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## When Free Ain't Really Free: The Hidden Barriers of the Free Application for Federal Student Aid

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*When Free Ain't Really Free: The Hidden Barriers  
of the Free Application for Federal Student Aid\**

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**ABSTRACT**

A completed Free Application for Federal Student Aid (FAFSA) serves as an objective and neutral form required for all individuals who plan to attend college. The social barriers that the application produces and reinforces are all but objective. The application collects information and sorts students into groups based on their responses to questions regarding citizenship, race, gender, marital status, parental income, and convictions and distributes or restricts financial resources based on group membership. The intersection of low socioeconomic status combined with experience in the criminal justice system, which disproportionately arrests and charges people of color (Brown, Lane, and Rogers 2002; Butler 2017), exacerbates gaps in FAFSA completion rates. Although college completion exists as a mitigating factor that combats intergenerational reproduction in the criminal justice system, minority youth who are disproportionately affected by the criminal justice system continuously face challenges accessing higher education. The FAFSA serves as an indicator of financial status because it assigns scores indicating to colleges and universities how much families are expected to contribute. The sorting function serves as a barrier to postsecondary education because it does not consider how these groupings affect the chances and choices of applicants. The language and policies such as the Drug-Free Student Aid Provision are deterrents for people of color who bear the social burden of the label convict. Adding to the body of research on the FAFSA, this study examines the use, effects, and function of its written language, particularly for question 23. A discourse analysis of the wording of question 23 on the FAFSA reveals the maintenance of a racialized social hierarchy that hinders access to educational opportunity through practice, process, and policy. This finding suggests that access to

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postsecondary education is not as available as indicated by mainstream messages that resonate with prevailing discursive themes.

**KEY WORDS** Education; Social Reproduction; Social Inequality; Drugs and Crime; Financial Aid

In the United States, social mobility is an increasingly significant factor for attending and completing college. Moreover, in an increasingly credentialed society (Collins, Cottom, and Stevens 2019), a college degree is utilized as an indicator for the types of employment opportunities one can access. Research has found that those with bachelor's degrees earn more than \$800,000 more in lifetime income than their peers with high school diplomas (Daly and Bengali 2014). As a result, colleges and universities are mechanisms for socioeconomic advancement (Suspitsyna 2012), and the degrees they award are social indicators of success as well as determinants for upward social mobility. For many who come from underserved and distressed neighborhoods, the promise of college is a one-way ticket out of the "hood"—a term originally characteristic of young, Black subculture that has today expanded to a plurality of ethnicities as it intersects with global capitalism to create unique opportunities and limitations (Richardson and Skott-Myhre 2012). As a result, higher education is viewed as a pathway out of generational poverty, although the one-way ticket includes essential knowledge and required adherence to a variety of processes for participating in higher education. One of the processes includes completion of the Free Application for Federal Student Aid (FAFSA). A completed application prompts a process that sorts and labels students according to their financial backgrounds. In other words, a completed FAFSA is the economic indicator of a student's ability to access higher education.

The Higher Education Act of 1965 established the U.S. federal government as the provider of financial aid (Aschenbrenner 2016). In 1998, the act was amended to include a provision denying federal financial aid to anyone convicted of the sale or possession of controlled substances (Brown et al. 2002). The congressional mandate added a new question to the FAFSA—one that asks about prior drug-related convictions resulting in felonies or misdemeanors (Scott-Clayton 2017). The amendment, known as the Drug-Free Student Aid Provision, greatly affects the educational pursuits of people of low socioeconomic status and people of color, who are statistically more likely to be arrested and convicted of drug-related offenses (Brown et al. 2002; Scott-Clayton 2017). A completed FAFSA is required for students who want to attend college but need financial assistance. The form gives access to federal, state, and institutional programs that provide funding, including Pell Grants, Stafford Loans, and Work-Study. There are many factors involved in the decision to attend college, but a strong correlation exists between FAFSA completion and college enrollment (U.S. Department of Education 2021a). Although FAFSA completion rates have been declining since 2018, national results reported by race and ethnicity show a 25% difference between the overall FAFSA completion rates of Black and White students who enrolled in four-year public institutions (NSC Blog 2019).

