

Professional Judgment: How to “Field” Special Circumstance Requests



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Myrtle Beach, SC

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Session Goals

- Define professional judgment
- Review current statute
- How is it applied?
- Discuss importance of documentation




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What is Professional Judgment?





- Professional judgment is the authority provided under the Higher Education Act (HEA) for financial aid administrators to exercise discretion in specific areas of student aid administration
- Professional judgment is not regulated by the U. S. Department of Education (ED)


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	<p>HEA Section 479A</p> 
	<ul style="list-style-type: none"> ■ Authorizes case-by-case adjustments to: <ul style="list-style-type: none"> – Cost of attendance (COA) – Federal Methodology (FM) data elements ■ Authorizes denial or reduction of Stafford/PLUS ■ Other statutory provisions allow PJ for: <ul style="list-style-type: none"> – Dependency status – Satisfactory academic progress (SAP) <p style="text-align: right;">4</p>


	<p>Principles of Professional Judgment</p> 
	<ul style="list-style-type: none"> ■ Provides flexibility to deal with unique circumstances affecting individual students ■ Allows personal intervention in cases that merit individual attention ■ Enables responses to individual circumstances that were not anticipated in legislation or regulation <p style="text-align: right;">5</p>


	<p>Examples of Unusual Circumstances</p> 
	<ul style="list-style-type: none"> ■ Loss of employment ■ Unusual uncovered medical/dental expenses ■ Elementary or secondary school tuition for student's siblings or dependents ■ Extraordinary dependent care expenses ■ Divorce ■ Death of parent or student's spouse <p style="text-align: right;">6</p>

	<p>Affected Individuals Under HEROES Act</p> 
	<ul style="list-style-type: none"> ■ Serving on active duty during war, other military operation, or national emergency; ■ Performing qualifying National Guard duty during a war, other military operation, or national emergency; ■ Reside or are employed in an area that is declared a disaster area in connection with a national emergency; or ■ Suffer direct economic hardship as a direct result of a war, other military operation or national emergency. <p style="text-align: right;">7</p>

	<p>PJ Decision-Making Questions</p> 
	<ul style="list-style-type: none"> ■ Is student or family experiencing unique circumstances? ■ Does unusual situation affect ability to contribute or student's ability to complete program? ■ What should special treatment be? ■ What documentation is needed? <p style="text-align: right;">8</p>

	<p>Areas of Professional Judgment</p> 
	<ul style="list-style-type: none"> ■ Higher Education Act allows aid administrators to exercise discretion in specific areas: <ul style="list-style-type: none"> - Dependency status - Need analysis: calculation of EFC - COA - SAP - Denial or reduction of Stafford or PLUS loans - Unsubsidized loan eligibility – “new” <p style="text-align: right;">9</p>

	<p>Professional Judgment Prohibitions (should be included in your P & P manual)</p> 
	<ul style="list-style-type: none"> ■ PJ cannot be used to: <ul style="list-style-type: none"> – Change student status from independent to dependent – Create a new category of costs – Adjust the bottom-line EFC – Change the EFC formula itself – Make across-the-board changes <p style="text-align: right;">10</p>

	<p>Areas Where PJ Does Not Apply</p> 
	<ul style="list-style-type: none"> ■ PJ cannot be used to: <ul style="list-style-type: none"> – Make an otherwise ineligible student eligible for Title IV aid – Circumvent the intent of the law or regulations – Include certain post-enrollment expenses in COA – Circumvent FSEOG selection criteria <p style="text-align: right;">11</p>

	<p>Independent Student Status</p>
	<ul style="list-style-type: none"> ■ Independent student is defined in Section 480(d) of HEA as any individual who: <ul style="list-style-type: none"> – Is 24 or older by December 31 of award year – Is a graduate or professional student – Is married – Has legal dependents other than a spouse – Is an orphan or ward of the court (or was until 18) <p style="text-align: right;">12</p>


	Independent Student Status (cont.)
	<ul style="list-style-type: none"> ■ Independent student is defined in Section 480(d) of HEA as any individual who: <ul style="list-style-type: none"> – Is an active duty member of the U.S. Armed Forces – Is a veteran of the U.S. Armed Forces – Is a student for whom a financial aid administrator makes a documented determination of independence by reason of unusual circumstances


