Q&As were drafted to provide general guidance on the eligibility of incarcerated students to receive Federal student aid, they are not intended to apply to every situation. Student aid professionals are reminded that the Federal Student Aid Handbook (FSA Handbook) contains additional information on Federal aid eligibility for incarcerated students along with general student eligibility requirements. The FSA Handbook is posted to the Information for Financial Aid Professionals (IFAP) website at ifap.ed.gov. Additional information for students is available in the factsheet *Federal Student Aid Eligibility for Students Confined in Adult Correctional or Juvenile Justice Facilities*, which is available at <https://studentaid.ed.gov/sites/default/files/aid-info-for-incarcerated-individuals.pdf>.

A note about terms: While as a matter of State law individuals confined in juvenile justice facilities are typically considered to be “detained” or “committed” to those facilities, for purposes of the applicable regulatory definitions found at 34 CFR §600.2, students confined in juvenile justice facilities after being adjudicated delinquent are considered to be “incarcerated students.” Therefore, for purposes of the Dear Colleague Letter GEN-14-21 and these Q&As, we refer to students who are housed in juvenile justice facilities after being adjudicated delinquent as either “confined” or “incarcerated” in such facilities.

Pell Grant Eligibility

Q1: What is a juvenile justice facility?

A1: For purposes of the Dear Colleague Letter GEN-14-21 and these Q&As, we use the term “juvenile justice facility” to refer to all public or private residential facilities that are operated primarily for the care and rehabilitation of youth who, under State juvenile justice laws (1) are accused of committing a delinquent act; or (2) have been adjudicated delinquent; or (3) are determined to be in need of supervision.

Q2: Are students who are confined in juvenile justice facilities eligible to receive a Federal Pell Grant?

A2: Yes, if they otherwise meet eligibility criteria. Section 401(b)(6) of the Higher Education Act (HEA) and the regulations at 34 CFR §668.32(c)(2)(ii) prohibit students who are incarcerated in a Federal or State penal institution from receiving Federal Pell Grant

funding. A juvenile justice facility as described in A1, however, is not considered to be a Federal or State penal institution for purposes of the Federal Pell Grant Program, regardless of what governmental entity operates or has jurisdiction over the facility, including the Federal government or a State. Therefore, a student who is confined in a juvenile justice facility is eligible for a Federal Pell Grant so long as the student meets the other applicable eligibility criteria. Such Federal Pell Grant eligibility applies for students who are confined in juvenile justice facilities regardless of the student's age, the type of sentence the student received (such as a blended sentence combining an adult sentence and juvenile disposition), the length of the sentence the student is serving, and whether the student was adjudicated as a juvenile or convicted as an adult.

Q3: How does a postsecondary educational institution determine if the facility in which the youth is confined is a juvenile justice facility?

A3: It is the responsibility of the Title IV-participating postsecondary educational institution to determine if the facility is a juvenile justice facility as described in A1. Institutions may get this information from the facility itself, from the state agency responsible for juvenile justice, or from another appropriate state official.

Q4: Is a youth who is incarcerated in a Federal or state penal institution, as opposed to a juvenile justice facility, eligible for a Federal Pell Grant?

A4: No. It is the status of the facility as a juvenile justice facility that makes a student eligible for a Federal Pell Grant. Students who are incarcerated in any federal or state penal facility are not eligible for Pell Grants or Federal student loans, regardless of the nature of the offense or the sentence imposed.

Q5: Are youth confined in juvenile justice facilities the only incarcerated students who are eligible for Federal Pell Grants?

A5: No. Jails, penitentiaries, and correctional facilities under the jurisdiction of local or county governments are not Federal or State penal institutions. Therefore, otherwise eligible students incarcerated in such local and county facilities are eligible for Federal Pell Grants, but not Title IV student loans. These incarcerated students are eligible for Federal Pell Grants regardless of their age and whether it was a Federal, State, or juvenile court that convicted and sentenced them or adjudicated and committed them.

Federal Student Loan Eligibility

Q6: Are students who are confined in a juvenile justice facility eligible to receive Federal student loans?