## **THE FREE APPLICATION FOR FEDERAL STUDENT AID**

Arguably, the FAFSA makes college more accessible to many students from underserved communities with financial need because it assists with acquiring federal and state financial aid as well as supplemental scholarships from colleges and universities; however, a barrier exists that can be found within the process for completing the FAFSA and can result in social reproduction. Research documenting challenges regarding FAFSA completion for students from all backgrounds emphasizes the dilemma of how gaps in completion leave millions of dollars unclaimed annually (Kofoed 2017). According to Hess (2017), the class of 2017 did not claim \$2.3 billion of available free college money because of not completing the FAFSA. The FAFSA serves as the indicator of financial status for public as well as private dollars because it assigns scores that indicate to colleges and universities how much families are expected to contribute. The Expected Family Contribution (EFC) is derived from a federal formula that utilizes income and assets of parents to determine the score. It does not account for liabilities and other financial obligations. Officially, the FAFSA serves as an objective form analyzing the finances of all individuals who are planning to attend college; however, the social barriers that the form produces and reinforces are all but objective.

With growing gaps in college attainment by family income (Bailey and Dynarski 2011), students from lower class backgrounds are at a disadvantage. Research asserts that students in higher education are living in a “culture of despair” due to economic insecurity and that although university professionals are sympathetic to student issues, only a small portion perceive these issues as a result of structural factors (Aronson 2017). The perception reinforces the belief that student success or failure is determined primarily by individual factors. In the United States, it is necessary to complete a FAFSA form in its entirety and in a timely manner to receive federal financial aid as well as various forms of private aid, such as university-specific or supplemental donation-based scholarships on behalf of a third party. Completing the form on time maximizes the opportunities for money. Deadlines and reminders from both high school administrators and college admissions staff add legitimacy to this practice because it is a staunch belief that without the form, funding will not be distributed. Further, researchers have examined the link between FAFSA completion dates and the amount of funding received, demonstrating that FAFSA completion time can affect the persistence of college students, as it has been found that students who file later receive less financial aid (Kofoed 2017).

Research reveals that the primary reasons that low-income students do not attend college are a lack of finances and a lack of information about the availability of financial aid (Oliverrez and Tierney 2005) and that financial aid awareness and college aspirations “must be simultaneous in the development of low-income students” (Rosa 2006:1864). Perna’s (2006) conceptual model noted that college-related decision-making is influenced through the four layers of context: habitus; the school and community context; the higher education context; and the broader social, economic, and policy context. Applying this model, Dement (2020) found that low-income students’ perceptions of financial aid contributed to their decision-making behavior to not seek out financial aid to cover their tuition, as the FAFSA was perceived as a time-consuming investment not

worth the risk of being denied aid. Additionally, research participants discussed how the dissemination of information from high school counselors did not translate to understanding of how to complete the FAFSA (Dement 2020). The intersection of low socioeconomic status with experience in the criminal justice system, which disproportionately arrests and charges people of color (Brown et al. 2002; Butler 2017), exacerbates gaps in FAFSA completion rates.

An analysis of the FAFSA in a social context reveals a line of questioning with implications for specific subsets of the population who wish to pursue college degrees. The intersections of cultural capital and race must not be overlooked in the discussion of the FAFSA. Cultural capital (Bourdieu 1991; Bourdieu and Passeron 1990) is instrumental in a student's ability to navigate the policies and practices of accessing and completing higher education (O'Shea 2016). In a capitalistic society where education is utilized as a tool for social mobility, cultural capital is an asset for those who can navigate the institutional processes and procedures. Cultural capital also serves as a mechanism for maintenance of an individual's current social position for those who do not possess this currency. Those from lower socioeconomic backgrounds are less likely to have social networks of individuals who have attended college and therefore are less likely to have the cultural capital to understand how processes such as completing the FAFSA can affect college enrollment, funding, and completion. Misperceptions about college costs are widespread and are most prevalent among students from the lowest income backgrounds (Grotsky and Jones 2007). It can therefore be argued that those who have connections to relatives, friends, or community members who have participated as students in higher education have access to networks that increase their cultural capital and their understanding of policies and practices related to higher education. The lack of access to a network of individuals who have participated in higher education creates issues in access, enrollment, and persistence because students from underserved socioeconomic backgrounds with less social and cultural capital may not have a full understanding of financial aid, including the significance of the FAFSA. Although high school counselors may act as mediating resources, many are not properly trained about the financial aid process (Hess 2017) or do not have the time, opportunity, or additional resources needed to assist students with less social and cultural capital within their specific high school context, especially where race and class are factors (Holland 2015).

