2010 Professional Judgment Overview

Transcript

Slide 1 – Title Slide

Hello, I'd like to welcome you to our recorded training session on Professional Judgment. Your instructors for today are myself, Michael Novak, and with me is Kevin Campbell. We're both training officers out of the Dallas Regional Office.

Slide 2 – Professional Judgment

ED published two DCLs in early 2009, GEN 09-04 and 09-05, that brought PJ to the forefront. These letters reminded the FA community of its authority in exercising PJ when students and their families have unusual circumstances not captured by the FAFSA process.

PJ is an area in which the school is given great latitude to make decisions affecting a student's eligibility. There are countless examples of how PJ can be used. Nothing in this two-part set of webinars is meant to be interpreted as ED approving the use of PJ in some circumstances and not in others, so long as it is not used to circumvent the intent of the law.

Slide 3 – PJ in the HEA as Amended

The HEA establishes different areas in which PJ can be considered.

The term "professional judgment" is not used in the law. Section 479A of the HEA specifically refers to an FAA's "discretion" in making adjustments in how need is calculated including changing data elements used in the EFC formula as well as making modifications to the COA. The same section gives schools the authority to extend eligibility for unsubsidized Stafford loans to certain students and to restrict eligibility for student loans for certain students.

Slide 4 – PJ in the HEA as Amended

Sec 480 of the HEA extends authority to make certain students independent that would otherwise be dependent.

And Sec 484 extends latitude to schools to exercise PJ in the category of SAP.

Slide 5 – Types of Possible Professional Judgment

For purposes of our webinar, we have grouped together certain areas in which FAAs can perform adjustments that impact a student's level of eligibility for Title IV. For our purposes here, we will refer to this group of actions as Professional Judgment or PJ. Note the various

actions on this slide. This list of possible applications of PJ represents various areas in which schools may exercise their discretion in establishing Title IV eligibility for students.

As we discussed on the previous slide, this discretionary authority is established in various sections of the HEA as amended.

Slide 6 – PJ Session One Objectives

This slide provides our objectives we hope to accomplish in this session. Session One will not concentrate on specific types of PJ but Session Two will go into that level of detail.

Slide 7 – PJ Session Two

Session Two will begin by examining the use of PJ in determining need, including adjustments to COA and elements used to calculate an EFC. The session will examine some examples of documentation needed for this type of PJ.

Slide 8 – PJ Session Two

Session Two will go on to examine, in some detail, how PJ is used in dependency overrides, establishing eligibility for unsubsidized Stafford loans for students whose parents refuse to complete the FAFSA and refuse to provide support for the student. Lastly, the school's ability to refuse to originate or certify a loan will be examined.

Some examples of documentation will be discussed.

Slide 9 – PJ Recent Dear Colleague Letters

We began our webinar today by noting that ED in 2009 published two DCLs about PJ.

DCL GEN 09-04 encourages schools to use their PJ authority to address changes in students' financial situation that may have been brought on by the economic recession. It also reminds FAAs that their determination of a family's financial situation may be based on any 12 month period of time not just a calendar year. It goes on to remind FAAs to be mindful of the statutory limitations associated with PJ.

Slide 10 – PJ Recent Dear Colleague Letters

DCL GEN 09-05 informs schools that ED is cooperating with the US Dept of Labor as well as each state unemployment agency. Each state has been sending letters to all recipients of unemployment insurance benefits to encourage them to consider enrolling in postsecondary education and applying for financial aid. The DCL states that you may use this letter to document that income earned from work for that student is zero for PJ purposes.

We recognize that it is likely that PJ determinations will rise in the current economic environment. In recognition of this fact, ED will adjust its risk based model, used to select schools for program reviews, to account for the likelihood of increased PJ decisions. This adjustment will be in effect for the 08-09 and 09-10 award years.

The 09-10 FSA Handbook, specifically the AVG, has a good discussion about the use of PJ beginning on page AVG-105

Slide 11 – PJ A School Choice

The language of the statute provides latitude for the financial aid officer, on the basis of adequate documentation, to make adjustments on a case-by-case basis to allow for the treatment of an individual eligible applicant with special circumstances. That latitude does not, however, permit the aid officer to deviate from given results in the absence of documentable special circumstances for an individual.

