



## **Youth Impacted by the Juvenile Justice System CAN Access Financial Aid**

Youth who have come into contact with the juvenile justice system can access federal financial aid if they are otherwise eligible. Current or prior juvenile justice system involvement is **not** a bar to accessing federal financial aid resources. This resource provides a high level overview of common questions related to juvenile justice and financial aid.

### **Are youth in the juvenile justice system eligible for Federal Financial Aid?**

Generally, yes, so long as youth meet other eligibility requirements, such as citizenship, permanent residency, or other eligible immigration status, obtaining a high school diploma or equivalency,<sup>1</sup> and any relevant income requirements. Federal student aid programs include the Pell Grant, Federal Supplemental Educational Opportunity Grant (FSEOG), Federal Work Study (FWS), and federal student loans.

<b>Youth's Contact with the Juvenile Justice System</b>	<b>Youth Federal Financial Aid Eligibility</b>
Youth has prior involvement with the juvenile justice system	Youth is eligible for the same federal financial aid resources as any other student; <u>there are no restrictions on aid eligibility based on prior involvement with juvenile justice system.</u>
Youth is currently involved with the juvenile justice system but is living in a community-based setting (for instance, a residential treatment program, group home, kinship/foster care placement, or at home on supervision)	Youth is eligible for the same federal financial aid resources as any other student; <u>there are no restrictions on aid eligibility for youth involved in the juvenile justice system who reside in the community.</u>
Youth is currently detained or committed to a juvenile justice facility pre-trial or pursuant to a juvenile adjudication	Youth is eligible for all federal student aid (except, possibly, federal student loans). Under prior rules detained youth were excluded from federal student loans; updates to those rules are pending. <sup>2</sup>
Youth is committed to a juvenile justice facility pursuant to a criminal conviction in an adult court.	Youth is eligible for Pell Grants if they are enrolled in an approved "Prison Education Program." Youth are eligible for all other federal student aid except for federal student loans. <sup>3</sup>

<sup>1</sup> Students who are not high school graduates may still be able to qualify for federal financial aid if they meet the Ability-to-Benefit requirements.

<https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-01-15/ability-benefit-frequently-asked-questions-ea-id-ope-announcements-21-02>

<sup>2</sup><https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2014-12-08/gen-14-21-subject-federal-pell-grant-eligibility-students-confined-or-incarcerated-locations-are-not-federal-or-state-penal-institutions>

<sup>3</sup> <https://www.ed.gov/policy/highered/reg/hearulemaking/2009/pep-q-and-a.html>



### **Are you sure about this? I thought that youth couldn't go to college if they got involved with the juvenile justice system.**

Yes, we are sure! In California, the Community Colleges, California State Universities, and University of California all have or are working to expand programs to support system-impacted youth to go to college.

The misconception that system-impacted youth couldn't go to college came from confusion over laws passed in 1994 that removed eligibility for Pell Grants for people incarcerated in adult prisons and restricted eligibility for aid based on a limited set of drug convictions. Those laws never applied to youth in the juvenile justice system, but people thought that they did. The good news is that those laws have been repealed, but the confusion over what those laws did and didn't do remains.

### **What is a Pell Grant?**

Federal Pell Grants are free money from the government to help low-income undergraduate students pay for college or technical school. Students can receive a Pell Grant for the equivalent of 6 years of full-time enrollment.<sup>4</sup> Pell Grants can be used to pay for tuition and fees, books and supplies, food and housing, and other education-related expenses. The maximum Pell award amount in 2023-2024 is \$7,395. This amount is typically enough money to cover in-state tuition and fees at a community college or technical school—according to the National Center for Education Statistics the average in-state tuition and fees at public two year institutions was \$3,900 in 2020-2021.<sup>5</sup>

### **I heard that the Pell Grant is being restored for people in prisons. Does this apply to youth in juvenile justice facilities?**

Youth in juvenile justice facilities are eligible for Pell Grants, but the reasons for that are (mostly) unrelated to what is happening for Pell restoration in prisons. The Department of Education clarified in 2014 that all youth in juvenile justice facilities are eligible for Pell Grants. Then, in 2020, Congress passed a law that would allow “confined or incarcerated” students to receive Pell Grants, but only if they are enrolled in an approved Prison Education Program (“PEP”).

In the new 2020 law, “Confined or Incarcerated” students are defined as people who are serving a **criminal sentence** in a Federal, State, or local penitentiary, prison, jail, reformatory, work farm, juvenile justice facility, or other similar correctional institution.

The words “criminal sentence” are very important in that definition. People who are detained pre-trial are **not** serving a “criminal sentence,” because they have not been sentenced yet. The

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<sup>4</sup> This means that part-time students may be able to receive the Pell Grant for more than 6 years.

<https://studentaid.gov/understand-aid/types/grants/pell/calculate-eligibility>

<sup>5</sup> <https://nces.ed.gov/fastfacts/display.asp?id=76>



vast majority of youth in the juvenile justice system are also **not** serving a “criminal sentence.” The juvenile justice system is separate and distinct from the adult criminal justice system—youth who are found delinquent are not serving a criminal sentence. Therefore, the requirement that a student enroll in an approved Prison Education Program in order to access the Pell Grant **does not apply** to people in pre-trial detention in jails or juvenile facilities, and it **does not** apply to youth who are incarcerated in juvenile facilities pursuant to the authority of the juvenile court.