While college completion exists as a mitigating factor that combats intergenerational reproduction in the criminal justice system, minority youth who are disproportionately affected by the criminal justice system continuously face challenges accessing higher education. Research has shown that higher education is a positive mediating factor reducing the social exclusion of children whose mother and/or father have been incarcerated as well as an instrumental factor in the intergenerational reproduction of those who attend college and those who become part of the criminal justice system (Foster and Hagan 2015). Students who do not have access to a network with experience in higher education lack the resources to navigate even the simplest pathways to college, including the FAFSA. Those who have convictions or experience with the criminal justice system are less likely to be culturally competent when making decisions regarding college

(Paternoster, Pogarsky, and Zimmerman 2011), and combined with limited social and cultural capital, these deficiencies can work to maintain the status quo.

A key component of breaking intergenerational contact with the criminal justice system is alleviating higher education barriers associated with a lack of social and cultural capital, including FAFSA completion. Additionally, the inclusion of a question on the FAFSA related to convictions takes a color-blind approach, meaning it is thought to be an objective question despite the reality that the U.S. criminal justice system disproportionately convicts people of color for drug-related offenses. For this reason, researchers must ask the following question: Is FAFSA an example of institutionalized color-blind rhetoric that reinforces the status quo?

Our work highlights the potential effect of the language used in the FAFSA, including on students with experience in the criminal justice system who wish to attend college. While the population of students seeking degrees from colleges and universities has increased over time, with a greater minority, first-generation, and other nontraditional student presence on campuses nationwide, discrimination remains a well-documented phenomenon, including for those who disclose criminal history (Agan and Starr 2016; Scott-Clayton 2017). Approximately 30% of all Americans have been arrested at least once by the age of 23. The rates are higher for men of color: 44% of Hispanic men and 49% of Black men have been arrested at least once by the age of 23, compared to 38% of White men (Brame et al. 2014; Scott-Clayton 2017). Research on discrimination in admissions reveals that college applicants with criminal convictions are three times as likely to be rejected than as are their counterparts without criminal histories (Stewart and Uggan 2020; Weissman and NaPier 2015). Further, Stewart and Uggan (2020) examined the intersection of race and institutional crime, revealing that institutions with higher rates of reported crime are most cautious when reviewing applications from Black males with criminal histories. Disclosure of criminal histories results in higher rates of rejection for those who complete admissions applications, but these questions also discourage applicants from pursuing higher education overall (Scott-Clayton 2017). The Center for Community Alternatives compared attrition and rejection rates for those with criminal records, revealing that for every 1 applicant who completed the college admissions and was rejected, 15 applicants abandoned the application altogether (Rosenthal et al. 2015; Weissman et al. 2010). An analysis of the language used on the FAFSA—particularly for question 23, which prompts criminal disclosure—is therefore imperative to exploring its effect on students applying to college. We argue that this question, which states, “Have you been convicted for the possession or sale of illegal drugs for an offense that occurred while you were receiving federal student aid (such as grants, work-study, or loans)?” serves as a deterrent to the successful completion of the FAFSA for individuals who have direct or indirect experiences with the criminal justice system. The language used in question 23 informs the practice of colleges and universities who utilize the form to assess financial status; the process for students who complete the FAFSA annually to receive financial aid; and the policy, because a response to question 23 is required to receive federal monies to fund higher education. This analysis was conducted before the enactment of the FAFSA Simplification Act (Federal Register 2021). Though the act will eliminate question 23 in

its entirety by the 2024–2025 academic year (Gravely 2021), the question currently remains on the form, requiring criminal status disclosure.

### **THEORETICAL FRAMEWORK FOR EXAMINING THE FAFSA**

As a framework for unmasking the perception of color-blind and neutral laws, critical race theory situates race as a significant and central factor that influences practices and policies in the United States. Thus, racism goes beyond “images, words, attitudes, unconscious feelings, scripts, and social teachings by which we convey to one another that certain people are less intelligent, reliable, hardworking, virtuous, and American than others,” to award status and privileges based on race (Delgado and Stefancic 2012:21). As a privilege, education was denied to the enslaved for fear that a literate slave would disrupt the economic system of slavery. As seen through the earliest common schools, laws were enacted to either prevent the education of the enslaved or provide an inferior education based on vocation to freed blacks (Williams 2005). The laws protected the interests of White male slave owners and insulated a system of social order and control. As a result, White students benefitted from a system that was created to help them specifically. This historical remnant continues to advantage White students more than non-White students in an institution that has an official mission to promote equality (Gillborn 2005). Consequently, the history, policies, and practices of the educational system must be examined using a critical race theory framework.