While the latitude to act enables institutional responsiveness, it does not commit an institution to respond. PJ is a school choice.

Contrary to popular perceptions, neither Department of Education's regulations, nor the laws upon which they were based, can possibly cover every conceivable circumstance which might apply to determination of federal student aid eligibility. Life and the higher education enterprise are too complex and too dynamic for all circumstances to be anticipated and addressed in the legislation and regulations.

Slide 12 – PJ Institutional Policy

Remember, it is the school's choice to do, or not do, PJ in response to individual requests. A school's policy should establish the general parameters under which the school will utilize PJ as a tool or not.

If PJ is used, the school must document its procedures that govern the steps with which the student must comply and the processes the school will follow in order to make a PJ determination.

Slide 13 – PJ and Verification

For PJ determinations that may affect the calculated EFC, verification must be completed for selected students before the PJ is executed. The intent is that you begin from correct base data.

Slide 14 – Truisms of Professional Judgment

As noted earlier, the foundation for PJ activity is the HEA, as amended. Because financial aid officer discretionary latitude is the prevailing aspect of PJ, regulations and departmental guidance are minimal. We will cover some "can" and "cannot" matters in a bit. Most of what we will say, however, is based on the HEA, as amended.

Because of its discretionary nature, PJ's place on your campus depends to a large extent on how approachable the aid staff is. Approachability will typically encompass more than philosophical receptivity. It typically will also factor in available resources, both human and funding, in the equation. Does the school have adequate staff time and expertise to consider all PJ requests? Does the school have available financial aid funding to award or expand awards if the PJ request is approved?

Finally, PJ authority reflects the expectation that the financial aid office will be accountable to its customers (students and families); to the institution it serves; and to the Department via its contract for federal funding (Program Participation Agreement.

Slide 15 - PJ What is Involved?

This slide reflects the components of the act of exercising professional judgment.

Initially, the aid officer must determine if the portrayed circumstances are in fact "special circumstances" which fall outside standard practice or assessment.

If the circumstances are special circumstances the aid officer must judge the validity of the adjustments requested. Is the request justified by the special circumstance? If yes, that in turn leads to the consideration of scope. How large or small should the response be?

Documenting the actions considered and taken, as well as the discretionary basis for such, is important to the student, to the institution and to the Department of Education.

Finally, other students or families who might have similar circumstances should have similar opportunities for their circumstances to be considered. Access to similar opportunities is not the same, however, as access to similar outcomes. The case-by-case nature of PJ will inevitably create dissimilar results. Consistency of access to utilized practices is the goal, not consistency or proscription of outcomes.

Slide 16 – PJ You Can

As just noted, PJ must be exercised on a case-by-case basis. While a number of families might experience reverses during an economic downturn the aid office cannot establish a category of students for whom similar outcomes are proscribed. The aid office can reach out to a given population but responses must be administered case-by-case.

PJ activity must be based on new data that most appropriately represents the current circumstances. Federal Methodology, for instance, utilizes a "snapshot" concept, judging academic year eligibility on "as of today" asset and family data, plus "base year" income that in most cases was earned in a previous time period, perhaps 9-21 months before the actual dates of attendance. Life's reverses can render such "snapshot" data to be poor representation of current ability to finance educational costs. If the aid officer agrees that it is appropriate, PJ permits the aid officer to update the "snapshot" to use more current asset, household, or 12-month income data that may or may not be calendar year-based. GEN-09-04 notes that "When you make adjustments related to the student's or the student's family's income, it is appropriate to use information that realistically reflects the individual's and/or the family's current and near-term economic situation." Following in GEN-09-04 is an example of how you might adjust and document the specific action taken.

PJ decisions are award year specific. They do not carry forward from year to year. Subsequent PJ activity in future award years, should the aid officer decide to consider such, must be based on new documents and new data specific to the new award year in question.