A6: No. While the U.S. Department of Education (Department) does not consider a juvenile justice facility to be a penal institution, a student confined to such a facility is considered to

be incarcerated for purposes of the applicable regulations at 34 CFR §600.2. Section 484(b)(5) of the HEA and the related regulations at 34 CFR §668.32(c)(3) provide that no student who is incarcerated may receive Federal student loan funds.

Awarding Pell Grants to Incarcerated Students

Q7: Do all of the regular student eligibility provisions for receipt of a Federal Pell Grant apply to students who are confined in juvenile justice facilities?

A7: Yes. Applicable eligibility provisions include the requirement that the student have a high school diploma, GED, or other recognized equivalent of a high school diploma, be a U.S. citizen or eligible noncitizen, and be enrolled as a regular student in an eligible academic program at an eligible Title IV institution.

Q8: What components are used by the school when constructing a cost of attendance (COA) for a student confined in a juvenile justice facility?

A8: While they are Pell Grant eligible, students who are confined in juvenile justice facilities are considered to be incarcerated, and therefore section 472(6) of the HEA applies. That section provides that the COA for an incarcerated student may include only tuition and fees and, if required, books and supplies. Living expenses are excluded from the COA for incarcerated students.

Q9: May a youth confined in a juvenile justice facility receive a Federal Pell Grant for enrollment in a program of study that will extend after the date of the student's expected release?

A9: Yes, but as a best practice before enrolling a student who is confined in a juvenile justice facility, the postsecondary educational institution should consider whether the student will be able to complete the program. If the program involves in-person instruction at the juvenile justice facility, the institution should consider the remaining time the student has to complete the program prior to his or her release. For a student who cannot complete the in-person program prior to his or her expected release date, the institution should consider whether and how the student can complete the program after release either at the same institution or at another institution. The institution should also consider offering supports to assist with that transition. If the program involves online instruction, the institution should consider whether the student can complete the program after the student's release, regardless of the student's location.

Q10: If Pell Grant funds are provided to a youth confined in a juvenile justice facility for a payment period, the student is released and before the payment period ends and does not continue his or her enrollment in the program, must the institution perform a Return to Title IV Aid calculation?

A10: Yes. All of the regular requirements for determining if a student's withdrawal would result in a Return to Title IV Aid calculation apply for such students.

Applying for Aid

Q11: How does a person confined to a juvenile justice facility apply for a Federal Pell Grant?

A11: As is the case for all of the Federal student aid programs (and for most state and institutional aid programs) students must complete and submit a Free Application for Federal Student Aid (FAFSA[®]) that includes demographic and financial information. The FAFSA can be filed using a paper form or electronically using the U.S. Department of Education's [FAFSA on the Web](#) (FOTW) process. Whenever possible, applicants should complete and submit the FOTW because it has many features to assist the applicant and to avoid errors. We realize that in some settings, access to a web-based application may be very limited or not available at all. Therefore, submission of a paper FAFSA may be the only way for the student to apply. We ask that postsecondary institutional staff assist students in juvenile justice facilities in obtaining a paper FAFSA and coordinating with their parents or guardians for its completion when required.

Q12: What address should a youth who is confined in a juvenile justice facility use when completing the FAFSA to apply for federal student aid?

A12: Youth confined to juvenile justice facilities should use the mailing address of the juvenile justice facility where the youth is confined. However, if released, applicants must update their address using the FAFSA correction process, which may be done by calling the Federal Student Aid Information Center at 1-800-433-3243.

Q13: Will students who are confined in juvenile justice facilities have to submit information about anyone other than themselves on their FAFSA?

A13: It depends whether the applicant is married and whether the applicant is considered dependent for student aid purposes. If the applicant is married, information about the spouse and the spouse's income must be included. If the applicant is a dependent student, parental data and income must be provided on the FAFSA. A youth confined in a juvenile justice facility is not considered independent by virtue of being confined or incarcerated. All of the regular questions used to determine dependency status on the FAFSA apply. Because most of the applicants covered by this set of Q&As are, by definition, youth, it is likely that they will be dependent for Federal student aid purposes given that the age cutoff for dependency is age 24.

Q14: How can a student who is confined in a correctional or juvenile justice facility obtain parental or spousal information required for the FAFSA?