A basic tenet of critical race theory posits that racism is ordinary and “the usual way society does business” because it is embedded in the laws and policies of U.S. institutions (Delgado and Stefancic 2012:7). Moreover, policies, practices, and processes that appear neutral, objective, and meritocratic (e.g., completing the FAFSA) contribute to sustaining the status quo of social inequality because racism is difficult to observe and acknowledge (Delgado and Stefancic 2012). This tenet establishes the basis for understanding institutional racism, which is the result of discriminatory practices embedded in laws and other social policies that result in unequal outcomes, whether deliberately or unintentionally.

In addition to utilizing a theoretical approach that confronts race as the determining factor in historical educational participation, it is also important to examine how that factor influences current processes in higher education. CRT is also useful for critically analyzing the presumptions and reasoning that underlie educational policies and their impact on marginalized populations (Teranishi 2007). The theory offers a way to rethink traditional education scholarship by challenging the traditional claims of objectivity, meritocracy, color blindness, race neutrality, and equal opportunity as well as the dominant discourse of race and racism by examining how educational theory, policy, and practice have been used to subordinate racial groups (Ladson-Billings and Tate 1995; Solorzano 1998).

In an era of mass incarceration that disproportionately affects people of color, public policy and private prejudice conspire to maintain the racialized hierarchies in our society by preventing access to a mechanism that has demonstrated its ability to improve social and economic outcomes. The FAFSA is responsible for sorting individuals into groups based on citizenship, marital status, parental income, and absence or presence of

convictions and for distributing or restricting financial resources based on group membership. Because membership into any one of the groups mentioned can either help or hinder a student's ability to secure financial aid to attend college, the application goes beyond collecting data for demographic purposes. The sorting function serves as a barrier to access because it does not consider how these groupings affect the chances and choices of the student. Moreover, the sorting function does not consider how the label of conviction operates in the mind of the individual completing the form.

## **METHODOLOGY FOR ANALYZING THE FAFSA**

While critical race theory illuminates how both historic laws and current educational practices reinforce oppression on a macro level, discourse analysis provides insight into how the language of the FAFSA is experienced by a specific subset of the population: those with criminal convictions. More than a method, discourse analysis is a “conceptual enterprise” that gives context to the nature of language and its relationship to central issues in society (Wood and Kroger 2000). The operating assumption is that language has not only meaning to describe and communicate but also power to do things (Austin 1962); thus, the emphasis in discourse analysis is on what the text is achieving. Discourse analysis allows researchers to analyze text in broader forms, including how individuals can be advantaged or disadvantaged. The method considers the conception of language—its use, effects, and function (Wood and Kroger 2000).

Language mirrors conscious as well as unconscious ideas (Boréus and Bergström 2017). If written words are seen as objective and neutral, then the status quo of the social structure remains intact. Discourse analysis identifies language as being a perspective of the world (Boréus and Bergström 2017). A basic sociological notion contends that language reflects culture. The usage as well as understanding of language is also reflective of culture. Moreover, language informs a dominant culture's social practices, including ways of writing and understanding. Providing a foundation for discourse, these actions connect rules for how people speak, write, and interact (Boréus and Bergström 2017). Discourse is therefore embedded in language, institutionalizes ways of thinking and speaking about things, and shapes people's thoughts and behaviors (Fairclough and Wodak 1997; Spickard 2017). As a result, discourse can act as a barrier for those who have membership in a different cultural group.

Interpretivist methods such as content analysis and discourse analysis have been useful for unmasking hidden barriers in a variety of social practices and institutions, including higher education (Cleland and Fahey 2018; Hakkola 2019; Sikandar 2017). The process can be straightforward when utilizing cases and contexts that are undeniably apparent and more readily identifiable, such as housing segregation. The challenge is observing barriers that are hidden in a body of discourse because of policies and practices that were created to be neutral.

By critically analyzing question 23, we can explore how language is used on the FAFSA to maintain the status quo of limiting educational pursuits by exposing the hidden dimensions of the text. The barriers that the FAFSA presents are difficult to see because they are embedded in the widely accepted practices for the college admissions

