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Education Connection

**The Promise of Pell: Pell Grants for Justice System Involved Youth
After the FAFSA Simplification Act**

Mary Hornschemeier Bandstra

INTRODUCTION

In July 2023, Pell Grants became available to incarcerated students in state and federal penal institutions, nearly three decades after the 1994 Crime Bill barred incarcerated people from eligibility for those grants. Youth incarcerated in juvenile justice facilities technically fell outside the Crime Bill’s Pell Grant prohibition, however, and in very limited circumstances were able to access Pell Grant funding when other incarcerated students could not.

As penal institutions and higher education institutions phase in prison education programs (“PEP”s), those institutions can look to the experience of justice system-involved Pell grantees and their educators for best practices and pitfalls in postsecondary education funding for incarcerated individuals. In turn, the expansion of the Pell Grant program has the potential to open opportunities for many more justice system-involved youth to pursue and complete post-secondary degrees.

PELL GRANTS: BACKGROUND AND HISTORY

The Higher Education Act (“HEA”) of 1965 created the Pell Grant program to fund postsecondary education opportunities for low-income Americans. Through the Pell Grant program, students could use grant funds to cover tuition costs at any participating postsecondary institution’s programs, including those programs housed in prisons, called PEPs. However, the 1994 Crime Bill terminated Pell Grant eligibility for adults incarcerated in state or federal prisons. The Crime Bill’s effect was swift and disastrous; in the early 1990s, 1,287 correctional facilities across the United States housed an estimated 772 PEPs. Without Pell Grants, however, postsecondary education opportunities for people in custody vanished; by 1997, only about eight such programs remained. For nearly thirty years, postsecondary education opportunities for incarcerated adults in state and federal prisons were critically limited. The few programs that persisted through this time were largely reliant on the financial backing of the universities that hosted them, or on private donor support.

Despite the ill-advised policy change wrought by the Crime Bill, youth incarcerated in juvenile justice facilities could still access Pell Grant funds to participate in PEPs. In a

2014 Dear Colleague letter, a document issued to provide guidance or clarification on a department policy or regulation, the United States Department of Education (“DOE”) clarified the prohibition on Pell Grant eligibility for incarcerated students. Juveniles incarcerated in juvenile justice facilities were eligible for federal Pell Grant funding if they otherwise met applicable eligibility criteria. Additionally, students who were incarcerated in facilities that were not federal or state correctional facilities could apply for federal Pell Grant funds. However, the DOE emphasized that any student who was incarcerated in a state or federal facility was not eligible for Pell Grant funding. This meant that an individual awaiting trial in a county jail could theoretically qualify for Pell Grant funding, but once that student was sentenced to a state or federal facility, the student would be barred from receiving grant funds. Additionally, a juvenile student enrolling in a postsecondary program of study needed to be ensured of completing that program before the student’s term of incarceration ended or the student was transferred to a state or federal facility.

Allowing Pell Grant funding for incarcerated juveniles and for students in county jails created a tantalizing fiction for juveniles who had completed their high school diploma and were serving time in juvenile justice facilities. DOE policy meant that, on paper, these juvenile students were technically eligible for Pell Grant funding, which could finance their postsecondary education and provide them with critical tools and knowledge for a life after incarceration. However, the reality for justice system-involved juveniles is that, while it could be deeply beneficial for them to spend their time behind bars studying, their terms of incarceration in qualifying facilities are rarely long enough to complete a postsecondary program of study. The DOE advised institutions of higher education to consider whether incarcerated juveniles would have enough time to *complete* their program of study as part of the assessment for whether to allow students to enroll in a program at all.

THE SECOND CHANCE PELL AND THE FAFSA SIMPLIFICATION ACT

A. The Second Chance Pell

In 2015, the DOE launched the Second Chance Pell Experimental Sites Initiative (“Second Chance Pell”), which enabled 67 colleges and universities to partner with prisons, authorizing them to administer Pell Grants to incarcerated students enrolled in approved postsecondary programs. Five years later, in 2020, the program expanded: 130 colleges participated in Second Chance Pell. That year the Vera Institute of Justice conducted a four-year examination of the original 2015 Second Chance Pell program. A key takeaway from the Vera Institute study is that incarcerated people who participate in postsecondary education programs are 48% less likely to return to prison than those who do not.

In 2022, the United States government announced that it would expand the Second Chance Pell experiment even further, to include more schools. Additionally, the most recent round of the experiment included returning incarcerated borrowers with defaulted loans to good standing and allowing them to consolidate their loans to allow them to exit default in the long term. Before the “fresh start” announcement, incarcerated individuals interested in enrolling in the Second Chance Pell Experiment were twice as likely as the broader population to be turned away because they had defaulted loans. That policy turned away the very prisoners who had previously sought out education.

B. The FAFSA Simplification Act of 2020

On December 27, 2020, Congress passed the FAFSA Simplification Act (“FSA”). As the title implies, the FSA streamlined the complicated Free Application for Financial Student Aid (“FAFSA”) form used by all postsecondary students, but the FSA also eliminated the prohibition on incarcerated Americans accessing Pell Grant funds, formally ending the detrimental policy that started in 1994. The FSA went into effect on July 1, 2023.

As of Fall 2023, federal Pell Grant funds are accessible to incarcerated students in state and federal correctional facilities across the country for the first time in a generation. The only limitation for incarcerated students to use Pell Grant funds is that they must be enrolled in a PEP. Reflecting this change, even *US News and World Report*, arguably one of the most mainstream sources of information for prospective college students, now has links to college funding resources for incarcerated persons. With this change in federal policy, state policymakers have a once-in-a generation opportunity to make prison education available at all learning levels, and to fulfill the promise for juvenile offenders who once had nominal access to Pell Grant funding only as long as they were imprisoned in juvenile justice facilities.