Where the PJ activity relates to need analysis, you can change the data elements reported on the FAFSA, such as AGI, taxes paid, number in the family, household size or asset data. Changes to the calculated EFC would result from the new data's treatment in the need analysis formula, not changes to the formula nor bottom-line adjustments to the EFC figure.

Slide 17 – PJ What You Cannot Do

And as described earlier, you may only change the data elements used in the formula to calculate the EFC. You may not directly change the EFC itself, an act that might be called "bottom lining."

Slide 18 – PJ What You Cannot Do

While the aid officer is provided significant latitude in the exercise of discretionary authority it is not unlimited authority.

We will talk in greater detail about dependency overrides in our second webinar, but for this discussion we should note that

DCL GEN 03-07, which is archived in IFAP, lists specific prohibitions regarding dependency overrides. For example, parents not claiming the students as a dependent for income tax purposes cannot be used as the justification for an override.

Slide 19 – PJ What You Cannot Do

The recent GEN-09-04, which encourages use of professional judgment in light of our recent economic downturn, nevertheless notes that PJ must only be used to address special circumstances, which are conditions that differentiate an individual student from a class of students. You may not establish automatic categories of special circumstances and provide identical outcomes to all students in that circumstance.

Slide 20 – PJ What You Cannot Do

You must not use PJ to circumvent the regulations or the law. For example, you may not use PJ to declare someone a US citizen or eligible non-citizen when their circumstances do not support that fact. As another example, veterans' benefits have been eliminated from consideration in determining Title IV eligibility by recent legislation. FAO's cannot use PJ to add back, as resources, those items that have been specifically excluded by law.

You must not use PJ to make an otherwise independent student dependent. As this slide notes, dependency overrides are a one-way journey, from dependent to independent status.

Slide 21 PJ What You Cannot Do

Department of Education program reviewers and auditors report findings for schools that have performed PJ actions absent documentation. Section 479A notes that the aid officer can take PJ actions "on the basis of adequate documentation." Failure to document PJ actions can result in financial liabilities for schools. Remember that without adequate documentation, the status you are seeking to modify, is still in effect.

An institution cannot use documentation of generally prevailing conditions as a basis for performing individual PJ's. Let's visit a community with a recently closed auto plant…A newspaper article about the auto manufacturing plant closing would not be a basis for doing PJ's for all families from that community. The generally prevailing conditions might lead a school to reach out to families of that community, but documentation collected and used for a specific PJ action must relate to the specific family's circumstances.

Finally, as noted, PJ actions are award year-specific. Actions taken and documented for the 09-10 award year are good only for that award year. At the discretion of the aid officer further PJ actions may be taken for subsequent award years, but such PJ actions must be taken and documented separately for each subsequent award year. Each award year must stand on its own merit.

Slide 22 – PJ Documentation

The phrase, "on the basis of adequate documentation," is not defined in legislation or regulation.

Using the “reasonable person” measure, the documentation should allow a person making an independent review to understand the action taken and the basis for such action. Those who audit or perform program reviews must be able to gain understanding from the documentation. The institution will want to satisfy itself that proper actions are being taken. And finally, to protect against the proverbial, “He was run over by a bus on the way to work” disasters, co-workers should be able to step in and carry on with a clear understanding of what transpired in the PJ process.

Institutions which choose to accept PJ requests find that an institutional PJ Appeal form helps promote fair and consistent access to the process and assist the task of gathering documentation to support the decision-making. Most schools post their institutional PJ form and instructions prominently on their office web site. If you do not have an institutional form, check the websites of prominent schools in whom you trust. When you find something you like, do what aid officers have done for years—plagiarize!! You are flattering those whom you emulate—and, in all likelihood, they will be pleased to have been of assistance.

Slide 23 – PJ Documentation

Again, the “reasonable person” rule might suggest that the items shown in this slide should be explained in and covered by the documentation.

The documentation should include the response to the applicant to explain what was or what was not done in response to the request. The documentation can be paper-based or it can be captured in electronic form.

Slide 24 – Types of Professional Judgment

As we have discussed, there are various PJ options available to the school. We have referenced each one of these, displayed on this slide, before. We will now examine each one in a bit more detail. Here is my colleague, Kevin Campbell, to lead the way.

