

# ALBUQUERQUE CRIMINAL LAWYER BLOG

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## **Marijuana and Federal Student Loans**

Possession of a controlled substance, including marijuana, can have serious consequences for student aid. A conviction results in an automatic suspension of eligibility for federal student loans, grants and work assistance.

Suspension of eligibility for student loans, grants and work assistance is automatic for a duration of 1 year for a first time conviction for possession of a controlled substance. A second conviction carries an automatic 2 year suspension. A third conviction results in an indefinite suspension of eligibility.

Because the definition of controlled substance includes marijuana, both under federal and New Mexico law, any college student charged with possession of marijuana needs to carefully consider the consequences of any possible plea offers. Often, the prosecutor or district attorney will offer a plea disposition that ultimately involves a dismissal of the charges. This is very common in minor first time possession of marijuana. However, the prosecutor will often condition the plea and eventual dismissal on an admission of guilt such as in offers of a deferred sentence.

Any offer resulting in ultimate dismissal would typically be a very good option for a criminal defendant. Unfortunately, much like the unintended immigration consequences related to seemingly trivial offenses, an admission of guilt to possession of a marijuana, despite a later dismissal, will jeopardize student loan eligibility.

Unfortunately, these harsh federal laws have not caught up with the national trends toward greater leniency in marijuana prosecution. California is moving toward decriminalization. At least one town, Breckenridge, has decriminalized marijuana usage. Medical marijuana legalization is expanding fairly rapidly across the country. Even law enforcement officials across the country are leaning toward leniency in marijuana enforcement. All the while, federal law continues to penalize recipients of student loans and grants for what is a fairly widespread practice on college campuses.

Hopefully, the federal law will catch up with state laws and the realities of widespread marijuana usage throughout the population, including college students. However, until that day comes, any New Mexico college student facing this situation would be well advised to seek the advice of a New Mexico attorney. Going to court without the assistance of counsel believing this to be a minor matter could prove very costly.

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