	Independent Student Status New in 2009-2010
	<ul style="list-style-type: none"> ■ Court-determined emancipated minor or in legal guardianship ■ Considered an unaccompanied youth who is homeless <p style="text-align: center; margin-top: 20px;">(refer to Step Three on 2009-2010 FAFSA – Q: 56-60)</p>


	Independent Student Status (cont.)
	<ul style="list-style-type: none"> ■ Important points in statutory definition: <ul style="list-style-type: none"> – Financial aid administrator is designated as responsible for PJ – Congress intended that PJ decisions be made in response to student's unusual circumstances – Decision must be based on adequate documentation

	<h3 style="text-align: center;">Dependency Status Override</h3> <h4 style="text-align: center;">DCL – GEN 03-07</h4>
	<ul style="list-style-type: none"> ■ Four conditions that do not merit a dependency override: <ul style="list-style-type: none"> – Parents refusing to contribute to student’s education – Parents unwilling to provide FAFSA information – Parents not claiming student for income tax purposes – Student demonstrating total self-sufficiency


	<h3 style="text-align: center;">Dependency Override</h3>
	<ul style="list-style-type: none"> ■ Examples that may constitute “unusual circumstances”: <ul style="list-style-type: none"> – Student’s voluntary or involuntary removal from parents’ home due to an abusive situation that threatened the student’s safety and/or health. – Incapacity of parents such as incarceration or a disability, mental or physical illness. – Inability of the student to locate the parent(s) after making reasonable efforts.


	<h3 style="text-align: center;">Dependency Override (cont.)</h3> 
	<ul style="list-style-type: none"> ■ Examples that may constitute “unusual circumstances”: <ul style="list-style-type: none"> – Other extenuating circumstances sufficiently documented by a signed letter from a third party. – In cases where third-party documentation cannot be obtained, may accept a signed statement from relatives, friends, or the student.


	<h2>Dependency Override Documentation</h2> 
	<ul style="list-style-type: none"> - Must document the reason for the determination and maintain documentation supporting the decision. - Should obtain supporting documentation from a third party with knowledge of the unusual circumstances. <p style="text-align: right;">19</p>

	<h2>Dependency Override</h2>
	<ul style="list-style-type: none"> - Documentation from third parties includes: <ul style="list-style-type: none"> ■ Counselors or Teachers ■ Clergy ■ Community Groups ■ Government agencies ■ Medical personnel ■ Courts ■ Prison administrators  <p style="text-align: right;">20</p>

	<h2>Dependency Override</h2> <p style="text-align: center;">“rule of thumb”</p>
	<ul style="list-style-type: none"> ■ You may make an otherwise dependent student, independent. ■ You may NOT make an independent student, dependent. <p style="text-align: right;">21</p>

	<p>Dependency Override</p> 
	<ul style="list-style-type: none"> ■ Annual determination – must affirm each year that the unusual circumstances still exist. ■ In 2008-09, valid only at the school that performed the override. ■ Based on Section 480(d)(2), College Cost Reduction and Access Act of 2007, an FAA may rely on a dependency override performed by another institution for the same award year effective 2009-10. <p style="text-align: right;">22</p>

	<p>PJ: EFC/COA</p> 
	<ul style="list-style-type: none"> ■ Examples of special circumstances listed in section 479A of the HEA: <ul style="list-style-type: none"> – Elementary and secondary school tuition expenses. – Medical, dental, or nursing home expenses not covered by insurance. – Unusually high child or dependent care costs. – Recent unemployment of family member or independent student. <p style="text-align: right;">23</p>


	<p>PJ: EFC/COA (cont.)</p> 
	<ul style="list-style-type: none"> ■ Examples of special circumstances listed in section 479A of the HEA (cont'd): <ul style="list-style-type: none"> – Family member or student is a dislocated worker – Parents enrolled in college – Change in housing status resulting in homelessness – Other changes in family's income, family's assets, or student status <p style="text-align: right;">24</p>


	<p>PJ: EFC/COA (cont.)</p>
	<ul style="list-style-type: none"> ■ Examples of “unreasonable” adjustments: <ul style="list-style-type: none"> – Vacation expenses – Tithing expenses – Standard living expenses such as utilities, cable bills, credit card payments, cell phone, children allowances – Standard maintenance items such as lawn care, home repair and gasoline.


