Professional Judgment Session One
An Overview

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Professional Judgment

• The goal of our PJ webinars is to discuss professional judgment options that are available to schools that have an impact on a student’s Title IV eligibility.
• School officials are the professionals that are empowered to exercise PJ.
• Nothing in the webinars (options discussed, examples offered, etc.) is meant to imply that a school would be limited, in its exercise of PJ, to what is presented or discussed here.

PJ In The HEA, As Amended

• Section 479A - Discretion of Student Financial Aid Administrators
  – Calculating Expected Family Contribution (EFC)
  – Adjusting Cost of Attendance (COA)
  – Dependent student Unsubsidized Stafford absent parental data and support
  – Refusal to certify loan or certify reduced amount
**PJ In The HEA, As Amended**

- Section 480(d)  Dependency Override
- Section 484(c)  Satisfactory Progress
  - Death of a relative of the student
  - Personal injury or illness of student
  - Special circumstances as determined by institution

**Types Of Possible Professional Judgment**

- Adjusting Components of Cost of Attendance
- Adjusting Data Elements Used to Calculate EFC
- Performing a Dependency Override
- Establishing Eligibility for Unsubsidized Stafford When Parent Refuses to Complete FAFSA and Refuses to Support Student
- Refusing to Certify/Originate Student Loan
  - Or certify/originate a lesser amount
- Granting Satisfactory Academic Progress Appeal

**PJ—Session One Objectives**

- Provide an overview of PJ
- Explain why PJ is allowed
- Review some prohibitions
- Review the various types of PJ
- Establish a foundation for better understanding of Session Two
PJ—Session Two
PJ In Need Analysis, Loan Issues and Dependency Overrides

• Adjustments to data elements used in calculating an EFC
• Adjustments to components of the Cost of Attendance
• Examples of documentation

• Dependency Overrides
• Eligibility for Unsub Stafford Loan
  – Parent refuses to complete FAFSA, and
  – Parent refuses to support student
• Refusal to Certify/Originate Student Loan
• Examples of documentation

PJ—Recent Dear Colleague Letters

• DCL GEN 09-04
  – Encourages schools to thoughtfully apply PJ to students/families adversely impacted by the economic downturn
PJ- Recent Dear Colleague Letters

• DCL GEN 09-05
  – Explains that state unemployment agencies will be sending letters to recipients of unemployment benefits
  – Letter may be used as documentation for PJ adjustments to income
• AVG is also a resource
  – Page AVG-105

PJ—A School Choice

• Legislative language provides latitude
• Gives FAAs the authority to consider individual circumstances
• Enables responsiveness to situations that cannot be fully anticipated in legislation or regulation

PJ – Institutional Policy

• Will you do PJ?
• If yes, how PJ is considered
  – Process for student to follow
  – How decisions are made
PJ and Verification

- If student is selected for verification
  - Verify before PJ is executed

Truisms Of Professional Judgment

- Rooted in firm understanding of laws and regulations
- Relies on financial aid administrator approachability
- Requires careful balancing of aid officer accountability to
  - Students and families
  - Institution
  - Department of Education

PJ—What Is Involved?

- Responding to special circumstances outside of standard assessment
- Judging validity of requested adjustments
- Establishing the scope of adjustments
- Documenting the action and the basis for it
- Maintaining consistent opportunities and practices
PJ—You Can …
- Exercise PJ on a case-by-case basis (actually, you must!)
- Collect and use data that best represents current student and family circumstances
- Make award year-specific decisions
- Change data elements reported for need analysis

PJ – What You Cannot Do
- A school is not allowed to change the EFC
  - Only the data elements used to calculate the EFC may be adjusted

PJ – What You Cannot Do
- HEA gives great latitude to schools but certain actions are prohibited
  - DCL GEN 03-07 (archived on IFAP) lists specific prohibitions regarding dependency overrides
PJ – What You Cannot Do

• Schools must not establish classes of students for which PJ is routinely exercised
  – For example, you must not have a policy or practice by which all family members impacted by a recently closed auto plant, in the community, automatically have their AGI reduced

