

Professional Judgment

Participant's Guide

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PROFESSIONAL JUDGMENT
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Professional Judgment Basics

What is a Professional Judgment?

While the term “professional judgment” is used in the Code of Federal Regulations and various FSA publications, the same cannot be said about the law. Instead, the Higher Education Act refers to the financial aid administrator’s authority to make adjustments, on the basis of documentation, to allow for treatment of an individual with special circumstances. The intent of the law is to enable a response to situations that cannot be fully anticipated in legislation or regulation. While there are several different types of professional judgment a school may exercise, we will be covering a select few during this session to demonstrate their application.



What you Cannot Do in a Professional Judgment

Before we discuss some of the latitude a school has in exercising professional judgment, it’s important that we emphasize what you cannot do in a professional judgment. Below are just some of the things you cannot do. We will discuss other things that cannot be done as we explore the different categories of professional judgment throughout this guide.

- A professional judgment is award year specific and cannot carry forward from year to year unless subsequent requests are made and subsequent documentation obtained.
- You cannot directly change an EFC.
- You cannot make changes to the EFC formula.
- You may not establish automatic categories of special circumstances and provide identical outcomes to all students in that circumstance. All professional judgments must be conducted on a case by case basis.
- You must not use a professional judgment to circumvent the regulations or the law.
- You must not use professional judgment to waive student eligibility requirements.
- You cannot use a professional judgment to make an otherwise independent student dependent. Dependency overrides, as we’ll discuss later, is a one-way option from dependent to independent.

Documentation

The Higher Education Act and corresponding regulations use the phrase, “on the basis of adequate documentation.” While the Department of Education does not define adequate documentation, the documentation should be such that an auditor or program reviewer must be able to gain understanding from the documentation. Documentation should also be such that the institution has satisfied itself in the belief that proper action has been taken.

Professional Judgment is a Choice

Exercising a professional judgment is at the discretion of the school and is a matter of policy. It is entirely conceivable that a student attend a school and adjustments are made in accordance with a professional judgment and attend a different school in the same award year and be denied those same adjustments. It is within a school’s right to refuse all professional judgments as a matter of policy. If an institution should decide to conduct professional judgment, a policy must also be in place. We recommend a review of FSA Assessments at ifap.ed.gov/qahome/fsaassessment.html for a more thorough analysis of your policy.

Professional Judgment and Verification

It is important to note that any applicant who is selected for verification, whether by ED or the school, must complete verification before any professional judgment adjustments can be made. The results of the verification and professional judgment cannot be submitted to CPS on the same day. After the school receives the ISIR resulting from verification, the school would use that ISIR transaction to make adjustments to the applicant’s FAFSA using professional judgment.

Adjusting Cost of Attendance

HEA Sec. 479A(a)

“Nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case by case basis to the cost of attendance . . . to allow for treatment of an individual eligible applicant with special circumstances.”

The cost of attendance is the cornerstone of establishing a student’s financial need, as it sets a limit on the total aid that a student may receive. Each cost of attendance component for a student is an estimate of the student’s educational expenses. Typically, most schools use average costs rather than actual expenses. Financial aid administrators are given the latitude to adjust any of these components on a case-by-case basis to allow for special circumstances. For a listing of the various components that can make up the cost of attendance, we recommend you review the FSA Handbook Volume 3 Chapter 2.

Keep in mind that documentation must be obtained to substantiate an adjustment to any of the cost of attendance components established at your school. Remember that this is a practice allowable on a case-by-case basis and your school is not permitted to establish a category of students for which it will automatically adjust cost of attendance components.