	<p>PJ: EFC Adjustments</p>
	<ul style="list-style-type: none"> ■ To adjust the EFC: <ul style="list-style-type: none"> – Must adjust a data element in the formula (e.g., AGI) – May not: <ul style="list-style-type: none"> ■ Change the formula itself (e.g., asset conversion rate or tables) ■ Make an adjustment to the PC, SC or EFC ■ Make the adjustment on the initial FAFSA


	<p>PJ: EFC Adjustment Reminders</p>
	<ul style="list-style-type: none"> ■ Must first resolve any conflicting information before making an adjustment ■ Must verify base year data if selected for verification ■ Adjustment only valid at school making it!* ■ Must use EFC consistently for all FSA funds





	<p>What would you do?</p> 
	<ul style="list-style-type: none"> ■ Harry's parents own a rental home with a net worth of \$100,000 ■ The rental home burns down ■ Family loses potential rental income ■ Upcoming insurance settlement <p style="text-align: right; font-size: small;">28</p>


	<p>Possible Considerations</p> 
	<ul style="list-style-type: none"> ■ Will there be an insurance settlement; if so, for how much? How soon? ■ Will the property be rebuilt? If so, how soon? ■ Is there any current net worth of the rental property (land vs. structure)? ■ What is the potential loss of rental income? <p style="text-align: center; font-size: x-small;">Reminder: The FAA may consider PJ; however, should have documentation to support his/her decision.</p> <p style="text-align: right; font-size: x-small;">29</p>


	<p>EFC: Income Protection Allowance</p>
	<p>The IPA consists of:</p> <ul style="list-style-type: none"> ■ 30% food ■ 22% housing ■ 9% transportation ■ 16% clothing and personal ■ 11% medical ■ 12% other family consumption  <p style="text-align: right; font-size: x-small;">30</p>


	<p>What would you do?</p> 
	<ul style="list-style-type: none"> ■ Norm is a dependent student who lives with his mother and sister ■ Norm is the only family member in college ■ Norm's mother has incurred credit card debt of \$8,000 ■ IPA = \$19,150 ■ Would you make an adjustment for Norm? <p style="text-align: right;">31</p>


	<p>Things to consider:</p> 
	<ul style="list-style-type: none"> ■ Norm's mother has incurred credit card debt of \$8,000 ■ IPA = \$19,150 ■ Other family consumption in IPA is 12% ■ $\\$19,150 \times 12\% = \\$2,298$ ■ In this case, there is a difference of \$5,702; however, other questions you can ask before considering an adjustment: <ul style="list-style-type: none"> - Is the credit card debt related to unusual circumstances that would be considered in EFC or COA (educational expenses) calculations? <p style="text-align: right;">32</p>

	<p>PJ: Cost of Attendance</p> 
	<ul style="list-style-type: none"> ■ Components may be adjusted to reflect individual (and unique) circumstances ■ Adjustments to COA must be made under the categories defined by T-IV statute ■ Prohibited from creating a new category of costs through PJ ■ Basic Premise → Expenses in COA must be incurred by the student, for the student, for the period of enrollment <p style="text-align: right;">33</p>

	<p>PJ: Cost of Attendance (con't) </p>
	<ul style="list-style-type: none"> ■ Exception: Statutory allowance for independent students for dependent care ■ Care of dependents (child, elderly, etc.) ■ Since care allowance is included in statute, PJ is only used if student is requesting more than standard allowance ■ Adjust if family income falls below IPA OR adjust dependent care allowance on actual costs (via documentation) <p style="text-align: right;">34</p>

	<p>PJ: Satisfactory Academic Progress </p>
	<ul style="list-style-type: none"> ■ Regulations contain 3 sets of SAP requirements: <ul style="list-style-type: none"> - Admin. Capability → School to establish and apply SAP policy with general parameters - Student Eligibility Requirement → Must be making SAP to receive T-IV funding and achieve specific academic standing at the end of the second year of attendance - Student Consumer Information requirements <p style="text-align: right;">35</p>

	<p>PJ: SAP (con't) </p>
	<ul style="list-style-type: none"> ■ School's policies must provide procedures for appealing ■ School may review appeal and on the basis of mitigating circumstances, waive the SAP standard ■ All decisions must be made on a case-by-case basis <p style="text-align: right;">36</p>


