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EXERCISING PROFESSIONAL JUDGMENT

Professional Judgment allows the FAA the discretionary authority, on a case-by-case basis, to modify data such as overriding the dependency status of a student or to address the economic needs of a student’s household experiencing special circumstances. This chapter outlines the minimum federal requirements for performing professional judgment as defined by sections 480(d)(7) and 479A(a)(b) and (c) of the Higher Education Act of 1965 as amended.

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What is Professional Judgment?

The exercise of discretionary authority as defined by sections 480(d)(7) and 479A(a)(b) and (c) of the Higher Education Act of 1965 as amended is commonly referred to as professional judgment (PJ).

Authority Under Title IV of the Higher Education Act

The following section outlines the permission to exercise PJ as described in the law. Details of each process are explained separately later on in this chapter.

Section 480(d)(7) allows a Financial Aid Administrator (FAA) the discretionary authority, on a case-by-case basis, to override the dependency status of individual students. PJ may be employed when a student who does not meet the federal criteria for independent status presents compelling reasons to be considered independent. In such cases, the FAA may, but is not required to, override a student's dependency status provided that adequate supporting documentation is collected and maintained. The burden for documenting such circumstances rests with the individual student and all PJ decisions must be supported by complete and relevant documentation in the student's file. This is commonly referred to as a Dependency Status Override.

Section 479A(a) allows the FAA the authority, on a case-by-case basis, to make adjustments to the Cost of Attendance (COA) 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. This is commonly referred to as an Expense Adjustment/Cost of Attendance Budget Adjustment or Income Adjustment.

The income adjustment is often used when the reported FAFSA income and household data produce an Expected Family Contribution (EFC) that does not accurately reflect the economic strength of a student's/parent's household or fail to take into account unusual but legitimate economic burdens. The Expense Adjustment is often used to include expenses not already accounted for in the COA or for unusual expenses affecting the data elements used to calculate the EFC. Note that the law, 479A (b), specifically mentions data element adjustments where the exclusion of income from assets resulting from a foreclosure, forfeiture, bankruptcy or involuntary liquidation may be considered OR for students with a disability, for which the student incurs additional costs as a result of that disability, may have these costs taken into account. In such cases, the FAA may adjust the COA budget and/or the data elements used to calculate the EFC so as to more accurately reflect the student's household financial circumstances. The burden for documenting such circumstances rests with the individual student and all PJ decisions must be supported by complete and relevant documentation in the student's file.

Section 479A(a) includes a definition of special circumstances and permits the awarding of a Federal Direct Unsubsidized Stafford loan for a dependent student without requiring parents of such student to file the FAFSA elsewhere defined in the law if the FAA verifies that the parents

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of such a student have ended financial support and refuse to file the FAFSA. This is often referred to as a Parent Refusal Appeal.

Section 479A(a) also includes language for those students who would fall under a change in housing status that results in an individual being homeless (as defined in section 103 of the McKinney-Vento Homeless Assistance Act). This is referred to as an Unaccompanied Homeless Override. While this process makes a dependent student independent it is different from a Dependency Override in its requirements and scope.

Section 479A(c) permits the FAA the authority for refusal or adjustment of loan certifications, on a case-by-case basis, if the reason for the action is documented and provided in written form to the student. Often such reasons may be a student explicitly indicating that they do not intend to meet the terms of the promissory note or repay the loan. No eligible institution shall discriminate against any borrower or applicant from obtaining a loan on the basis of race, national origin, religion, sex, marital status, age, or disability status.

The statutory authority for PJ decisions applies to all Title IV programs. FAAs are permitted to modify only the data items used in the COA and the EFC calculation. FAAs are not permitted to change the EFC itself. FAAs are under no obligation to approve any dependency status override, expense adjustment or adjust any income data element. FAA PJ decisions are not subject to student appeal to the US Department of Education (ED) or college president. Also note that the ED does not mandate that the FAA use the authority given to them to make professional judgments; the use of PJ by the FAA is entirely optional. However, if the FAA receives a request from a student to review his or her circumstances for consideration of being determined to be a homeless unaccompanied person, that would not otherwise be independent, the FAA is required to make an unaccompanied homeless override.

What is a Special Circumstance?