PJ – What You Cannot Do

• Must not use PJ to circumvent the regulations or law
  – Must not use PJ to treat an ineligible student as eligible
    • e.g. Professionally judge someone to be an American citizen
• Must not make an otherwise independent student dependent
  – Dependency overrides are one-way

PJ – What You Cannot Do

• Must not make PJ decisions absent documentation
• Cannot use generally prevailing conditions as basis for PJ decision
  – Documentation must support specific action taken
• Cannot project PJ actions beyond the award year for which they are done
  – A school may accept the dependency override decision of another school if it was done for the same award year
PJ Documentation

- Not defined in legislation or regulation
- Supports independent review
  - Audit/Program Review
  - Institutional self-assessment
  - Replication by co-workers
- “Best practices” suggest use of institutional form to promote consistency of
  - Access to process
  - Documentation gathered to support process

PJ Documentation

- What, why, on what basis, who, when
  - What actions were taken
  - Rationale for decision
  - What data support the action taken
  - Who was involved in the PJ process
  - When was the decision made
- Response to applicant
- Paper or electronic

Types Of Possible Professional Judgment

- Adjusting Components of Cost of Attendance
- Adjusting Data Elements Used to Calculate EFC
- Dependency Override
- Establishing Eligibility for Unsubsidized Stafford
  When Parent Refuses to Complete FAFSA and Refuses to Support Student
- Refusal to Certify/Originate Student Loan
  - Or certify/originate a lesser amount
- Granting SAP Appeal
**Adjusting Components Of Cost Of Attendance**

- FAA may adjust the components of the COA
  - Tuition and Fees
  - Allowance for books, supplies, transportation and miscellaneous personal expenses
  - Allowance for room and board
  - Allowance for dependent care, if applicable
  - Allowance for one time direct costs of obtaining a certificate or license, if required
  - Other components that apply to specific groups of students

**Adjusting Components Of Cost Of Attendance**

- FAA may change amount of any COA component
  - FAA determines the most appropriate component(s) to adjust depending on the student’s circumstances

**Adjusting Components Of Cost Of Attendance**

- School must document that it is exercising PJ and collect documentation that substantiates the special circumstances of the individual student

- School’s exercise of PJ must be done on a case by case basis
Adjusting Components of Cost of Attendance

- Adjustments to COA may result in an increase or decrease of need
- The COA adjustment will be applicable to all Title IV programs

Adjusting Data Elements in EFC Calculation

- FAA may NOT adjust the Expected Family Contribution (EFC) itself
- FAA may adjust any data element used to calculate the EFC
- FAA decides which adjustment is most appropriate
  - The choice of a data element, and the corresponding value, must reflect the student’s individual situation

Adjusting Data Elements in EFC Calculation

- School must document that it is exercising PJ and collect documentation that substantiates the special circumstances of the individual student
- School’s exercise of PJ must be done on a case by case basis
Adjusting Data Elements Used In EFC Calculation

- Adjustments to the EFC data elements may result in an increase or decrease of the EFC and, therefore, an increase or decrease of need
- Adjusted need must be used for awarding aid from all Title IV programs

Homelessness Determinations

- CCRAA added new dependency questions to FAFSA about homelessness
- Determination of homelessness is usually made by a professional working with the homeless community
- Determination can also be made by an FAA
  - Technically not PJ or a dependency override
  - Has many of the same requirements as PJ or a dependency override

Two Categories of Homelessness

- Student is verified as an unaccompanied youth who is homeless
- Student is verified as an unaccompanied youth who is at risk of homelessness and is self supporting
- Youth = Age 21 or less unless still in high school
- Resources
  - 09-10 AVG pp. 28-29
  - EA Aug 6, 2009
Independent Student

• The student has been verified as an unaccompanied youth who is homeless by:
  • Director, or designee, of an emergency shelter or transitional housing program, or
  • Director, or designee, of a runaway/homeless youth basic center or transitional living program, or
  • High School or School District Homeless Liaison, or
  • Financial aid administrator

Independent Student

• The student has been verified as an unaccompanied youth who is at risk of homelessness and is self-supporting by:
  • Director, or designee, of a homeless youth basic center or transitional living program, or
  • Financial aid administrator