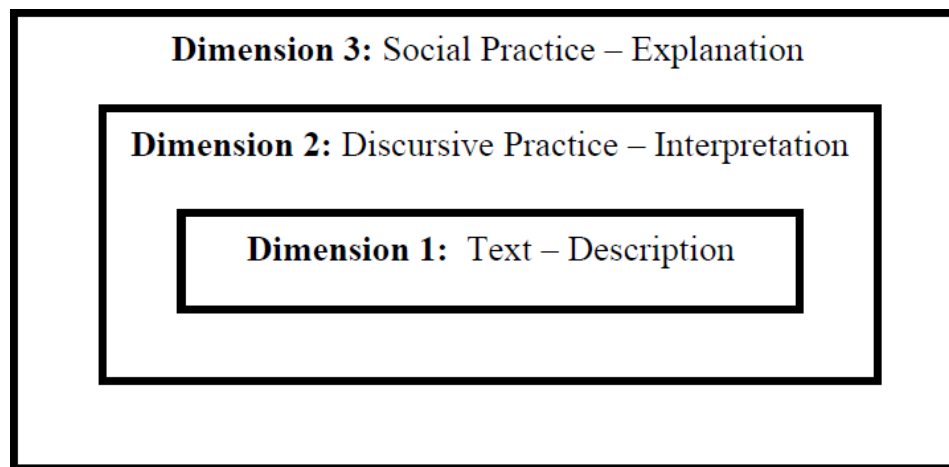


process or are camouflaged in routine social processes such as answering demographic questions. This research presents a critical discourse analysis of the language in question 23 on the FAFSA.

A significant difference between discourse analysis and critical discourse analysis (CDA) is that the latter is concerned with the relationship between power, language, and social change (Fairclough 1995). As a methodology, discourse theory aims “to investigate and analyze power relations in society and to formulate normative perspectives from which a critique of such relations can be made with an eye on the possibilities for social change” (Jørgensen and Phillips 2002:2). CDA is a useful methodology for analyzing what is written as well as what is not—the hidden text. Questions such as whose interest is being served, whose interest is being ignored, and the implications of each position are what CDA seeks to answer (Janks 1997).

A basic premise of CDA is that discourses reflect, reinforce, create, and redistribute ideologies that inform social practices which are connected to historical contexts (Fairclough 1995). Through words, power is created, conveyed, and exercised in ways that either sustain or challenge the status quo. Power, whether hidden or revealed, operates by having certain knowledge accepted as the correct knowledge (Boréus and Bergström 2017).

**Figure 1. Fairclough’s 3-D Critical Discourse Analysis Model**



Fairclough (1989, 1995) describes CDA as a three-dimensional analysis of the interrelated parts of discourse: text, discursive practices, and social practices (Figure 1). Each dimension of discourse requires a different analysis, yet the dimensions are interdependent and require an “intricate moving backward and forward” between them (Janks 1997). The first dimension is text, which includes speech, writing, and images. The text dimension is a word-level analysis that describes word choice and the attitude that the words reflect. The second dimension is discursive practices, which refers to the production or constitution of texts, meaning the ways in which the discourse is produced, received,

and interpreted. At this level, any text can be interpreted and processed. This level of analysis assumes language is not neutral and objective, because the words used contain values and attitudes. The third dimension is social practices, which refers to the social and historical contexts that govern discourse (Janks 1997) and creates the social structure that is organized by norms. Social practice involves norms, traditions, and interactions. At this level, language is explained in the ways in which people interact with each other and their environment, and how power affects those interactions.

### **ANALYSIS OF THE FAFSA**

The utility of the three-dimensional approach to CDA is that it facilitates a multifaceted analysis into the ways that language is used to wield power, beginning at word choice and composition, and ending at the implication of those words on social interaction. The layered approach uncovers patterns that need to be described, interpreted, and explained and allows researchers to focus on the distribution of discourses within a particular domain to account for differences. For example, when universities incorporate discourses from the market, such as completion of financial aid documents, CDA explains why some students draw certain conclusions regarding financial aid while others do not, as evidenced by research on low-income students and financial aid (see Dement 2020; Oliverez and Tierney 2005; Perna 2006; Rosa 2006). Using Fairclough's three-dimensional model for analysis of discourse, we analyzed question 23 on the FAFSA. Specifically, we asked, *What function does the discourse serve?* and *What ideology is being reflected and reproduced through language?* Critical race theory was used to contextualize any revealed patterns. The sample for this analysis is text from FAFSA question 23 and the supplemental information available on the Federal Student Aid website for students and potential students who have criminal convictions before enactment of the FAFSA Simplification Act. Specifically, question 23 on the FAFSA form asks,

Have you been convicted for the possession or sale of illegal drugs for an offense that occurred while you were receiving federal student aid (such as grants, work-study, or loans)? Answer "No" if you have never received federal student aid or if you have never had a drug conviction for an offense that occurred while receiving federal student aid. If you have a drug conviction for an offense that occurred while you were receiving federal student aid, answer "Yes," but complete and submit this application, and we will mail you a worksheet to help you determine if your conviction affects your eligibility for aid. If you are unsure how to answer this question, call 1-800-433-3243 for help. (studentaid.ed.gov)