As defined in section 479A(a): “Special circumstances may include tuition expenses at an elementary or secondary school, medical, dental, or nursing home expenses not covered by insurance, unusually high child care or dependent care costs, 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, a change in housing status that results in an individual being homeless (as defined in section 103 of the McKinney-Vento Homeless Assistance Act), or other changes in a family’s income, a family’s assets or a student’s status. 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. Adequate documentation for such adjustments shall substantiate such special circumstances of individual students.”

Circumstances for which the FAA Cannot Use PJ

While ED grants significant latitude in the exercise of PJ, the FAA CANNOT:

- Change the dependency status of a student who already meets the federal definition of independent back to dependent
- Alter the EFC formula nor any of the table values used therein
- Adjust the EFC directly
- Create a new COA category
- Charge a fee for exercising PJ
- Discriminate on the basis of race, national origin, religion, sex, marital status, age, or disability status
- Use PJ to circumnavigate regulations or the intent of the law
- Waive verification requirements
- Ignore or not resolve conflicting information
- Apply PJ to a class of students

PJ must be applied on a case-by-case basis only and with adequate documentation. It may not be applied to a group of students, even if every member of that group appears to have the same characteristics (e.g. students/families affected by a natural disaster, or students/families who are unemployed due to volatile economic situations and who are all affected by the same external event(s)). Its use may not be applied in an arbitrary manner to circumvent regulations nor the intent of the law, nor to render an otherwise ineligible student eligible.

Deadline to Process a PJ Request

NASFAA Guidance on Processing a PJ Request After a Student is No Longer Enrolled in the Award Year

According to guidance NASFAA received from ED, the school cannot process a PJ request that:

- Was submitted after the student is no longer enrolled for the period of enrollment; or
- Was submitted before the end of the period of enrollment but processed by the school after the end of the period of enrollment.

This is true even if the student would have been eligible for additional aid if the PJ request were processed while the student was still enrolled for the period of enrollment, and even if the student would have been eligible for a post-withdrawal disbursement.

As a general rule, a student becomes an ineligible student after he or she is no longer enrolled for the period of enrollment; therefore, schools are not permitted to make PJ adjustments after the student has ceased to be an eligible student. Per ED, this is consistent with [Section 479A\(a\) of the Higher Education Act of 1965 \(HEA\), as amended](#) [20 USC 1087tt], which allows financial aid administrators to make PJ adjustments to the cost of attendance (COA) and data elements use to calculate the EFC in order to "allow for treatment of an individual *eligible applicant* with special circumstances." And, per ED, this PJ authority gives the student and family ample time to submit a PJ appeal and for the school to make any PJ adjustments while the student is still

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enrolled for the award year/academic year.

NOTE: The above guidance also applies to dependency overrides, which are also considered a PJ.

Dependency Status Overrides

The Dear Colleague Letter, [DCL GEN-03-07 \(Maintained for Historical Purposes\)](#), published May 2003 gives more explicit guidance on overriding dependency status. [DCL GEN-11-15 \(Maintained for Historical Purposes\)](#) published July 2011 expands upon this guidance by reviewing the conditions and documentation that support the use of dependency status overrides. The following reproduces the substance of the guidance contained in these DCLs:

In the course of conducting recent compliance reviews of institutions participating in the Federal student aid programs, ED has found that some institutions have not been properly following the statutory requirements for making dependency overrides as well as not adequately supporting their dependency override decisions with sufficient documentation. In working to improve compliance at these institutions, ED has determined that issuing comprehensive guidance that reviews the conditions for making dependency overrides and documenting these overrides would help improve compliance with these requirements at all schools participating in the Title IV, HEA programs.

Background

Section 480(d) of the Higher Education Act of 1965, as amended (HEA), defines an independent student as someone who fits into one or more of the following specific categories:

- 24 years of age or older by December 31 of the award year;
- A married individual;
- Working on a master's or doctorate degree or graduate certificate;
- Currently serving on active duty in the U.S. Armed Forces;
- A veteran of the U.S. Armed Forces;
- Having legal dependents other than a spouse;
- From age 13, an orphan, being in foster care, or a ward of the court;
- An emancipated minor or in legal guardianship as determined by a court in applicant's state of legal residence;
- An unaccompanied youth who was homeless or at risk of being homeless as certified by a school district homeless liaison, a director of a federally funded emergency shelter program or a director of a runaway or homeless youth shelter.

An individual who does not qualify as an independent student under one of these categories may be considered an 'independent student' under section 480(d)(7) of the HEA who is not required to provide parental information when completing the FAFSA. Under that provision, a student is considered to be an independent student 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..."