Case Study: Adjusting Cost of Attendance

Mandy

Mandy is an independent student attending classes at Catch-Up Culinary School. Mandy states that while she already receives the maximum Pell award of \$5550, she needs to borrow additional loan funds to pay for additional unforeseen expenses. She tells you that her mother is now bedridden and cannot afford to pay for assistance during the night hours. Mandy has agreed to watch over her mother in the evenings, but the additional costs for gas come out to \$180 a month. She estimates that the additional expense for the academic year will be \$1620. You pull Mandy's financial aid file and notice the following:

Her COA is \$10,120 (it includes loan fees assessed for Mandy's loans)

EFC: 0

Other Aid besides Pell

Sub Loan Amount: \$3,500

Unsub Loan Amount: \$1070

Questions:

Do you believe a professional judgment in this case would be considered reasonable?

What kind of questions might you ask Mandy to confirm an accurate amount for consideration?

What kind of documentation would you ask for?

If you determine that Mandy's assessment of additional costs are accurate, by what amount would you increase the COA?

Case Study: Adjusting Cost of Attendance

Andrew

Andrew is a second year dependent student attending Pelican University. He would like to live off campus this year, but states that he can only find housing for \$900 a month. Your cost of attendance component for off-campus housing only allows for \$600 a month. Since Andrew has already received the maximum amount in federal student loans, he would like to take out as much as he can for private loans to cover the costs. You pull Andrew's file and you notice the following:

COA: 18000 (Covers a 9 month period of time)

EFC: 0

Pell: 5550

Sub Loan: 4500

Unsub Loan: 6000 (Parent Denied PLUS)

Questions:

Considering Andrew's circumstance, would you conduct a professional judgment?

Why or why not?

If so, what is the net amount (minus fees) in private loans Andrew can borrow?

The campus housing department has located off-campus housing for \$500 a month, but it's for a roommate situation. Andrew does not want a roommate and insists that he wants the apartment for \$900/month. Would you still offer a professional judgment?

Why or why not?

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Adjusting EFC Data Elements

HEA Sec. 479A(a)

“Nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case by case basis . . . to the values of the data items required to calculate the expected student or parent contribution (or both) to allow for treatment of an individual eligible applicant with special circumstances.”

This type of professional judgment gives the FAA the latitude to modify one, or more, of the elements in the EFC formula. Typically, the most common of EFC element adjustments occur with the AGI and taxes paid. For instance, a student may lose his or her job and no longer believes the EFC, based on last year’s income is an accurate reflection of his or her financial strength. In such a case, the school is able to adjust the AGI and taxes paid upon receipt of sufficient documentation. This will result in a lower EFC allowing for a possible increase in Title IV aid. Note that in this example the school did not adjust the EFC directly, but the elements affecting it. Schools are not permitted to directly adjust an EFC to suit the needs of a particular student.

It is important that the school choose an element and value that is appropriate to the student’s special circumstances. Understanding the EFC formula, as described in AVG Chapter 3, can help the FAA make a more appropriate decisions. For instance, the formula allows for an income protection allowance (IPA) that allows for basic living expenses. The IPA is an allowance value that directly reduces the AGI. By reviewing page 3 of the student’s ISIR, under Intermediate Values, an FAA can find the IPA value. Of this IPA value, a school can assume that 30% of the IPA is for food, 22% for housing, 9% for transportation, 16% for clothing and personal care, 11%, for medical expenses, and 12% for other family consumption. Knowing that a student has an IPA of 7780, you can determine that the formula took into account \$856 for medical expenses (11% of 7780). If a student provides documentation that \$2856 will be spent on out of pocket medical expenses, you have the ability to adjust either the AGI or taxes paid for the difference of \$2000.

Case Study: Adjusting EFC Data Elements

Nina

Nina is an independent student who wants to attend Applewood Technical School to pursue a nursing career. She tells the financial aid advisor that her daughter has a rare medical condition that has cost her an annual average of \$8,500 in out of pocket medical expenses. She is in need of additional aid to help with living expenses. After reviewing Nina's ISIR you notice the following:

Household Size: 3

Number in College: 1

EFC: 2972

AGI: 59123

IPA: 24,150

Questions:

How much in medical expenses does the need analysis formula already take into account for Nina?