As part of the college-going process, the FAFSA has become well known as an important form that must be completed to receive financial aid. Because access to federal

student loans becomes available once the form is completed, the thought process has become so ingrained that potential students and their families assume that without the form, financial aid will not be distributed (Marcus 2012), when in fact, the form states that it is for the distribution of federal monies and that colleges *may* utilize information from the form to determine eligibility for school and state aid. The FAFSA form itself therefore serves as a barrier to higher education as a result of the significance it carries in the college-going process. If the form is thought to be required for receiving any financial aid, then the form's importance is heightened for the individual completing it. Compounding that level of importance with the text of question 23 adds layers of insecurity and uncertainty because it contains phrases and words that can impede progress in completing the form.

On the surface, question 23 seems normal and demographic because U.S. citizens are accustomed to responding to questions that ask about criminal convictions; however, a positive response (yes) to questions that inquire about past criminal convictions has implications for the opportunity structure for the individual completing the form, while simultaneously ignoring the social structure that allows unequal arrests and convictions to persist for people of color (Brame et al. 2014; Butler 2017; Scott-Clayton 2017). Language is a form of power that confers status and worth through labels (Bourdieu 1991). Thus, when the question asks, "Have you been convicted?" the individual completing the form must answer with the weight of knowing the reality that the label of *convict* constructs. The label as it operates in society assumes perpetual guilt, no matter if a crime was proven or committed. Moreover, the label of *convict* does not allow the individual the dignity of moving on after paying their debt to society. Instead, questions about criminal history serve as a reminder that affects microlevel social interaction and access to social resources such as financial aid.

According to Uggen, Manza, and Thompson (2006), those with experience in the criminal justice system represent a new caste excluded from education, labor and employment, and the civic sphere. Although instructions for the form indicate that answering *yes* to question 23 does not automatically prevent distribution of federal aid, the process of eligibility adds another barrier. Prior to changes made by the FAFSA Simplification Act, the latter part of question 23 read:

If you have a drug conviction for an offense that occurred while you were receiving federal student aid, answer "Yes," but complete and submit this application, and we will mail you a worksheet to help you determine if your conviction affects your eligibility for aid.

As a result of conviction and time spent, reentry into society is often challenging. This portion of the question fails to consider the level of transience that many involved in the criminal justice system experience. Research has documented the impact of homelessness, but housing insecurity—a measure that includes homelessness and marginal housing—is three times more common than homelessness alone, representing a more comprehensive snapshot of the formerly incarcerated (Couloute 2018). Housing instability and residential transiency for those involved in the criminal justice system result from a variety of factors, such as discrimination in private and public housing authorities,

shortages in affordable housing, and biased screening practices, and this instability destabilizes rehabilitation into society by disrupting employment and educational opportunities (Couloute 2018; Desmond 2017).

The FAFSA Simplification Act will eliminate question 23 in its entirety by the 2024–2025 academic year. Until then, students applying for financial aid are required to answer it. The following language is included under the question for more understanding of the new act’s effect on the FAFSA:

Answer “No” if you have never received federal student aid or if you have never had a drug conviction for an offense that occurred while receiving federal student aid. If you have a drug conviction for an offense that occurred while you were receiving federal student aid, answer “Yes.” A recently passed law means that you are now eligible for federal student aid even if you have been convicted for the sale or possession of illegal drugs while receiving federal student aid. No further action is required.

Although the new explanation suggests that a conviction does not restrict federal financial aid and explicitly states that conviction will no longer affect eligibility, it does not account for how the complex emotional behavioral response to the question could affect decision-making and the agency to complete the form.

Thoughtfully reflective decision-making is a strategy for sifting through various options that are available to an individual to make decisions that provide favorable outcomes and assist in achieving desired goals (Byrnes 2002; Paternoster et al. 2010). Strong emotional states can affect thoughtfully reflective decision-making by distorting the weights attached to possible outcomes (Paternoster et al. 2011). Knowing that a completed FAFSA is needed to access as well as pay for higher education to improve one’s choices and chances for success, an individual may find their ability to be reflective and to think about the various options given in the instructions hindered as a result of the power that the word *conviction* exerts on social life. Moreover, it is a social fact that laws, practices, and policies—historically as well as traditionally—have been applied differently for people of color. Consequently, people of color are socialized to expect a negative outcome when making decisions, despite instructions such as those given with question 23 (Anderson and Stevenson 2019).