Performing Dependency Status Overrides

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The decision to override the normal dependency criteria must be made on a case by case basis and must explain and document the “unusual circumstances” that necessitate the exception. Situations that might warrant a dependency status override include, but are not limited to:

- The student’s voluntary or involuntary removal from the parents’ home due to an abusive situation that threatens the student’s safety and/or health
- The student’s abandonment by the parents or the inability of the student to locate the parents
- The student’s involuntary loss of communication with parents residing in a foreign country as a result of civil unrest or natural disaster

The following criteria **do not** qualify as “unusual circumstances” and may not be used to justify a dependency override:

- Parents refusing to contribute to the student’s education
- Parents unwilling to provide information on the application or for verification
- Parents not claiming the student as a dependent for income tax purposes
- Student demonstrating total self-sufficiency

The law requires that a determination of unusual circumstance(s) must be made each award year and students granted a dependency status override one year should not automatically be considered independent in a subsequent year. Therefore, students must appeal each year for consideration of their circumstances.

NOTE: When the FAA performs a dependency status override, the FAA must set the dependency status override flag (Dependent to Independent) in FAA Access or within CUNYfirst.

Collecting and Maintaining Acceptable Documentation

Adequate documentation is a critical aspect of the dependency status override process. The documentation must include the reason for the determination and must support the decision. In almost all cases, the documentation should originate from a third party with knowledge of the unusual circumstances of the student. The third party confirming the student’s unusual circumstance could include (but is not limited to):

- School guidance or mental health counselors
- Teachers
- Clergy
- Community group representatives
- Government agencies
- Medical personnel
- Law enforcement officers
- Lawyers
- Court or prison administrators

In rare circumstances where third-party confirmation cannot be obtained, the financial aid administrator may - but is not required to - accept a signed statement from the student alone, or

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the student and his or her relatives or friends; however, the use of this form of documentation should occur only in extremely rare circumstances. All third-party statements must be signed by the third-party.

In addition to third-party statements supporting documentation such as police reports, death certificates, birth certificate, or other relevant documentation can be collected in support of the student's appeal.

Financial Aid Administrator's Written Determination

After reviewing all relevant documentation related to a student's assertion that there are unusual circumstances that support why the student should be considered to be independent rather than dependent, the FAA must make a specific determination. Upon making such a determination that a dependency status override is warranted, the FAA must prepare a written statement of that determination, including the identification of the specific unusual circumstance upon which the FAA based his or her determination. The institution must maintain this documentation and the supporting documentation used to make each determination.

Accepting Dependency Status Overrides Performed at Other Schools

Schools may accept a dependency status override performed by another school within the same award year. The school does not need to document the student's special circumstances; however, the school must document that it is accepting the dependency status override already performed at the other institution. The school that originally performed the dependency status override must maintain the documentation. Schools have complete discretion on which, if any, dependency status overrides they will accept from another school. Also, dependency status overrides do not carry over from year to year. The FAA must reaffirm, with documentation, that the unusual circumstances still exist, and a subsequent year dependency status override is still justified.

Data Element Adjustments for Special Circumstances (Income Adjustment/Expense Adjustment)

The FAA may use PJ on a case by case basis and with adequate documentation to alter the values of the data elements used to calculate the EFC or to adjust the student's cost of attendance. The decision to adjust either a data element or the COA depends on whether the special circumstance relates to the family's ability to pay or reflects higher than usual educational costs for the particular student. For example, when a student already has a zero EFC, a COA adjustment might be the only way to provide a student with additional assistance. *[See Chapter 7 of this manual for more information on COA.]*

Special circumstances are "conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students." Section 479A(a) of the Higher Education Act presents examples of special circumstances where the FAA may wish to exercise his or her professional judgment. These may include but are not limited to:

- Tuition expenses at an elementary or secondary school
- Medical, dental or nursing home expenses not covered by insurance

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- Unusually high child-care or dependent-care costs
- Recent unemployment of a dependent or independent student, parent of a dependent student or the spouse of an independent student
- A dependent or independent student, parent of dependent student, or the spouse of an independent student who is a dislocated worker as defined in section 101 of the Workforce Investment Act of 1998
- Change in the number in household size
- Change in housing status (e.g. natural disaster, foreclosure, loss of use)
- Other changes in a family's income or assets

The use of PJ to address a student's financial and family circumstances that may have changed from the base year information originally reported on the student's FAFSA, may be critical in determining whether the student can enter or continue his or her postsecondary education. A changed circumstance includes but is not limited to: the loss of a job, a reduction in work hours or wages, the loss of income associated with a prospective student's decision to leave the workforce or to reduce work hours in order to return to school. A person need not have received the means-tested benefit for an entire year; receiving it at any time in the base or following year qualifies. Also, the FAA may use professional judgment (PJ) to count a benefit if a person did not receive it during those 24 months but is receiving it now.