Slide 25 – Adjusting Components of Cost of Attendance

An FAA may adjust the components that make up the COA.

Schools are required to establish budgets for students so that need can be calculated. The HEA establishes the components that must be included in the budget most of which are applicable to all students, like tuition, room and board, and some components that are applicable to certain students, e.g. dependent care. Schools determine the monetary value associated with each component which added together, establish the total COA.

Most schools establish budgets for groups of students based on average costs usually encountered by the majority of students.

Slide 26 – Adjusting Components of Cost of Attendance

As an act of PJ, an FAA may decide to change the value of one, or more, component(s) if the FAA determines that the PJ is the most appropriate adjustment that can be made in order to address the special circumstances of the student.

Slide 27 – Adjusting Components of Cost of Attendance

As for all PJ, the decision must be documented. The documentation must substantiate the student's special circumstances that led to the PJ decision.

Also, as for all PJ, the process must be employed on a case by case basis. A school must not establish a category of students for which it will automatically adjust COA components.

Slide 28 – Adjusting Components of Cost of Attendance

An adjustment to a student's COA can possibly result in an increase, or decrease, in the student's need. Remember that need is determined for Title IV by subtracting the student's EFC from the student's COA.

Once the student's need has been modified as a result of a PJ decision to change a COA component, that need must be used for awarding all Title IV aid.

Slide 29 – Adjusting Data Elements in EFC Calculation

Another type of PJ is where the FAA makes a judgment to modify elements that are used to calculate the student's EFC.

This type of PJ is restricted to modifying one, or more, of the elements in the EFC formula. The FAA must not change the EFC itself as an act of PJ, nor the formula used to calculate the EFC, only the elements used to calculate the EFC may be modified.

Remember the EFC was calculated on certain data elements that were present on the day the student signed the FAFSA and other data elements that are drawn from the base year. If the FAA determines that one of those data elements is no longer a valid indicator of the student's financial situation, an FAA may, as an act of PJ, decide to change the element or elements to reflect the student's current status. The FAA determines what element will be changed and what revised value will be assigned to that element. The FAA must choose an element and value that are appropriate to the student's special circumstances.

Slide 30 – Adjusting Data Elements in EFC Calculation

As in the case of all PJ decisions, this action must be documented and conducted on a case by case basis. The documentation collected must substantiate the student's special circumstances that led the FAA to take this action.

Chapter 3 of the Application and Verification Guide explains the EFC formula and is a helpful resource to assist FAAs in making modifications to the elements of the EFC formula. EFC calculation worksheets are also published in Chapter 3 of the AVG. The EFC Formula Guide, including the necessary worksheets and tables, is published each year on IFAP. It can be found at the link on the IFAP main page called **"Worksheets, Schedules and Tables".**

Slide 31 – Adjusting Data Elements Used in EFC Calculation

Adjusting the data elements used in the EFC formula may lead to an increase in need or, in some instances, a decrease in need. Once the PJ decision is implemented and a new EFC is calculated, the new EFC must be used for awarding all Title IV aid.

Slide 32 – Homelessness Determinations

The College Cost Reduction and Access Act of 2007 established new categories under which a student can establish that she is independent. These include certain states of homelessness. These states of homelessness are generally determined by professionals working with homeless individuals. However, an FAA is also empowered by the CCRAA to make these determinations. In some instances, these determinations will be made by FAAs. The FAA must handle these on a case by case basis and document the determination.

The AVG has more information about these new dependency questions including definitions for many of the terms used.

Slide 33 – Two Categories of Homelessness

The FAFSA, in questions 58-60, asks the applicant if she has been determined to be an unaccompanied youth who is homeless or an unaccompanied youth who is self supporting and at risk of being homeless. This establishes two separate, but similar sounding, classifications:

Unaccompanied youth who is homeless

and

Self supporting unaccompanied youth at risk of being homeless.

You can read more about these statuses in the AVG on pages 28-29.