What kind of documentation would you collect from Nina?

If Nina's documentation validates her assertion of \$8,500 in out of pocket medical expenses, what can you do to help?

If you decide to exercise a PJ and adjust the AGI in this case, what would the adjusted AGI be?

What is the greater benefit in adjusting the AGI as opposed to the COA in this case?

Case Study: Adjusting EFC Data Elements

Donald

Donald is a first year student at the Applebee School of Engineering. He is concerned that the school is not aware of the amount of money he spends on monthly travel and believes he has a special circumstance that warrants a professional judgment. He provides documentation showing monthly payments of \$600 on his new Hummer, \$180 a month for insurance, and \$200 a month for gas. He lives approximately 10 miles from campus. Donald calculates a sum of \$8,800 that he will have to spend during the course of an academic year. He notes that his EFC is 12272 and believes that if travel expenses were considered, he would be eligible for Pell funds. After reviewing Donald's ISIR, you notice the following:

He is an independent student without dependents

Household Size: 1

Number in College: 1

IPA: \$7000 (\$630 accounted for travel)

AGI: \$39,000

Total Allowances: \$14,546 (\$22,716 if new travel amount accounted for)

Assets: \$0

(New EFC would be \$8142 if adjustment made)

Questions:

What kind of adjustment can be made to determine whether or not Donald is eligible for Pell funds?

How much does the current IPA account for travel expenses?

If the school accounted for the difference in travel expenses Donald actually pays, what would the new EFC be?

If the adjustment is made, would the student be eligible for Pell?

Would a professional judgment in this case for Donald be considered reasonable based on what you know?

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Dependency Override

HEA Sec. 480(d)(7)

States that a student who does not qualify as an “independent student” in one or more of the 13 categories, as defined in Step 3 of the FAFSA, may be considered an independent student if he or she;

. . . is a student for whom a financial aid administrator makes a determination of independence by reason of other unusual circumstances.

We call such a determination by a financial aid administrator a “dependency override.”

DCL GEN 03-07

“Section 480(d)(7) provides the financial aid administrator with great latitude in determining what constitutes unusual circumstances.

. . . In recent years, the AVG has identified four conditions that, individually or in combination with one another, do not qualify as “unusual circumstance” or that do not merit a dependency override. Those circumstances are:

1. Parents refusing to contribute to the student’s education;
2. Parents unwilling to provide information on the application or for verification;
3. Parents not claiming the student as a dependent for income tax purposes;
4. Students demonstrating total self-sufficiency.

The AVG further recognizes the common practice in the profession mentioned earlier that unusual circumstances could include an abusive family environment or abandonment by parents.”

Case Study: Performing a Dependency Override

Magda

Magda is twenty-one years old. Magda moved out of her parents' home when she was eighteen because she wanted to live independently from her family. She lives in her own apartment which she pays for. She pays for all of her own bills. Her parents have not claimed her as a dependent on their tax form since she moved out. Magda sees her loving family on a regular basis. Magda is about to start college at your school. She requests your assistance in completing the FAFSA questions about dependency.

Questions:

Without performing PJ, and based on what we know, is Magda dependent or independent?

Would you perform a dependency override for Magda?

Why or why not?

Is so, what documentation would you collect?

If you would not perform a dependency override for Magda, is there any PJ that you might be willing to perform?

Case Study: Performing a Dependency Override

Leon

Sadly, Leon's mother died five years ago when he was thirteen years old. Since then, he has lived with his father, Henry. When Leon was fifteen, Henry, a man of modest means, married a wealthy woman name Sabrina. Sabrina had Henry sign a pre-nuptial agreement which stated that Henry and his family could not have access to, use or inherit any of the money she possessed at the time of the marriage. Sabrina has been a loving step-mother to Leon.

