



# Bureau of Justice Assistance Fact Sheet

*Nancy E. Gist, Director*

## Denial of Federal Benefits Program and Clearinghouse

The Denial of Federal Benefits Program, established under Section 5301 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690), provides Federal and State courts with the ability to deny all or selected Federal benefits to individuals convicted of drug trafficking or drug possession. Now codified at Title 21, United States Code, Section 862, the law provides a sentencing option for Federal and State courts to deny all or selected benefits available from the Federal Government to those convicted of drug trafficking or possession. The Program is administered by the Bureau of Justice Assistance (BJA), Office of Justice Programs (OJP), U.S. Department of Justice. BJA also operates a Denial of Federal Benefits Program Clearinghouse, which maintains a database of the names of convicted individuals and the benefits they have been denied.

### Rationale for the Denial of Federal Benefits Program

Drug offenders place an extraordinary burden on the criminal justice system. Existing correctional institutions are overwhelmed by the task of incarcerating serious drug offenders. Probation alone is an inadequate tool for dealing with drug offenders. However, lower level drug offenders are not routinely incarcerated unless they also commit a serious offense or have multiple drug-related convictions. To close the gap between incarceration and probation, the U.S. Department of Justice has explored numerous intermediate steps or punishments, including civil penalties, license suspension and revocation, boot camps and shock in-

carceration, halfway houses, electronic monitoring, drug testing, and denial of Federal benefits such as grants, contracts, purchase orders, financial aid, and business and professional licenses.

The denial of Federal benefits sanction helps ensure that individuals found guilty of violating the Controlled Substances Act will, at the very least, forfeit their claims to most taxpayer-supported economic benefits and other privileges. Federal benefits are defined by statute as “the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States. . . .” The program alerts casual drug users to the fact that, as students, they can lose their student loans; as broadcasters, they can lose their Federal Communications Commission licenses; as physicians, they can lose their authority to prescribe medicine; as pilots, they can lose their Federal Aviation Administration licenses; as business owners, they can lose their Small Business Administration loans or the right to contract with the Federal Government; and as researchers, they can lose medical, engineering, scientific, and academic grants.

However, some benefits are excluded from the denial process. These include public housing, welfare, and drug treatment benefits, as well as benefits earned through financial contributions or services to the Federal Government, such as Social Security, health, disability, and veterans’ benefits. Also, the courts may choose to restore benefits for specific reasons, such as an offender’s successful completion of an approved drug rehabilitation program.

## Provisions of the Statute

The sentencing provisions of the Anti-Drug Abuse Act of 1988 are as follows:

**Drug trafficker.** Any individual convicted of a Federal or State offense consisting of the distribution of a controlled substance, as defined by the Controlled Substances Act (21USC 801 et. seq.):

- Upon the first conviction*, is ineligible for any or all Federal benefits for up to 5 years, at the discretion of the court.
- Upon a second conviction*, is ineligible for any or all Federal benefits for up to 10 years, at the discretion of the court.
- Upon a third or subsequent conviction*, is permanently ineligible for all Federal benefits.

**Drug possessor.** Any individual convicted of a Federal or State offense involving the possession of a controlled substance:

- Upon the first conviction*, receives one or a combination of the following three sentences, at the discretion of the court: (1) is ineligible for any or all Federal benefits for up to 1 year, (2) is required to successfully complete an approved drug treatment program that includes periodic testing to ensure that the individual remains drug free, or (3) is required to perform appropriate community service.
- Upon a second or subsequent conviction*, is ineligible for all Federal benefits for up to 5 years, at the discretion of the court. The court continues to have the discretion to impose penalties and conditions and may require the completion of the imposed conditions for the reinstatement of benefits.

## Program Implementation

As required by the Anti-Drug Abuse Act, former President Bush submitted a plan to Congress outlining the implementation of programs under the Act. The plan assigned general supervision and direction of the Act to the U.S. Attorney General, who delegated administration of the Program to the Assistant Attorney General for OJP. The plan restricted the program's application to convictions occurring on or after September 1, 1989.

On November 30, 1989, sentencing guidelines for Federal courts were amended to reflect denial of benefits as an option. All State supreme court and State court administrators were advised of the Program in a letter dated January 26, 1990, from the Assistant Attorney General for OJP. This announcement was followed on September 11, 1990, by the distribution of

program implementation guidelines and forms to affected organizations within the Federal and State courts.

## How the Denial Process Works

The denial of Federal benefits is a sentence pronounced by a Federal or State judge as a result of conviction for trafficking or possession of drugs. This sanction can be imposed in combination with other sanctions, and courts have the option of denying all or some benefits and determining the length of the denial period based on the nature of the crime. When denial of benefits is part of a sentence, the sentencing court notifies the BJA Denial of Federal Benefits Program Clearinghouse, which, in turn, informs the U.S. General Services Administration (GSA).

GSA publishes the names of individuals who are denied benefits in the *Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs*, commonly known as the Debarment List. The Debarment List contains special codes that indicate whether all or selected benefits have been denied for an individual and the expiration date for the period of denial. Before making an award or conferring a benefit, Federal agencies are required to consult the Debarment List to determine if the individual is eligible for benefits.

Information in the Debarment List is also available through the GSA Federal Supply Service Multi-Use File for Interagency News (MUFFIN), an automated system available free of charge 24 hours a day, 7 days a week. Users must have an asynchronous terminal compatible with the American Standard for Communication and Information Interchange (ASCII) and equipped with a modem or coupler with the capacity to communicate at 300 or 1,200 baud. Users can access this free service using commercial telephone lines but must pay toll charges. The electronic access telephone number is 202-219-0132.

Federal agencies may request information over the telephone regarding a specific individual by calling the BJA Denial of Federal Benefits Program Clearinghouse, which maintains a complete listing of the benefits denied to each individual sentenced under the program. Clearinghouse staff can immediately assist agencies over the telephone with verification of an individual listed in the Debarment List. All inquiries are followed up with a memorandum.

## **For Further Information**

For additional information about the Denial of Federal Benefits Program Clearinghouse, contact:

**Bureau of Justice Assistance**

810 Seventh Street NW.  
Washington, DC 20531  
Tel: 202-616-3506

To subscribe to the Debarment List, contact:

**Superintendent of Documents**

U.S. Government Printing Office  
Washington, DC 20402  
Stock #: 722-002-00000-8  
Tel: 202-512-1800

The Debarment List is available on the Internet. The URL listing is <http://www.arnet.gov/epls/>

For additional information about the Debarment List, contact:

**General Services Administration**

Office of Acquisition Policy  
18th and F Streets NW.  
Washington, DC 20405  
Tel: 202-501-4873

**U.S. Department of Justice**  
Office of Justice Programs  
*Bureau of Justice Assistance*

*Washington, DC 20531*

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**Denial of Federal Benefits  
Program and Clearinghouse**

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