You can read more about how the electronic FAFSA will present these particular dependency questions to students who may fall into one, or more, of these categories in an Aug 6, 2009 electronic announcement which is available on IFAP

Note that the term "unaccompanied youth" is used when discussing students in this category. "Unaccompanied Youth" is defined in law as an individual who is 21 years old or less or, in other words, is less than 22. An exception is made for those that are older than 21 AND still in high school.

Slide 34 – Independent Student

Let's look at the first type of student who may be able to establish herself as independent due to her state of homelessness.

The FAFSA asks if the student, at any time after July 1 of the year prior to the FAFSA year, was determined to be an unaccompanied youth who was homeless. If the determination was made by any of these professionals who deal with the homeless community

- A director, or designee, of an emergency shelter or a transitional housing program, funded by HUD
- A director, or designee, of a homeless youth basic center or transitional living program
- A high school or school district homeless liaison

The student would answer "Yes" to question 56, 57 or 58 on the FAFSA , depending on which professional made the determination, and would be independent.

However an FAA may also make this same determination, but there is no question on the FAFSA to capture this. When the FAA makes this determination, she must proceed on a case by case basis and document his decision. Since there is no question to reflect the change of the dependency status based on the FAA's determination, unlike when the determination is made by a professional working in the homeless community, the FAA will have to change the student's status to independent using the dependency override function. This use of the dependency override function is not a true dependency override. It is simply a way for the FAA to place the student in the correct status.

As we mentioned earlier, the term youth is defined as anyone less than 22 years of age unless that person is still in high school.

Slide 35 – Independent Student

The second category is a student who is not homeless but is an unaccompanied youth at risk of being homeless and who is self supporting.

The FAFSA asks if the student, at any time after July 1, of the year prior to the FAFSA year, was determined to be an unaccompanied youth who was at risk of being homeless and self supporting. If the determination was made by a director, or designee, of a homeless youth basic center or transitional living program, the student would answer "Yes" to question 58 on the FAFSA and would be independent.

However, as in the case of a student who is, in fact, homeless, the FAA is able to make this determination that the student is an unaccompanied youth, at risk of being homeless and who is self supporting. The FAFSA does not have a question to capture the situation when the FAA is the professional making this determination. When the FAA makes this determination, she must proceed on a case by case basis and document her decision. Since there is no question to respond to when the FAA has made the determination, unlike when the determination is made by those professionals working with the homeless, the FAA will change the student's status to independent using the dependency override function. Again, this is not a true dependency override situation but is merely a way to place the student in the correct status.

Slide 36 – FAA Determination of Homelessness

In summary, if the student's status of homelessness is determined by one of the various professionals that serve the homeless community, and that meet the requirements of the statute, the FAA is not required to take any action. The FAA may ask for the documentation if she wishes. Conflicting information must always be resolved.

However, if the determination that the student is homeless, or is at risk of homelessness and is self supporting, is made by an FAA, the determination will is not PJ or a dependency override. The FAA must proceed case by case and document the student's circumstance. Since there is no question on the FAFSA asking if the FAA has made the determination, the FAA will process as a dependency override in FAA Access.

Slide 37 – FAA Determination of Homelessness

Remember we said a youth, for these purposes, is one who is under the age of 22 or still in high school. We will, no doubt, encounter students who fit all of the parameters of being homeless or at risk of being homeless but are age 22 or 23. If the student is not independent for some other reason, he or she would be a dependent student since he or she no longer fits the

definition of "youth". In this case, the FAA **may** decide to do a dependency override. This is, in fact, a true dependency override. All associated requirements would apply.

Slide 38 – Homelessness Issues

In summary, there are issues surrounding a student's homelessness that may call for an act of PJ or may call for an act that resembles PJ.

If a student affirmatively answers the homelessness questions on the FAFSA, she will be determined to be an independent student and there is no required action by the school unless there is conflicting info.

If the FAA, who is empowered to do so, makes the determination about the student being an unaccompanied youth who is homeless or an unaccompanied youth who is self supporting and at risk of being homeless, this is not an act of PJ. However the FAA must examine each case and document the determination.

Finally, if an FAA encounters a student who is homeless but is no longer a "youth", the FAA may wish to do a dependency override. If the FAA decides to perform the override, it must be done on a case by case basis and the determination must be documented.