USING EXPERIENCES OF INCARCERATED YOUTH TO IMPROVE OUTCOMES FOR ALL

In its recent report *Youth Justice: Lessons from the Last 50 Years*, the Sentencing Project shared encouraging statistics regarding the reduction in juvenile incarceration in the United States. From 2000 to 2020, youth placement in the juvenile justice system has dropped 77%. The report acknowledged that the feedback loop for juveniles is much shorter than that for adults, due to their aging out of the juvenile justice system. The report further encouraged the criminal justice system to look to the juvenile justice system for guidance on how to continue to decarcerate people of all ages.

Similar to the Sentencing Project’s challenge, in the summer of 2023 Dr. Amy Lloyd, assistant secretary for the Office of Career, Technical and Adult Education in the DOE,

and Amy Solomon, assistant attorney general for the Office of Justice Programs in the U.S. Department of Justice, issued a joint call to action. Lloyd and Solomon noted that colleges and universities must embrace the opportunity provided by this update in Pell Grant policy. Those institutions can look to the experience of postsecondary programs for juvenile justice facilities both for best practices guidance and for warnings about potential challenges in implementation.

In turn, the accessibility of Pell Grant funds for adults in state and federal penal institutions opens the possibility that individuals who are incarcerated in juvenile justice facilities are not limited to only the postsecondary programming that they can quickly complete while housed in a juvenile institution. Instead, justice system-involved youth could potentially complete their degree requirements while serving out the remainder of a sentence at an adult penal institution. This expands the possibilities for justice system-involved youth to re-enter society with skills and knowledge that will aid their healthy re-entry into society and prevent their re-incarceration.

CONCLUSION

Article 1, Section 11 of the Illinois Constitution outlines the issuing of penalties for criminal convictions, stating: “All penalties shall be determined both according to the seriousness of the offense and *with the objective of restoring the offender to useful citizenship.*” Many state constitutions have similar clauses. For nearly three decades, however, states have been walled off from the federal resources that could most directly assist them with restoring incarcerated individuals to healthy, engaged, and useful citizenship. The reinstatement of Pell Grant eligibility is a major public policy step in the right direction. States should now embrace this resource by encouraging incarcerated individuals – especially incarcerated youth – to participate in PEPs, and by streamlining the process by which PEPs are developed and maintained.

SOURCES

20 U.S.C. Chapter 28, §§1070-1099.

42 U.S.C.S. § 13701.

Amy Lloyd & Amy Solmon, *Paving the Path from Prison to College*, NEWSWEEK, July 19, 2023 <https://www.newsweek.com/paving-path-prison-college-opinion-1814094>.

Benjamin Collins & Cassandra Dortch, *The FAFSA Simplification Act*, Congressional Research Service, August 4, 2022. <https://crsreports.congress.gov/product/pdf/R/R46909>

Federal Pell Grant Eligibility for Students in Juvenile Justice Facilities: Questions and Answers for Dear Colleague Letter GEN-14-21. UNITED STATES DEPARTMENT OF EDUCATION (2014).

Financial Aid Options for Incarcerated Individuals, US NEWS AND WORLD REPORT, <https://www.usnews.com/education/best-colleges/paying-for-college/articles/financial-aid-options-for-incarcerated-individuals-and-their-children>.

Gerard Robinson and Elizabeth English, *The Second Chance Pell Pilot Program: A Historical Overview*, AMERICAN ENTERPRISE INSTITUTE, September 2017, <https://www.aei.org/wp-content/uploads/2017/09/The-Second-Chance-Pell-Pilot-Program.pdf?x91208>.

Ill. Const. Art I, §11. <https://www.ilga.gov/commission/lrb/con1.htm>. Emphasis added.

Juan Martinez-Hill. *A Monumental Shift: Restoring Access to Pell Grants for Incarcerated Students*. VERA INSTITUTE OF JUSTICE, February 2021. <https://www.vera.org/downloads/publications/restoring-access-to-pell-grants-for-incarcerated-students.pdf>

Kelsie Chestnut & Allan Wachendorfer. *Second Chance Pell: Four Years of Expanding Access to Education in Prison*, VERA INSTITUTE FOR JUSTICE, April 2021. <https://www.vera.org/publications/second-chance-pell-four-years-of-expanding-access-to-education-in-prison>.

Second Chance Pell Fact Sheet, UNITED STATES DEPARTMENT OF EDUCATION (2015). <https://www2.ed.gov/about/offices/list/ope/pell-secondchance.pdf>.

The Sentencing Project, *Youth Justice: Lessons from the Last 50 Years* (October 6, 2023) [Youth-Justice-Lessons-from-the-Last-50-Years.pdf](https://www.sentencingproject.org/wp-content/uploads/2023/10/Youth-Justice-Lessons-from-the-Last-50-Years.pdf) ([sentencingproject.org](https://www.sentencingproject.org)).

Title VII, Division FF of P.L. 116-260.

U.S. Department of Education Announces Expansion of Second Chance Pell Experiment and Actions to Help Incarcerated Individuals Resume Educational Journeys and Reduce Recidivism, UNITED STATES DEPARTMENT OF EDUCATION PRESS OFFICE, April 26, 2022. <https://www.ed.gov/news/press-releases/us-department-education-announces-expansion-second-chance-pell-program-and-actions-help-incarcerated-individuals-resume-educational-journeys-and-reduce-recidivism>.

What is the FAFSA Simplification Act? Federal Student Aid. <https://studentaid.gov/help-center/answers/article/fafsa-simplification-act>.