The Higher Education Amendments

by Joel Epstein

On October 7, 1998, President Clinton signed into law H.R. 6, the Higher Education Amendments. Included in this large package of federal education legislation are a number of provisions that may offer assistance to college and university student drinking and other drug use prevention efforts. These new laws appear to represent important developments in the evolving attitude of the public toward student drinking and other drug use and disorder.

Summary of Section 119
Higher Education Amendments Section 119, The College Initiative to Reduce Binge Drinking and Illegal Alcohol Consumption, communicates the "sense of Congress" concerning how institutions of higher education (IHEs) should address the problem of high-risk drinking on campus. These amendments offer important advice to college administrators concerned about maintaining a safe and drug-free campus.

While Section 119 is an important statement of congressional support for a college initiative, the section has no force of law. Specifically, Section 119 recommends that all IHE presidents should

• Appoint a task force of stakeholders to fully examine student and academic life at the institution.
• Provide maximum opportunities for alcohol-free residence living and recreational and leisure activities.
• Adopt a "zero tolerance" policy for illegal consumption of alcohol.
• Vigorously enforce student disciplinary sanctions for alcohol violations. IHEs should refer students for assistance, including campus counseling, if appropriate.
• Eliminate alcoholic beverage-related sponsorship of on-campus events. Limits on advertisement and promotion of alcoholic beverages on campus should be adopted.
• Foster town/gown alliances.

None of these recommendations existed in the old legislation.

Summary of Section 120
Section 120, Drug and Alcohol Abuse Prevention, another section of the amendments, contains a codification of the Drug-Free Schools and Campuses Act (DFSCA). Under the new legislation, authority for the prevention program moves from the U.S. Department of Education’s Office of Elementary and Secondary Education (OESE) to the Office of Postsecondary Education (OPE). The section also calls for a school recognition program. Section 120 replaces Section 4122 of the Improving America’s Schools Act (IASA).

Section 120 (a)(2) specifically codifies the DFSCA Biennial Review and places restrictions on school eligibility for federal funds. According to a recent comparison report of H.R. 6 prepared by Ernest K. Nicholson and Lavona Grow of the U.S. Department of Education’s Office of Elementary and Secondary Education, both Section 120 and the DFSCA require that certification of efforts be made available to the Secretary of Education and to the public. DFSCA and Section 120 both require that certification of efforts must be reported in a biennial review. Institutions of higher education are given 30 days to appeal when a determination to terminate financial aid is made. The judge hearing the appeal can toll or extend the time for appeal and is the final arbiter of disputes.

Section 120 (e) and (f) also require

• enactment of a program of grants and contracts to IHEs permitting for support of the Higher Education Center for Alcohol and Other Drug Prevention to provide training, technical assistance, evaluation, dissemination, and associated services as determined by the Secretary of Education. The legislation authorized $5 million for grants and contracts in Fiscal Year 1999, but no funds were appropriated.
• establishment of a National Recognition Awards Program for innovative and effective alcohol and other drug abuse prevention programs in IHEs. The legislation authorized $750,000 in FY 1999 and $750,000 were appropriated under Higher Education Amendments Title VII-B. Five of the awards are earmarked for alcohol abuse prevention while five are for drug prevention programming. Other requirements include

• published results of the National Recognition Awards Program due no later than January 1 of the academic year
• a $50,000 prize for maintenance and improvement of an existing prevention program for each award
• inclusion of the program’s application guidelines and review process

Summary of Section 484
Section 484, Student Eligibility, is amended to authorize the suspension of a student’s federal loan eligibility if he or she has been convicted of a drug-related offense. Specifically, Section 484, which became effective on enactment of the Higher Education Act, is amended by adding a new subsection (r), Suspension of Eligibility for Drug-Related Offenses. In the relevant part, the section states

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Applications for grants are to be submitted to the attorney general and compliance with federal campus crime reporting requirements is mandated, with IHEs required to submit an annual performance report to the attorney general. The legislation, which had no counterpart under the old legislation, appropriates $10 million for the program in FY 1999.

Section 827, Study of Institutional Procedures to Report Sexual Assaults, provides for a national study to examine procedures undertaken after an IHE receives a report of sexual assault. According to Section 827, the report will analyze the IHE's definition of sexual assault; publications and dissemination of information; training and personnel; on-campus and off-campus reporting options; resources available for victims' safety, confidentiality, medical health, and related activities; prevention policies; effective strategies and practices for disciplining perpetrators; on-campus disciplinary procedures; and types of punishments.

The report is due no later than September 1, 2000. The legislation appropriates $1 million for the report.

Summary of Section 952
Section 952, Alcohol or Drug Possession Disclosure, another section of the Higher Education Amendments relevant to prevention, authorizes IHEs to disclose to parents and guardians violations of institutional policies or rules in addition to local, state, and federal laws governing the use or possession of alcohol or a controlled substance if the student is under 21 and if the IHE determines that the student has committed a violation with respect to such use or possession.

According to Nicholson and Grow, the old legislation, Section 444 of the General Education Provisions Act, only allowed disclosure of violations of local, state, or federal laws governing the use or possession of alcohol or a controlled substance.

Section 952, originally part of the Warner amendment, so named for its sponsor Senator John Warner (R-Virginia), clearly allows IHEs to disclose violations of not only local, state, and federal laws but also institutional policies and rules governing the use or possession of alcohol or controlled substances.

Summary of the Campus Crime Provisions
According to the H.R. 6 Conference Report, the Higher Education Amendments also contain changes designed to make campuses safer in general. H.R. 6's campus crime provisions require campuses to

• Expand the types of crimes campuses must report to include manslaughter and violations reported to the campus judicial system
• Expand hate crime reporting
• Require open campus crime logs, with explicit victim privacy protection
• Expand the reporting locations to include new separate categories for institution buildings that are “off campus” (such as a food court frequented by students) and public property that is adjacent to the campus (such as streets and sidewalks)

H.R. 6 also requires the Secretary of Education to collect and make public annual campus crime statistics and to send a one-time report on campus crime statistics to Congress by September 1, 2000. Lastly, the bill requires the Secretary of Education to notify Congress of each institution found not in compliance with the crime disclosure requirements.

Sources


Links
The U.S. Department of Education has posted the full text of H.R. 6, as well as other supporting and analytic documents, on its Website.

www.ed.gov/offices/OPE/PPI/Reauthor/

THOMAS—Legislative Information on the Internet is a free service of the Library of Congress. THOMAS allows users to conduct searches of the text of congressional bills and enacted legislation, and to research the legislative history of pending and enacted legislation. THOMAS users can do a “quick search” of the text of bills for the 105th Congress from the THOMAS homepage. Searches by word/phrase or by bill number are offered.

http://thomas.loc.gov/home/thomas2.html

Security On Campus, Inc. (S.O.C.), maintains a comprehensive Website devoted to campus crime and violence. The national, nonprofit organization was founded in 1987 by Howard and Connie Cery after their daughter Jeanne was raped, beaten and, murdered by a fellow student at Lehigh University in 1986. S.O.C. is also dedicated to assisting campus victims in the enforcement of their legal rights.

www.soconline.org/