Leon is now eighteen and has just graduated from high school. He intends to enroll and attend at your school soon. Leon began filling out the FAFSA and approached his father and step-mother about completing their part of the FAFSA. Henry had no objection but Sabrina said she would not provide any information requested on the FAFSA. Sabrina said Leon was more than welcome to live with them for free while he pursued his post-secondary education.

Questions:

Without performing PJ, and based on what we know, is Leon dependent or independent?

Would you perform a dependency override for Leon?

Why or why not?

If so, what documentation would you collect?

If you would not perform a dependency override for Leon, would you perform the PJ based on the parents refusal to support the student and refusal to complete the FAFSA?

Without any act of PJ, does Leon have any options for Title IV assistance?

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Parent Refuses to Complete FAFSA / Provide Support

HEA Sec. 479A(a)

“ . . . In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator . . . to offer a dependent student financial assistance under section 428H or a Federal Direct Unsubsidized Stafford Loan without requiring the parents of such student to file the financial aid form prescribed under sections 482 if the student financial aid administrator verifies that the parent or parents of such student have ended financial support of such student and refuse to file such form.”

The Higher Education Opportunity Act introduced a new category of professional judgment as written here. Prior to introducing this new category of PJ, a student whose parents refused to complete the FAFSA and refused to provide financial support would be ineligible for any Title IV student aid. With this provision in place, the school can now exercise professional judgment and make the student, in this situation, eligible for an unsubsidized Stafford Loan ONLY.

It is important to note that this is NOT a dependency override as discussed in the previous section of this guide. Therefore, the student is eligible only for the unsubsidized Stafford Loan limit amount allotted to a dependent student.

For documentation purposes, the custodial parent (if not married) or both parents (if married) must sign a statement that he or she is refusing to provide both support and the FAFSA data. Note that both conditions must be present for the student to be eligible for this provision. If the parent refuses to sign such a statement, the school may accept documentation from a third party capable of demonstrating the student's situation. Some examples may include a teacher, clergyman, counselor, etc.

A non-custodial parent, if there is one, may still borrow a PLUS Loan in order to benefit the student and the student would still be eligible for this provision.

Case Study: Parent Refuses to Complete FAFSA / Provide Support

Judy

Judy is about to be a junior at Big State University located in the city of New Aurora. Judy lives in an apartment in New Aurora and pays all of her own bills. Judy's parents also live in New Aurora. Judy spends most Sundays with her family for a big Sunday dinner. Judy has filled out the FAFSA for her junior year. Her parents have refused to complete the parental part of Judy's FAFSA. The parents have provided a signed written statement stating they do not support Judy in any way.

Questions:

Without the FAA performing PJ, can Judy receive Title IV assistance with only her information on the FAFSA?

Would you consider a dependency override for Judy?

Would you consider any other type of PJ for Judy?

Is so, what documentation would you collect?

If PJ is performed, what Title IV assistance will Judy be eligible to receive?

Case Study: Parent Refuses to Complete FAFSA / Provide Support

Hector

Hector is about to be a freshman at Best Ever Community College in the city of Fairview. Hector lives at home with his parents in Fairview. Hector's parents charge him room and board for living in their home. Hector's parents do carry Hector on their health and auto insurance policies. Hector asks his parents to complete the parental part of the FAFSA and they refuse.

Questions:

Without the FAA performing PJ, can Hector receive Title IV assistance with only his information on the FAFSA?

Would you consider a dependency override for Hector?

Would you consider any other type of PJ for Hector?

Is so, what documentation would you collect?

If PJ is performed, what Title IV assistance will Hector be eligible to receive?