	
	<p>PJ: SAP (con't)</p> <ul style="list-style-type: none"> ■ Mitigating circumstances: Not that funds are needed for education, but based on hardship incurred by the student ■ Institutional Policy must designate who is responsible for appeal decisions ■ Schools may opt to approve an appeal with conditions
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	<p>PJ: Unsubsidized Loan Eligibility</p>
	<ul style="list-style-type: none"> ■ The Higher Education Opportunity Act of 2008 (HEOA) amended section 479A of the HEA to allow FAA's to offer a dependent student an unsubsidized FFEL/DL without parental data being provided on the FAFSA if the FAA verifies that – <ul style="list-style-type: none"> – The parent or parents of such student have ended financial support of the student, and – The parents refuse to file such form <p>Reminder: If the parent decides to complete a PLUS application, that is considered conflicting information. The application shows intent to support the student – thus not eligible for the Unsubsidized Stafford Loan.</p>
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	<p>PJ: Denial or Reduction of Stafford Loans</p>
	<ul style="list-style-type: none"> ■ Statute gives FAA's the authority, under PJ, to deny or reduce Stafford/PLUS loans ■ The law requires: <ul style="list-style-type: none"> – Determination to be made on a case-by-case basis – Document the reason for the decision – Provide written notification to the student (or parent, if PLUS loan) – No discrimination on the basis of race, nationality, religion, sex, marital status, age, or disability status
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	<p>PJ: Denial or Reduction of Stafford Loans (con't.)</p>
	<ul style="list-style-type: none"> ■ There are no exceptional circumstances specified in the law ■ School decides the conditions if loan is refused or reduced <ul style="list-style-type: none"> – If FAA believes the borrower is unwilling to repay, denial/reduction is permissible – The borrower does not need to state outright this unwillingness


	<p>PJ: Denial or Reduction of Stafford Loans (con't.)</p>
	<ul style="list-style-type: none"> ■ Schools may not choose to reduce/deny based on bankruptcy filing or discharged loans ■ Bankruptcy indicates an “inability” to repay, not an unwillingness to repay ■ May choose to reduce/deny based on high debt burden

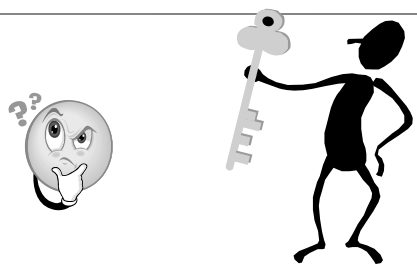
	<p>PJ: Documentation</p> 
	<ul style="list-style-type: none"> ■ This supports the decisions you make when exercising PJ and serves the following purposes: <ul style="list-style-type: none"> – Provides additional information – Provides clean trail for others (in the office, auditor, program reviewer, or other authorized officials)

	<p>PJ: Documentation (con't.) </p>
	<ul style="list-style-type: none"> ■ At a minimum, should include: <ul style="list-style-type: none"> - Date of the decision/action taken - Student request and specific circumstances - Source of information (3rd party documents, letters, bills, etc.) - Decision - Signature of the individual making the decision
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	<p>Using Professional Judgment</p>
	<ul style="list-style-type: none"> ■ Why won't some financial aid administrators use professional judgment? <ul style="list-style-type: none"> - Inexperience - Lack of confidence - Time and staffing constraints - Fear of audits and program reviews
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	<p>Conclusion </p>
	<ul style="list-style-type: none"> ■ PJ allows for the flexibility to deal with individual/unique circumstances ■ Allows for the tailoring of circumstances that cannot be anticipated through legislation ■ No right or wrong answer
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	<h2>Conclusion</h2> 
	<ul style="list-style-type: none">■ Your PJ should not be questioned in an audit or program review as long as:<ul style="list-style-type: none">- PJ applied on a case-by-case basis- Decisions consistent with P & P manual- Thorough documentation- Reasonable decisions and you have not rendered PJ where ED prohibits
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	<h2>Questions & Answers</h2>
	
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Please complete the online Conference evaluation to assist the planning committee with the 2010 Conference.

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Thank You!