A14: If the student uses FAFSA on the Web (FOTW), the applicant can electronically initiate the application and subsequently the spouse or parent can complete the FAFSA in a separate online session. If a paper FAFSA is used, the document can be started by either the applicant or the spouse/parent and then provided to the other party for completion, required signatures, and submission.

Q15: What can a student who is considered dependent do if their parents are not known, unreachable, unable, or unwilling to provide the required FAFSA information?

A15: In such cases the student may request that the financial aid administrator (FAA) use professional judgment, as is allowed under the law, to categorize the otherwise dependent student as independent. The determination is completely up to the FAA and cannot be appealed to the Department of Education. However, the student's confinement or incarceration is not, in itself, a reason for a dependency override.

Q16: Does a youth's conviction or adjudication as a delinquent and confinement by itself make the student a "ward of the court" and therefore an independent student?

A16: Being a "ward of the court" is one of the conditions that would make an otherwise dependent student independent for Federal student aid purposes. Long-standing guidance in the FSA Handbook has provided that being incarcerated or committed does not by itself mean that a student is a "ward of the court" for purposes of this definition. A youth who was determined to be a "ward of the court" prior to confinement, however, could meet the definition and be considered an independent student for Federal financial aid purposes. FAAs should use standard procedures to assess whether a youth who is confined in a juvenile justice facility is considered a "ward of the court" for Federal student aid purposes.

Q17: Could a youth who is confined in a juvenile justice facility correctly identify as an unaccompanied youth who is homeless or an unaccompanied youth at risk of being homeless for purposes of being determined to be independent?

A17: It depends. Generally, an incarcerated youth is neither homeless nor unaccompanied as a result of being incarcerated or confined. It is possible, however, that a youth confined in a juvenile justice facility could have been determined to be homeless prior to confinement. Such a student would choose the applicable status on the FAFSA and as a result would be considered an independent student for Federal financial aid purposes. Additionally, after release, a student may meet the homelessness dependency provisions, as described in the FAFSA. Once released, a student may "correct" the FAFSA if any of the homelessness conditions then apply, and under section 480(d)(1)(H) of the HEA, a FAA may in turn make a determination of independent status based on homelessness.

Institutional and Program Requirements

Q18: Are there institutional eligibility provisions that must be considered before a student confined in a juvenile justice facility may receive a Federal Pell Grant?

A18: Under section 102(a)(3)(C) of the HEA and the regulations at 34 CFR 600.7(a)(1)(iii), an educational institution may not participate in the Federal student aid programs if more than 25 percent of the institution's regular enrolled students are considered incarcerated – not just those who receive Federal student aid. As explained in the “note about terms” in the introduction, youth who are confined in juvenile justice facilities are considered to be “incarcerated” for purposes of the applicable regulations.

Q19: Are there academic program eligibility provisions that must be considered before a student confined in a juvenile justice facility may receive a Federal Pell Grant for enrollment in that program?

A19: Yes. As noted in Q&A 6, one of the criteria for the receipt of a Pell Grant is that the student be enrolled as a regular student in an eligible program. Thus, if the student will be enrolled in a program that the Department of Education has determined is an eligible program, no additional action is necessary, unless the state or the institution's accrediting agency has special requirements related to programs for incarcerated individuals.

If the institution will be establishing a new program(s) into which incarcerated students will enroll, it needs the Department's approval of the program under the Department's regular program approval process. In general, for Federal Pell Grant eligibility, the program must include a minimum of 15 weeks of instruction and must include at least 600 clock hours, 16 semester or trimester hours, or 24 quarter hours. Specific program approval information is available at www.eligcert.ed.gov.

Q20: Is the institution responsible for any special or additional reporting to the Department for incarcerated students, including juveniles who are adjudicated delinquent and confined in juvenile justice facilities, who are awarded a Federal Pell Grant?

A20: Yes. When an institution originates a Federal Pell Grant for an incarcerated student (which includes youth who have been adjudicated delinquent and are confined in a juvenile justice facility) it must set the Incarcerated Indicator special flag in the Common Origination and Disbursement (COD) for the student. This flag is currently used by institutions for students who are incarcerated in a local or county penal institution. Additional information is available in Volume II, Section 3 of the 2014-15 COD Technical reference.