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Denying or Reducing a Federal Student Loan

34 CFR 685.301(a)(8)

- (8) *A school may refuse to originate a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan or may reduce the borrower's determination of need for the loan if the reason for that action is documented and provided to the borrower in writing, and if -*
- (i) The determination is made on a case-by-case basis;*
 - (ii) The documentation supporting the determination is retained in the student's file; and*
 - (iii) The school does not engage in any pattern or practice that results in a denial of a borrower's access to Direct Loans because of the borrower's race, gender, color, religion, national origin, age, disability status, or income.*

Case Study: Denying or Reducing a Federal Student Loan

Samantha

Samantha is a third year, independent student at Low Cost State University (LCSU). Most students at LCSU stay in school housing but there is no requirement to do so. Samantha has indicated to the school that for her third year, she will not be staying in school housing. LCSU packages Samantha's student aid to include just enough DL funds to allow her to pay her tuition, fees, books and supplies. The amount included is \$4000 less than the annual limit that Samantha would be eligible to borrow. Samantha goes to visit the financial aid office to inquire why she is not able to borrow the full amount for which she is eligible. The Financial Aid Director hands Samantha a written determination explaining that her Direct loan was being originated at a lesser amount because Samantha owed the school a lesser amount this year due to not living in school housing.

Questions:

Has the school executed PJ in a responsible manner?

Would you use PJ of any type in Samantha's situation?

Case Study: Denying or Reducing a Federal Student Loan

Robert

Robert, a dependent student, is about to begin his first year at your school. Robert has been sent an award letter indicating he will receive the following financial aid package:

Federal Pell Grant	\$5500
FSEOG	\$1000
FWS	\$1000
DL Subsidized	\$3500
DL Unsubsidized	\$2000

Robert calls and makes an appointment to discuss his package with you. Robert comes in and asks several questions about his package. He is especially interested in why the package is not 100% grants since he comes from a large family with low income. After listening to your explanation, Robert states that it is not his fault that there are limits to how much Pell can be awarded in a year and it is not his fault that the school is limited in how much campus based aid it can award. He further states that since these things are not within his control, he sees no obligation to repay any Federal loan funds he is “forced” to borrow. You call your assistant director in the office and have Robert repeat his statement which he happily does.

Questions:

What PJ would you consider in Robert’s scenario?

Would you consider refusing to originate a Direct Loan?

Would you consider originating a Direct Loan for a lesser amount?

If so, what documentation would you gather?

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Waiving Two Pell Acceleration

34 CFR 690.67(c)

(c) *Special circumstances.* (1) In a payment period in which there is insufficient remaining eligibility from a student's first Scheduled Award to provide a full payment for the payment period, the financial aid administrator at the institution may waive the requirement in paragraph (a)(1) of this section, if the financial aid administrator—

(i) Determines that the student, due to circumstances beyond the student's control was unable to complete the credit or clock hours of the first academic year that are necessary to be enrolling for credit or clock hours that are attributable to the second academic year; and

(ii) The determination is made and documented on an individual basis.

(2) For purposes of paragraph (c)(1) of this section, circumstances beyond a student's control—

(i) May include, but are not limited to, the student withdrawing from classes due to illness or being unable to register for classes necessary to complete his or her eligible program because those classes were not offered during that period; and

(ii) Do not include, for example, withdrawing to a particular grade or failing to register for a necessary class that was offered during the period to avoid a particular instructor.

Case Study: Waiving Two Pell Acceleration

Eva

Eva is a Federal Pell Grant recipient. She attends a school with an academic year definition of 24 semester credit hours and 30 weeks of instruction. Eva's school uses Pell formula 1. Eva has the follow experience:

Fall Semester

Eva enrolls for 15 semester credit hours

Eva is paid 50% of her scheduled award

Eva finishes the semester with 15 earned semester credits

Spring Semester

Eva would like to enroll in 12 semester credit hours, but one of the classes is offered at 8am. Eva NEVER enrolls for any class prior to 10am because it is impossible for her to wake up on time. Another class is being taught by a professor that has a reputation for being difficult. She decides to forego these classes for this semester and will wait to enroll in them at a future date. Consequently, Eva can only find 3 other classes to take in the Spring for a total of 9 semester credit hours.