Critical race theory illuminates the relationship between power and the social construction of social roles (Delgado and Stefancic 2012). The word *convicted* and its various derivatives construct a social role that immediately wields power over the potential student’s opportunity structure. The question denies the lived experiences of people of color in America. It overlooks the unequal opportunity structure that makes it more viable to sell drugs as a means of taking care of one’s family than to pursue higher education. It ignores the disproportionate amount of Black and Brown folks who are arrested and convicted for the sale and possession of illegal drugs compared to White folks (Blumstein 2003; Brame et al. 2014; Davis 2011; Schanzenbach et al. 2016; Scott-Clayton 2017).

The seemingly neutral and objective question asks about an occurrence that includes outside factors that are beyond the control of the individual completing the FAFSA. As a consequence of the potential student's membership in a specific racial category, the chances and choices that are available are laid out as a social fact. As research has demonstrated, denial of financial aid for those who have committed drug offenses has a direct impact on limited opportunities for urban youth, who are disproportionately Black and Brown (Lovenheim and Owens 2014). Regardless of time served, the label *criminal* has lasting implications on future endeavors. The label creates the social role of the "other," which limits opportunity and affects microlevel interactions and macrolevel aspirations such as attending college. Despite a multitude of research on financial aid inequities, the fact that criminal disclosure remains on the form for at least two additional academic years until full implementation of the FAFSA Simplification Act reflects normative cultural expectations of who *should be* able to attend college. If the question is proposed to be eliminated in its entirety in the future, why does it remain in the interim?

## **DISCUSSION AND IMPLICATIONS FOR HIGHER EDUCATION**

As ideological institutions responsible for creating, distributing, and perpetuating ideas for and about society, colleges and universities transmit knowledge with the purpose of preparing individuals to live productively in society. As a social institution, the education system is also responsible for the choices and chances provided to the individuals it serves (Mungo 2015). Covertly embedded in the goals of higher education is social reproduction. Although the goals reflect a meritocratic process, the strategies and policies reflect inequality that stems from the social order. Education and its ideals of meritocracy have fallen short of realizing education's goals for all citizens. The framework of the opportunity structure mirrors American society. As a major engine of economic development (Altbach, Reisberg, and Rumbley 2009), higher education has not escaped the inequality inherent in a capitalist society. For nearly a century, educational theorists have cited the need for education to insulate itself from the oppressive nature of capitalism to facilitate social transformation. Multicultural social reconstructionist George Counts (1932) urged the institution of education to lead rather than follow the economy, while critically analyzing how education upholds the status quo. The challenge, then, becomes how the admittance processes that colleges and universities follow can move beyond adapting and conforming to a society filled with inequality to level the proverbial playing field. How can all citizens of the United States realize the goals of achievement ideology that invade every facet of American life through higher education? What transformative strategy can be utilized to make institutions of higher education the great equalizers that they ostensibly aspire to be?

Expanding participation in higher education is a force for democratization only when participation is representative of the population as a whole (Altbach et al. 2009); thus, ensuring equal participation in education in the United States is a vital concern for the coming decades. Practitioners must gain an empathic understanding of the microlevel impact of criminal-background questions. The questions go beyond mere process and policy; there is a historical sorting dimension that characterizes the practices and policies related to college admittance and, specifically, financial aid. For example, the Common

Application goes deeper into criminal-background questions than the FAFSA, asking about misdemeanor and felony convictions as well as involvement in the juvenile system (Scott-Clayton 2017). We therefore recommend removing any questions that inquire about criminal background.

As a strategy to intervene and to interrupt the social consequences of the prison-industrial complex, education has been effective in reducing recidivism and improving long-term employment opportunities for offenders (Ellison et al. 2017). Both vocational and academic education are common rehabilitative programs found to reduce recidivism (Steurer et al. 2001). Because education has been shown to be an effective rehabilitative tool, the removal of question 23 from the FAFSA would assist in achieving the overall goal of increased access to higher education as well as the stated goal of the U.S. criminal justice system, which is to provide security, safety, and rehabilitation (Steurer et al. 2001). Higher educational policies and practices should work to promote, not inhibit, educational opportunities for those from all backgrounds rather than perpetuate a social stigma that contributes to inequality. Because schools do not exist as independent social institutions separate from economic, political, cultural, and social contexts, they can neither be insulated from the challenges that each context provides (Welner and Carter 2013) nor remain blind to the resolutions needed.