Slide 39 – Dependency Override

Let's delve into the subject of dependency overrides.

The FAFSA asks up to thirteen questions attempting to establish whether the student is dependent or independent. Even with that many questions it is possible that a particular student's situation may not be captured by his or her answers to those thirteen questions. Therefore, the HEA grants FAAs the latitude to determine a student's independence by reason of other unusual circumstances.

Slide 40 – Dependency Override

As an exercise of PJ, a dependency override must be evaluated on a case by case basis. This means that you must not establish certain groups of students who will always be made independent due to being part of that group. You must document that you performed a dependency override and collect appropriate documentation that demonstrates what the student's circumstances were that led you to change the student's dependency status.

Slide 41 – Dependency Override

While you may use PJ to determine that an otherwise dependent student is independent, you are prohibited from determining that an independent student is dependent. This is even so in

the case of a 46 year old student still living with Mom and Dad. However, an FAA **may** exercise PJ to reduce the COA for an independent student still living with his parents.

Session Two in this series of PJ webinars will examine potential opportunities for performing dependency overrides. It will also examine situations where dependency overrides cannot be done.

Slide 42 – Dependency Override

A dependency override is a tool to be used in unusual circumstances. Remember, we ask 13 questions on the FAFSA to see if students can qualify as an independent student. A dependency override may be used to address some situations that are unusual enough to not be covered by the FAFSA questions.

Some situations have been deemed to either not be unusual or do not merit a dependency override. The Department issued DCL GEN 03-07 in 2003 that addressed several situations where a dependency override was not permissible. These included:

When a student documents that she is living on her own with no support from her parents

When a student is not claimed as a dependent for tax purposes

When a parent refuses to provide info for the FAFSA or for verification

When a parent refuses to contribute toward the student's educational costs

In these instances, ED has determined that a dependency override is not permissible.

The Dear Colleague Letter is available on IFAP and is located in the Archive due to the age of the DCL.

Slide 43 – Parent Refuses to Complete FAFSA and Refuses to Support Student

The Higher Education Opportunity Act, which reauthorized the HEA of 1965, introduced a new category of professional judgment.

In the event of a parent refusing to complete the parent part of the FAFSA AND refusing to support a dependent student, an FAA may decide to perform PJ to address this situation.

The PJ action is to make the student eligible for unsubsidized Stafford Loans ONLY.

Prior to the introduction of this category of PJ, a student in this situation would have been ineligible for any Title IV student aid.

Slide 44 – Parent Refuses to Complete FAFSA and Refuses to Support Student

Remember that this is an act of professional judgment. As in the case of all PJ, it is not required that the school take any action. Rather, it is latitude that is granted to the school so that the school, if it wishes, can address a student's particular situation.

This act of PJ is NOT a dependency override. A dependency override makes the student independent and, as such, would not be required to submit parental data. This student is still dependent but as a result of this act of PJ, is now eligible for an unsubsidized Stafford Loan.

As in all PJ situations, the school must evaluate potential recipients of this action on a case by case basis.

Slide 45 - Parent Refuses to Complete FAFSA and Refuses to Support Student

The FAA must document this act of professional judgment. Specifically, the parent's refusal to file the FAFSA must be documented and the parent's refusal to financially support the student must be documented. Both of these conditions must be present in order for the FAA to perform the PJ.

The parent must sign a statement that he or she is refusing to provide both support and the FAFSA data. If a parent refused to provide said documentation, the school may accept documentation from a third party demonstrating the student's situation. Some examples may be a teacher, clergyman, counselor, etc. It must not be the student, him or herself, providing the third party documentation.

The parent will be unable to borrow a PLUS Loan to benefit this student as that will be construed as "support". However, this does not prevent a non-custodial parent, if there is one, from borrowing a PLUS in order to benefit this student and the student would still be able to be considered for this action. In other words, if the custodial parent borrows a PLUS to benefit the student, that will be construed as support thereby making the student ineligible for this type of PJ, but if the non-custodial parent borrows a PLUS, the student would be eligible for the FAA to perform this type of PJ.