On the Pell recalculation date, Eva's enrollment status is still 3/4 time and receives 37.5% of her scheduled award. After that date, Eva drops 6 of her 9 semester credit hours and earns a mere 3 credit hours for the Spring term. Thus far, Eva has been paid 87.5% of her 1st scheduled Pell award and has earned 18 semester credit hours.

Eva enrolls for 6 semester credit hours for the Summer. She expects to be paid half-time Pell for the term.

Questions:

Without performing PJ, will Eva receive half-time Pell for the Summer term?

What amount will she receive, if any?

Has Eva met the acceleration requirement needed to receive her 2nd scheduled Pell award?

If not, would you consider a PJ to waive the acceleration requirement? Why or why not?

Case Study: Waiving Two Pell Acceleration

Joshua

Joshua is a third year undergrad who is receiving a Federal Pell Grant. Joshua's school defines its academic year as having 36 quarter credit hours and 30 weeks of instructional time. The school uses Pell formula 1. The school establishes the 6th day of each quarter as its Pell recalculation date.

Joshua attended the Summer quarter as a full time student. The Summer was assigned to the award year that was beginning on July 1. He was paid a full-time Pell disbursement for Summer. Joshua attended the Fall Quarter and was a full-time student. He earned 12 quarter credit hours for each term for a total of 24 quarter credit hours. He registered for the Winter quarter and was paid full-time Pell.

Joshua was attending all of his classes during the Winter quarter and was doing well when he was stricken with influenza on the 45th day of the 10 week quarter. He thought he might recover quickly, but unfortunately he got even sicker and was forced to withdraw from school for the Winter quarter. The school assigned him grades of WP, withdrew passing. The school calculated an R2T4 but there was nothing to return since the withdrawal occurred after the 60% point of the payment period. Joshua recovered fully in time to enroll for 12 quarter credit hours for the Spring quarter.. As Joshua begins Spring, he has earned 24 quarter credit hours and has received 100% of his first scheduled Pell.

Questions:

Has Joshua met the acceleration requirement at this school with its academic year definition of 36 quarter credit hours?

If PJ is not performed, what is Joshua eligible to receive from Pell for Spring?

Would you perform PJ to waive the acceleration requirement for Joshua? Why or why not?

If so, what documentation would you gather?

If the acceleration requirement is waived by performing PJ, what can Joshua receive from

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Appendices

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Appendix A

Citations & References

Adjusting Components of Cost of Attendance

- *HEA Sec. 479A(a)*
- *FSA Handbook AVG Chapter 5*

Adjusting Data Elements used to Calculate EFC

- *HEA Sect. 479A(a)*
- *FSA Handbook AVG Chapter 5*

Performing a Dependency Override

- *HEA Sec. 480(d)(7)*
- *DCL GEN 03-07*
- *FSA Handbook AVG Chapter 2*

Parent Refuses to Complete FAFSA / Provide Support

- *HEA Sec. 479A*
- *DCL GEN 08-12*
- *FSA Handbook AVG Chapter 2*

Denying or Reducing a Federal Student Loan

- *HEA Sec. 479A(c)*
- *34 CFR 685.301(a)(8)*
- *FSA Handbook AVG Chapter 5*

Waiving the Two Pell Acceleration Requirement

- *HEA Sec. 401*
- *34 CFR 690.67©*
- *FSA Handbook Volume 3 Chapter 3*

Displaced Workers (not covered in case scenarios)

- *HEA 479A*
- *DCL GEN 09-04*
- *DCL GEN 09-05*
- *FSA Handbook AVG Chapter 2*

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Appendix B

Other Resources

Recorded PJ Webinar Part I

- Available in the IFAP Library
- <http://ifap.ed.gov/dpcletters/ANN1017.html>

FSA Assessments

- Verification Module
- Available in Tools for Schools on IFAP
- <http://www.ifap.ed.gov/qahome/qaassessments/fsaverification.html>