There are (relatively rare) circumstances in which a youth who was transferred to adult court, convicted, and given a criminal sentence might be housed in a juvenile justice facility. A youth in this circumstance would have to enroll in a Prison Education Program in order to receive a Pell Grant.

All of this is a long way of saying that all youth in juvenile justice facilities are eligible for Pell Grants. The *vast* majority of youth in juvenile justice facilities can receive Pell regardless of whether or not they are enrolled in a Prison Education Program (PEP). A very small number of youth - those who were placed in a juvenile justice facility after a conviction in an adult criminal court - will need to enroll in a Prison Education Program in order to receive Pell.

### **I’m trying to start a juvenile justice higher education program in my local facility, will I need to get approved as a Prison Education Program?**

The best way to get an answer to that question is to email [pep@ed.gov](mailto:pep@ed.gov). In general, if your program is housed in a juvenile facility and serves youth who are there pursuant to a juvenile court order, you will not need to become a PEP in order for students to access Pell Grants. But, because of differences in state law, practice, and resources, there may be instances in which it makes sense for a juvenile facility higher education program to become a PEP. For example, if a state’s practice is to house all youth transferred to the adult system in a certain set of facilities, then those facilities might want to become a PEP in order to access Pell funding.

The availability of state funding for higher education programs in juvenile facilities may also impact a program’s decision to become a PEP. In some instances, available state funding is enough to cover student tuition and fees, which are the primary costs of education for youth in juvenile facilities. In those instances, it may actually be better for the student *not* to receive Pell funding while they are incarcerated, so that they can save their 6 years (or equivalent) of Pell funding for when they are released from the facility.

### **What about state financial aid?**

Most states do not restrict state financial aid based on current or prior involvement with the juvenile justice system, but a minority of states do. These restrictions typically do not apply to *all* students impacted by the juvenile justice system, but rather to youth adjudicated delinquent for certain offenses. However, state law varies significantly in this area.<sup>6</sup>

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<sup>6</sup> A 50 state review of financial aid policies related to currently or formerly incarcerated students is available here: <https://reports.ecs.org/comparisons/financial-aid-barriers-for-students-impacted-by-justice-system>. Note that this review does not separate out juvenile justice specifically from adult criminal justice. This review notes that 17 states have no restrictions based on criminal justice involvement, and 19 tie their eligibility requirements to Pell eligibility.

**There is a question on the FAFSA that asks if a student was a “orphan, ward of the court, or in foster care” after the age of 13. Should the student check that box if they were involved in the juvenile justice system?**

Maybe. It depends on the youth’s individual circumstances. Not all youth with juvenile justice system involvement are considered “wards of the court” for purposes of the FAFSA, but some are. If a youth is a ward of the court on the FAFSA, it can make it easier for them to complete their financial aid paperwork, as wards of the court are considered “independent” students,<sup>7</sup> and don’t have to provide parental financial information.

For FAFSA purposes, a youth is a dependent or ward of the court if the juvenile court has taken legal custody of the youth.<sup>8</sup> Legal custody is generally understood to mean that the court has authority to make decisions on a child’s behalf.<sup>9</sup> Typically, this refers to situations in which the youth was taken into child welfare (foster care) custody, the youth’s parents had their parental rights terminated, or the youth’s parents are deceased or incapacitated, and the court stepped in to take their place. If a youth is taken into juvenile court custody for purposes of incarceration, this alone does not qualify them as a “ward of the court” for the FAFSA but, importantly, it *does not disqualify* them from being a ward of the court *if other eligible circumstances apply*.

Involvement with the juvenile justice system does not “erase” or “reset” a prior ward of the court determination, nor does it preclude students from being considered wards of the court in the future. Students can check the “ward of the court” box on the FAFSA if at any time after the age of 13, they were a ward of the court, even if their legal status changed later. Students can also check the box if they become wards of the court after being incarcerated.

Some states use “ward of the court” to refer to all youth in the juvenile justice system, but that is not what “ward of the court” means on the FAFSA, which can lead to confusion. As a general matter, youth are not considered “wards of the court” on the FAFSA unless there is a court order stating that the court has assumed legal custody of the youth. Usually, contact with the juvenile justice system does not result in such an order.<sup>10</sup> However, many youth in the juvenile justice system have prior or ongoing involvement with foster care,<sup>11</sup> or have other circumstances that would qualify them as “wards of the court/in foster care” on the FAFSA.

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In those states, youth in the juvenile justice system, including those who are in facilities, are able to access state financial aid if they meet the other eligibility requirements. In the other states, youth may be able to access state aid, but without further research we cannot definitively say what they are or are not eligible for.

<sup>7</sup> <https://studentaid.gov/apply-for-aid/fafsa/filling-out/dependency>

<sup>8</sup> <https://fsapartners.ed.gov/knowledge-center/fsa-handbook/2022-2023/application-and-verification-guide/ch2-filling-out-fafsa>

<sup>9</sup> CUSTODY, Black’s Law Dictionary (11th ed. 2019)

<sup>10</sup> But, we do not rule out the possibility that a particular state might have laws allowing the juvenile court to assume legal custody of a youth for purposes other than incarceration - for instance, for youth in the community on probation, or youth residing in non-secure residential or family-based placements rather than in an incarceration setting. In these situations, youth typically remain in the legal custody of their parents, or are in foster care, but it is not impossible that a state might have a scheme in which the court has legal custody of some of these youth.

<sup>11</sup> In many states, youth can be placed in foster care through the juvenile justice system.