Although prejudice, discrimination, and disadvantage did not begin within the university, the university is obligated to address these issues because they impede progress (Altbach et al. 2009). Because the legacy of racism is embedded in every social institution in America, the tools of racism—the mainstream educational approaches that are intractably and implicitly linked to White supremacist assumptions—cannot be used to examine and subsequently change racism's outcomes (Lorde 1984). The strategy must therefore be radical and inclusive of the dynamic experiences of all the citizenry, not just a reflection of dominant class ideology.

Lovenheim and Owens (2014) found that college enrollment rates declined for high school graduates who disclosed that they had recent drug convictions. With the removal of question 23 from the FAFSA, nearly 70 million individuals in America who have been arrested or convicted for a criminal offense would have access to higher educational opportunities (United States Department of Education 2016). Consequently, the U.S. Department of Education has taken action to guide educational administrators who consider individuals for admissions despite criminal records. The report, titled *Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals* (2016), addresses an array of criminal convictions beyond drug offenses and addresses how colleges and universities can increase access to offenders who associate education with opportunity for successful reentry into society. Additionally, the Department of Education has sought to expand access to higher education by rebuffing the restrictions on those convicted of drug-related felonies through programs such as the Second Chance Pell Experiment (2015), a recently renewed initiative providing Pell Grants to postsecondary incarcerated students in state and federal prisons (United States Department of Education, 2021b).

## CONCLUSION

The message that higher education improves social mobility has been a consistent one for students from underprivileged backgrounds. While students from these backgrounds are increasingly visible on college campuses, those who may have less social, cultural, and financial capital struggle to overcome barriers regarding enrollment and completion. The FAFSA is arguably one of the most critical components in determining whether higher education is accessible as well as how it is financed. Although the FAFSA may appear to be objective and neutral, critical race theory contextualizes a critical discourse analysis that reveals how the question that addresses criminal drug convictions is anything but neutral. The social structure in which the FAFSA is used has historically exploited and restricted the opportunities of people of color. The power wielded by the language used in question 23 sustains the status quo by permitting, restricting, or denying access to higher education. The form produces additional and long-term consequences outside of the criminal justice system for individuals who have been convicted of the possession or sale of illegal drugs. Those denied access to financial aid face the challenge of funding their postsecondary education through alternatives such as student loans, which expose students to private lenders who may operate under deceptive practices, including high interest rates that lead to student debt (Nicoletta 2015).

The instructions for question 23 can lead to opportunities denied, talents unexplored, and livelihoods stunted. The term *criminal* carries a lasting impact. Research demonstrates that such stigmatized labels have an impact on cognitive processes that influence decision-making, such as completing the additional form needed on the FAFSA. The social implications of being labeled as a criminal intersect with systemic policies that reinforce the existing power structure of a dominant class. Based on *Beyond the Box's* recognition that educational opportunities need to be expanded, combined with research that recidivism is reduced through education, question 23 on the FAFSA is counterproductive at best and maintains the racialized social hierarchy at worst. The Consolidated Appropriations Act of 2021 mandated the removal of question 23 from the FAFSA as of July 2021 as part of the FAFSA simplification provisions, but full removal did not occur. Instead, the FAFSA Simplification Act amended the language following question 23. Removal of question 23 is slated to occur during the 2024–2025 academic year. The new legislation provides the opportunity to study the long-term impact of the question's amended language and future removal on FAFSA completion and social mobility. As this study suggests, removing the question is important for opportunities for social change that normalize college access for all who seek it. Because education is promoted by the criminal justice system as a tool for rehabilitation and the U.S. Department of Education has publicly addressed the need to expand education to criminal offenders, removing the question is overdue.

Unlike the historical overt actions of racism and discrimination, current covert systems of oppression work to protect the privileges of the dominant class by denying people of color opportunities for upward mobility (Lipsitz 2006). Postsecondary institutions are one such opportunity, as education is one of the mechanisms that can improve social mobility. Policies and practices in higher education must be analyzed

outside of the accepted and established framework of the prevailing social order because they can control the opportunity structure of those who seek access. One such way to do so in higher education is to reconceptualize racial equity as “corrective justice” for educational debt in order to bridge the gap between talking the talk and walking the walk when it comes to social justice (McNair, Bensimon, and Malcolm-Piqueux 2019). Our research illuminates the structural and social relationship between higher education and the criminal justice system using critical discourse analysis. The latter has far-reaching effects that can constrain access to the former. In the economic marketplace, a college degree is a commodity that wields the power for upward social mobility. The social practices that surround the FAFSA erode higher education’s mission to be a public good. A free application for access to financial aid should not have so many barriers.

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