When adjustments are made that are 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 family's current and near-term economic situation. For example, for an individual who has lost a job or has taken a significant salary cut beginning in November of 2019, you may choose to project income for the next 12-month period (i.e., December 2019 through November 2020, or any subsequent 12 months period) and use that figure instead of the base year income that was initially used in the calculation of the student's EFC. In all cases, when replacing the base year with another period it must be replaced by any other 12 month period ([Gen 09-04](#); [Gen 11-04](#)) (Maintained for Historical Purposes). An example of adequate documentation of a job loss could include a letter from the former employer, or a letter from the State unemployment office that makes reference to the job loss. In all cases, verifiable third-party documentation of the changed circumstances should be obtained in order to support any decision to use professional judgment.

Remember that the examples provided in the law do not authorize across-the-board adjustments. Even if students are found to meet the examples of special circumstances listed above, the HEA still requires a case-by-case review by the FAA. Each student must still demonstrate that a special circumstance exists that can be documented and recorded by the financial aid office. As with dependency status overrides, the financial aid office must also maintain documentation of the FAA's written determination made after review of the student's circumstances (e.g., whether to make any adjustment, and the nature of any adjustment made). The prohibition against across-the-board adjustments does not prohibit an institution from identifying conditions that might trigger a review by the FAA.

Federal Pandemic Unemployment Compensation (FPUC) and Federal Pandemic Unemployment Assistance (FPUA)

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At their discretion, schools can have a policy to exclude FPUC and FPUA from the PJ calculation on a case-by-case basis. For further guidance see [April 3, 2020 EA](#).

Prior-Prior Income Base Year and Use of PJ

In [DCL GEN 16-03](#) (Maintained for Historical Purposes) ED reminded FAAs of this authority especially since the FAFSA utilizes prior-prior base year income information to calculate the EFC. ED acknowledges that use of prior-prior year income data would result in more requests for income adjustment type appeals. The DCL states:

“A professional judgment adjustment may be warranted if a family member experienced a significant change of income, either upward or downward. For example, for an individual who has lost a job or has taken a significant salary cut beginning in August of 2015, the FAA may use the income for the 12-month period following the reduction in income (September 2015 through August 2016) instead of the prior-prior year income (calendar 2015) that was initially used in the EFC calculation. Alternatively, the FAA may choose to use more recent income that the FAA believes more accurately reflects the family's current financial circumstances, i.e., the student or parent moved from part-time employment to full-time employment.”

ED released guidance encouraging FAAs to use professional judgment to reflect more accurately the financial need of students and families affected by the COVID-19 pandemic. As per [DCL GEN-21-02](#), institutions have the flexibility “to reduce or adjust to zero the income earned from work for a student and/or parent as well as make corresponding adjustments to Adjusted Gross Income (AGI).” ED also confirmed that increased use of professional judgment will not be negatively viewed or used as a selection criterion for a program compliance review because ongoing economic hardship is to be expected as a result by the COVID-19 pandemic. This guidance covers the 2019-20, 2020-21 and the 2021-22 award years (refer to the [July 9th, 2020 EA](#) for additional information).

As noted above, DCL Gen-21-02 may only be used to exclude income earned from work and Unemployment Insurance. It may not be used to exclude other income sources. Other income sources must be evaluated on a case-by-case basis with appropriate supporting documentation in order to determine if an adjustment to those income sources is warranted.

A Note about PJ and Pell Grant Eligibility

While not every student will become eligible for a Federal Pell Grant as a result of an adjustment based on the exercising of PJ, some students may become eligible for a Federal Direct Subsidized Stafford Loan or for assistance from one of the campus-based programs (excluding FSEOG).

Performing an Income or Expense Adjustment

When adjusting data items to account either for income loss or unusual expense(s), the FAA

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should look at the nature of the income that was reduced and the way that the family paid the unusual expense(s), whether from current income or from asset reserves. The majority of income or expense adjustments will involve the changing one of two data items:

- The family's adjusted gross income (AGI)
- The family's assets.

