

2011 Fall ILASFAA Workshop

# Professional Judgment/Special Circumstances

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# What is Professional Judgment?

It is a method in which a financial aid administrator is permitted to adjust the information for a student/family to the “regular” Base Year information that is required on the FAFSA (for the Award Year) in order to better reflect the student/family’s more current financial information (the School Year). The student has a “special” circumstance to be considered.

It may also be use to adjust a student’s status from Dependent to Independent (based on Section 3 of the FAFSA) if student can justify and document that an “override” is applicable to his/her “special” circumstance.

Professional judgment **can not** be used to waive general student eligibility Requirements or to circumvent the intent of the law or regulations



# Authority and Guidance

Regulation is , HEA Sec. 479A(a)

2011-12 Application and Verification Guide,  
Chapter 5

*However, you'll find there is "No regulation". DoE is prohibited from regulating but can consider a school non-compliance if "Key" guidance is not followed when approving request.*



# Key Guidance in PJ Considerations

An aid administrator may use professional judgment (PJ), on a **case-by-case** basis only, to alter the data used to calculate the EFC.

The reason for the adjustment must be **documented in the student's file**, and it must relate to the special circumstances that differentiate him—not to conditions that exist for a whole class of students.

You must resolve any inconsistent or conflicting information shown on the output document **before** making any adjustments.



# BEST PRACTICE

Perform Verification of **all** ISIR data **before** any adjustments.

Create and **use** a Special Circumstance Worksheet that is “user friendly” but covers all the data you need to make a determination. This can include a “checklist” of required documentation for the student/family to review. Keep this as part of your documentation and to justify a denial.

Ask yourself;

- Is this an unusual circumstance and can the student *document* it?
- Is it something that has happen beyond the student’s control?
- Is it a “*reasonable*” request?
- Before adjusting for an unusual expense, have I considered whether it is already covered by the Income Protection Allowance (IPA)?

# Special Guidance Notices

What may seem contrary to “case-by-case” you can use these documents to help guide you in our current economic times:

Dear Colleague Letter GEN-09-04; issued April 2, 2009 encourages FAAs to consider special circumstances during these challenging economic times

Dear Colleague Letter GEN-09-05; issued May 8, 2009. Letters to all recipients of unemployment insurance benefits that can be used as documentation.

Addresses recent unemployment of a family member or an independent student, a student or family member who is a dislocated worker (as defined in section 101 of the Workforce Investment Act of 1998), the number of **parents enrolled at least half time** in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 487.



# Reasons to Consider PJ

Some *examples* of special circumstances:

- Elementary or secondary school tuition,
- Medical or dental or nursing home expenses *not* covered by insurance,
- *Unusually* high child care costs,
- Being homeless or a dislocated worker,
- *Recent* unemployment of a family member,
- Other changes in the family's income or assets.
- Student requesting Dependency override

Note: Use of professional judgment is neither limited to nor required for the situations mentioned.



# Other Reasons to Consider PJ

Roth IRAs. When someone converts a regular IRA into a Roth IRA by transferring funds, the amount converted has to be reported as taxable income on the tax return. So the income reported on the FAFSA will be higher than without the Roth conversion, even though the family doesn't actually have additional income or assets available. You can use professional judgment to reduce the income and taxes paid to the amount that would have been reported if there was no Roth conversion if you think the adjustment is warranted for a student.

Illness of family wage earner. If a family member is ill, you might modify the AGI to allow for lower earnings in the coming year or might adjust assets to indicate that family savings *will be* spent on medical expenses.

***As with the specific special circumstances listed in the law, you're not required to make an adjustment in these situations listed.***

Best Practice: You should have a written policy and procedure for PJ guidance and be sure all of the department uses the same guidance.



# There is “the Law”

The law does not allow you to modify either the formula or the tables used in the EFC calculation; you can only change the cost of attendance or the values of specific data elements used in the EFC calculation. In addition, you can not adjust data elements or the cost of attendance solely because you believe the tables and formula are not adequate or appropriate.



# There is “the Law” continued

You can not use professional judgment to change FSEOG selection criteria.

You can not include post-enrollment activity expenses in the student’s COA (for example, professional licensing costs to be incurred **after** the enrollment period - see *Cost of Attendance* in SFA Handbook Volume 3).