Slide 46 - Parent Refuses to Complete FAFSA and Refuses to Support Student

Remember, this act of PJ makes the student eligible for an UNSUBSIDIZED Stafford Loan, only. It does not establish eligibility for any other Title IV funds.

The student remains a dependent student.

The dependent annual loan limits apply:

$5500 for a first year borrower

$6500 for a second year borrower

$7500 for a third year (and thereafter) borrower

Since we are dealing with dependent borrowers, there is NO additional unsubsidized amount available as there is for independent students and dependent students whose parents have been denied a PLUS.

Slide 47 – Refusal to Certify/Originate Loan

Another act of PJ that a school can choose to perform is to refuse to certify/originate a student loan:

OR

To certify/originate a student loan at less than the full amount that the student is otherwise eligible to receive.

The regulatory cites, for FFEL and DL, allowing this type of PJ are on your screen.

As an aside, you will note that this is the first time we have provided a regulatory cite. In the great majority of PJ situations, the applicable guidance is contained only in the HEA. The HEA specifically prohibits the Secretary from regulating PJ in most cases. This is an exception to that general rule.

Let's examine this particular type of PJ in a bit more detail….

Slide 48 – Refusal to Certify/Originate Loan

This type of PJ is an act of professional judgment and the normal requirements attach.

The determination must be done on a case by case basis and it must be documented.

In this particular type of PJ the reason for this action must be documented and the reason must be given, in writing, to the student.

ED does not identify what is an acceptable or unacceptable reason with the exception that reason must not be a discriminatory one, such as one based on:

Race

Sex

Color

Religion

National origin

Age

Disability

Income

Selection of a particular lender or GA

Slide 49 – PJ Q&A

Mike: We thought we would share a couple of common questions we receive about the use of PJ. We are often asked if there is some number of professional judgments a school should not surpass.

Kevin: No, the number of actual PJs is not the important thing. Exercising PJ within the statutory parameters we have discussed during this webinar is important.

Slide 50 – PJ Q&A

Mike: The flip side of that same coin is the question that asks if a school can get itself into trouble if it does not perform PJ or does not perform a certain number of professional judgments.

Kevin: Again, no. There is no requirement to perform PJ at all but the use of professional judgment can be a very powerful tool that a school may wish to utilize as it seeks to accommodate students with unusual circumstances that are not addressed by our normal processes and systems.

Slide 51 – Stay Tuned for Session Two

Kevin: You have just participated in Professional Judgment - Session One – An Overview.

Soon, we will offer a second session on Professional Judgment called Professional Judgment – Session Two – The Rest of the Story.

In that webinar, we will engage in a more detailed discussion of specific situations where PJ may be employed. We will discuss situations that may call for an adjustment to a student's COA, an adjustment to the elements used to calculate an EFC or a dependency override. We will examine the latitude FAAs are granted in the FFEL and DL programs to, as an act of

professional judgment, extend eligibility for unsubsidized Stafford loans to certain dependent students and the ability to refuse to certify a student loan.

Watch IFAP for an announcement for this second webinar on the topic of PJ.

Slide 52 – Professional Judgment

We end our webinar where we began. PJ is about options that are available to a school to address a student with unusual circumstances. It is to schools, and to FAAs acting as the school's agent, that the ability to perform PJ is given. The legal premise for this latitude is the HEA of 1965 as amended. Nothing we, the Department of Education, have said in this webinar is meant to be interpreted as either a mandate to perform, or prohibition against, professional judgment, except for those specific areas where we stated that PJ was not permissible.

The use of PJ is a powerful tool that schools have to attempt to address students who have unusual circumstances in their lives which are resulting in an inability to qualify for Federal Student Aid or to benefit from the FSA programs at the appropriate level. So long as a school operates within the parameters discussed in this webinar, it is the school's sole discretion whether to perform PJ or not. The school itself determines what particular type of PJ might be the most appropriate for a particular student's situation.

Slide 53 – Contact Us

While this concludes this training session, we'd like you to feel free in contacting us using the information provided here should you have further questions. Thank you.