For example, in a situation where a family member is ill, one might adjust the AGI to reflect lower earnings in the coming year or adjust the assets to reflect the family's savings that have been spent on medical expenses.

In making adjustments for unusual expenses, the FAA must remember that the income protection allowance (IPA) already factors modest allowances for basic living expenses into the EFC calculation:

- 30% for food
- 22% for housing
- 9% for transportation
- 16% for clothing and personal expenses,
- 11% medical expenses
- 12% miscellaneous.

The income protection allowance is one of the intermediate values in the FAA Information section of the output document (labeled as "IPA"). See Determining EFC Chapter of this manual for IPA values.

Before making an adjustment to data elements affecting the EFC for an unusual expense you must first determine whether some or all of the expense under consideration may have already been accounted for in the EFC calculation.

For example, a dependent student's family of 4 (with 1 in college) has documented \$4000 in medical expenses. If the IPA for a family of 4 is \$28,580, then 11% of \$28,580 (that is, the % of the IPA covering a household's medical expenses) = \$3,143.80. The final adjustment would include just the incremental difference between the total documented medical expenses (\$4000) and the amount allotted to medical expenses for a family of 4 in the IPA (\$3,143.80). Therefore, $\$4000 - \$3,143.80 = \$856.20$ which would be considered the "unusual" amount of the expense. [Refer to Determining EFC Chapter of this manual for information on the EFC formula and how to determine the IPA].

Expense adjustments to the COA can be only be made for those items not already accounted for in the cost of attendance unless they are in excess of the amount already included within the cost of attendance. For example, a student's rent in excess of the amount allocated in the cost of attendance may be added to the COA. Additional expenses for books and supplies in excess of what has been estimated may also be included. In all cases adequate and proper documentation (receipts, leases, credit card statements showing the purchase etc.) must be maintained.

When adjusting a COA you may only include the expense on the basis of the budget duration. For example, a student may have an annual rent of \$24,000 but we may only look at a 9-month cost for a student enrolled for fall and spring, a 4-month cost for a student enrolled for fall and a 5-month cost for a student enrolled for spring. The excess amount in the COA must be based on

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the cost during the budget duration. Therefore, a student whose annual rental cost is \$24,000 will have an \$18,000 rental cost during their 9 months of enrollment. If they are living away from parent, they would have a \$12,124 housing cost for the 9-month period. Therefore, their rental expense that can be added to the COA is \$5,876 which is the amount in excess of what is already accounted for in the COA. The same applies to other COA categories such as transportation, books, supplies etc. The purchase of a computer for educational use may be fully added to the COA as it is not part of the books and supplies allowance.

The following expenses may NOT be included in the student's COA or used to adjust data elements of the EFC:

- Post-enrollment activity expenses
- Vacation expenses
- Tithing expenses
- Standard living expenses (related to utilities, credit card expenses, children's allowances, and the like)

DCL GEN 11-04 –PJ and Unemployment Insurance

In the past, ED has issued special guidance concerning the use of professional judgment for persons who are receiving unemployment benefits during economic hardship. Under certain conditions, Independent students may be able to use proof of current receipt of unemployment to zero out the income from work and income from unemployment. The DCL does not indicate that other income sources may be zeroed out nor does it indicate that the FAA may zero out the income of the parents of dependent students. In those instances, FAAs are encouraged to review the family's financial situation and make a judgment based on the documentation. This guidance was originally issued in [DCL GEN-09-04](#) and [DCL GEN 09-05 \(Maintained for Historical Purposes\)](#). This special guidance is no longer in effect; see [DCL GEN-11-04 \(Maintained for Historical Purposes\)](#) for more information.

GEN-09-05 Guidance on Unemployment Benefits and Professional Judgment does not Apply for 2020-2021 academic year

Dear Colleague Letters [GEN-09-04](#) and [GEN-09-05](#) no longer apply, and the [June 20, 2020 FSA Handbook](#) changes to the 2020-21 Application and Verification Guide (AVG) appear to be the U.S. ED's way of notifying the community.

ED's guidance later changed based on the fact that these two Dear Colleague Letters are marked as "Maintained for Historical Purposes Only" on the [IFAP website](#) with a notice that states, "Documents that have a red "Note" at the top of the document that says "Historical Record" are posted for historical purposes and are no longer applicable."