FAA Determination of Homelessness

• Must Be Case by Case but Is Not PJ or a dependency override
• Must be documented
  – If no official documentation can be obtained, documented interview of the student will suffice
• FAFSA does not ask student if FAA is making determination, asks only if the homelessness professionals mentioned on the previous slides are making the determination
  – FAA will treat as a dependency override in order for CPS to accept the determination of the FAA that the student is independent
  – This determination, however, is NOT a dependency override or PJ
**FAA Determination of Homelessness**

- Homeless (or at risk) students who are 22 or 23 years old may not be children or youths
  - FAA may initiate a dependency override
  - This determination is a dependency override

**Homelessness Issues**

- When an FAA determines that a student is an unaccompanied homeless youth or an unaccompanied youth who is self-supporting and at risk of homelessness, she is not performing an act of PJ nor a dependency override
  - FAA looks at each case and documents the determination
- When an FAA determines that a student is homeless when he/she is no longer a youth (student is 22 or 23) may perform a dependency override

**Dependency Override**

- Student’s dependency status has been determined by responses to FAFSA (10-11) Questions 46-58
- FAFSA questions may not address a student’s unusual situation
- A student may be independent if he or she
  - “is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances”
  - HEA 480(d)(1)(i)
Dependency Override

- FAA’s determination that an otherwise dependent student is independent is an exercise of PJ
- Must be done on a case by case basis
- The school must document its decision to do the dependency override and collect documentation to support its decision

Dependency Override

- FAA’s exercise of PJ can only make a dependent student independent
- FAA is not allowed to make an independent student dependent

Dependency Override

- Used to address unusual circumstances
- What isn’t unusual?
  - Student’s self sufficiency
  - Student not being claimed as a dependent on parent’s IRS tax form
  - Parent’s refusal to complete FAFSA
  - Parent’s refusal to provide verification information
  - Parent’s refusal to contribute toward student’s educational costs
- See GEN 03-07

- Archived DCL
Parent Refuses To Complete FAFSA And Refuses To Support Student

• HEOA established new category of PJ
  – Effective August 14, 2008
• When parent refuses to complete parent’s section of FAFSA AND refuses to support the student, school may perform a PJ to make the student eligible for an unsubsidized Stafford Loan

• This is an exercise of PJ and, as such, is performed at the school’s option
  – It is not required
• This is NOT a dependency override
• Must be evaluated case by case

• FAA must document parent’s refusal...
  – To file a FAFSA
  AND
  – To provide financial support to the student
    • Signed statement from the parent stating the refusal
    • If parents refuse to provide signed statement, documentation may be from a third party attesting to the situation
• Parent may not borrow a PLUS for this student
Parent Refuses To Complete FAFSA And Refuses To Support Student

• If school performs this type of PJ, student becomes eligible for unsubsidized Stafford Loan funds (FFEL/DL) ONLY
• Student remains a dependent student
• Dependent student annual loan limits apply
  – First Year - $5500
  – Second Year - $6500
  – Third Year and thereafter - $7500

Refusal To Certify/Originate Loan

• School may refuse to certify/originate an FFEL/DL student loan
  OR
• School may certify/originate a student loan at less than the full amount the student is eligible to receive
  – FFEL – 34 CFR 682.603(f)(3)
  – DL – 34 CFR 685.301(a)(8)

Refusal To Certify/Originate Loan

• This is an exercise of PJ
• Must be done on a case by case basis
• Student’s file must be documented with action and reason for the action
• Student must be given the reason for the action in writing
• Decision must not be discriminatory
Question
– If a school exercises a high number of professional judgments, can the school get in trouble with ED?

Answer
– No. So long as you are exercising PJ within the allowable statutory parameters, the number of PJs is not important.

Question
– If a school exercises a low number of professional judgments, or even none, can the school get in trouble with ED?

Answer
– No. There is no requirement for a school to perform a certain percentage or number of PJs.

Stay Tuned for Session Two

Our second PJ webinar will include more detailed discussion of:
– Adjustments to components used to calculate EFC
– Adjustments to COA
– Loan Issues
  • Schools refusal to certify/originate
  • Parents refusal to complete FAFSA & support student
– Dependency Overrides
– Watch IFAP for announcement of webinar
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