Aid administrators must make “reasonable” decisions that support the intent of the provision. Your school is held accountable for all professional judgment decisions and for fully documenting each decision.

Examples of “unreasonable” judgments have included, the reduction of EFCs based on recurring costs such as vacation expenses, tithing expenses, and standard living expenses (related to utilities, credit card expenses, children’s’ allowances, and the like). Making a dependent student independent because deemed “self supporting” or parent’s refusal to provide verification documents.



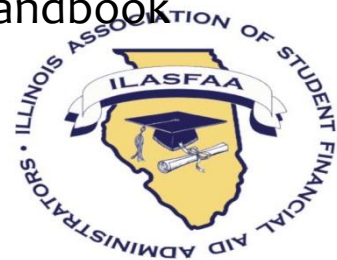
# Income Protection Allowance

An income protection allowance (IPA) is included in the EFC calculation to account for modest living expenses. Before adjusting for an unusual expense, consider whether it is already covered by the IPA.

It is reasonable to assume that approximately 30% of the IPA is for food, 22% for housing, 9% for transportation expenses, 16% for clothing and personal care, 11% for medical care, and 12% for other family consumption.

In using PJ you should consider only amounts over these allowances (that can be documented).

The income protection allowance is one of the intermediate values in the FAA Information section of the output document (labeled as “IPA”). See *FSA Handbook Chapter 3* for the IPA values.



# Changes to the Expected Family Contribution

If you use professional judgment to adjust a data element, you must use the resulting EFC consistently for all FSA funds awarded to that student.

For example, if for awarding the student's Pell grant you adjust a data element that affects the EFC, that new EFC must also be used to determine the student's eligibility for aid from the Campus-based and Stafford loan programs.

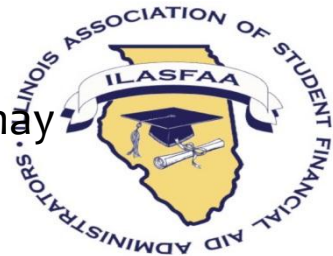


# Dependency Overrides

Independent student is defined in Section 480(d) of the HEA. Student meets one of eight criteria specified in the HEA and reflected on the FAFSA

If dependent by these definitions but has an “unusual/ special ”circumstance and is requesting the financial aid administrator to “override” the status questions for a determination of independent.

Note: Effective as of the 2009-10 award year, a financial aid administrator may rely on a dependency override performed by another institution for the same award year



# Dependency Overrides

Conditions that do NOT qualify as “unusual/special circumstances” individually or in combination:

- Parents refuse to contribute
- Parents are unwilling to provide information
- Parents do not claim the student as an income tax dependent
- Student demonstrates totally self-sufficiency



# Dependency Overrides

Examples that may constitute “unusual/special circumstances”

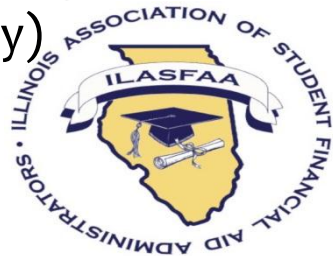
- Student’s voluntary or involuntary removal from parents’ home due to an abusive situation that threatened the student’s safety and/or health
- Incapacity of parents such as incarceration or a disability or mental or physical illness
- Inability of the student to locate the parent(s) after making **reasonable** efforts
- Other extenuating circumstances **sufficiently documented** by a signed letter from a third party



# Dependency Overrides

## Key to compliance: **Documentation**

- Must document the reason for the determination and maintain documentation supporting the decision
- Supporting documentation from a third party with knowledge of the unusual circumstances (Counselors or teachers, Clergy, Community groups, Government agencies, Medical personnel, Courts, Prison administrators. Best Practice: do not use only family and/or friends as Third Party)



# Dependency Overrides

You may make an otherwise dependent student, independent

You may **not** make an independent student, dependent

***Annual determination***—must affirm each year that the unusual circumstances still exist



# Professional judgment (DoE Disclaimer)

HEA Sec. 479A (a) IN GENERAL—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 or 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... (See 2011-12 AVG Ch.5)



# Key Point

***Special circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students.***



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*Thank You!*

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