All that aside, schools don't need ED's permission to zero out income earned from work, to reduce or eliminate the amount of unemployment compensation, or to adjust any other data element used in the calculation of the expected family contribution (EFC) because the individual is receiving unemployment income. For years, financial aid administrators have had this

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capability under [Section 479A of the Higher Education Act of 1965 \(HEA\), as amended \[1087tt\(a\)\]](#), when exercising professional judgment (PJ). The aid administrator has the lawful authority to adjust any data element that is used in EFC calculation as long as the aid administrator believes there are special circumstances that warrant the adjustment. As with any PJ decision, the aid administrator must document the reasons for making the adjustment, and all PJ decisions must be made on a case-by-case basis. This means, schools have to make an individualized determination looking at the entirety of the family's circumstances before they decide to include, adjust, or eliminate any form of income using PJ.

For example, the FAA can accept a letter from a state unemployment agency, or other evidence that a student is receiving unemployment benefits, to support his/her PJ decision to adjust the amount of unemployment benefits or income earned from work. Also, FAAs are not limited to zeroing out income earned from work. The FAA may choose to eliminate the unemployment benefits from consideration, especially if they are using estimated income for a 12-month period that might not include the unemployment benefits. Also, FAAs could eliminate or reduce the unemployment compensation on the basis that it is likely one-time income. FAAs have flexibility as aid administrators as long as they can justify and document their treatment of the income based on the family's individual circumstances.

Remember, unemployment income is not income earned from work; it is other income that is included in the calculation of adjusted gross income (AGI). If FAAs are adjusting the amount of unemployment income during PJ, it might be more appropriate to adjust AGI instead of income earned from work.

Also remember the following:

- Any PJ decision must be made on a case-by-case basis and it must be based on adequate documentation. While large numbers of individuals may be experiencing unemployment during a given period of economic hardship, each PJ decision must be made and documented on an individual basis.
- The FAA can choose to use “projected year income” for any 12-month period that s/he feels appropriately reflect the student’s or parent’s ability to pay educational costs.
- The FAA can make a PJ adjustment late in the current award year (or academic year) if s/he feels the family’s income will change dramatically enough to impact the EFC and financial aid offers.
- If the FAA makes a PJ adjustment in the current award year (no matter how late in the award year), it is retroactive for the entire award year because the EFC applies to the entire award year. For example, someone who has become unemployed and will be receiving unemployment benefits for a month and a half at the end of the current award year might not see a dramatic change to the student’s EFC for this award year; that might not warrant a PJ adjustment. It might be too soon to make that call, but that is the FAA call to make.
- The FAA can use projected year income for both the current and upcoming award years if both award years are impacted.
- The FAA determines what documentation is appropriate for a PJ decision.

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Additional \$600 in Unemployment Insurance: Unemployment benefits are generally taxable, and there is no known exception for the additional \$600 in unemployment insurance (UI) benefits from the COVID-19 relief legislation. Therefore, it would be included in the AGI like other unemployment benefits. The above considerations also apply if the FAA decides to exclude the additional \$600 in unemployment benefits from the EFC calculation.

NOTE: The guidance about combat pay in [GEN 11-04](#) still applies even though the unemployment benefits guidance no longer applies.

Verification and Professional Judgment

If the applicant's ISIR is selected for verification, by CPS or the institution, the applicant must complete verification before the school exercises any of its PJ authority under section 479(a) of the HEA to make changes to the applicant's cost of attendance or to the values of the data items required to calculate the EFC. If, as a result of verification, any of the original FAFSA data elements are found to be in error, the school must submit these corrections to the federal processor and wait for a new ISIR before making the adjustment. As a reminder, students selected for institutional verification as part of the PJ process must also have their verification status reported to COD as V.

Adjustments to data items must be made on correct data only. To ensure the PJ is made on correct applicant data, PJ changes should not be submitted until after an ISIR has been received confirming the processing of any verification corrections.

If the ISIR has not been selected for verification by CPS, it is strongly recommended that it be institutionally selected to ensure that all data elements are accurate and that all conflicting information has been resolved prior to submitting a PJ. If an institution collects a verification worksheet as part of its income adjustment process the student is considered to be selected for institutional verification. After completion of the institutional verification:

- The FAA must submit all changes affecting the EFC to CPS prior to performing the income adjustment.
- The FAA must perform the income adjustment on the corrected transaction

Transactions that reflect professional judgment adjustments to an applicant's FAFSA information will not be reevaluated under the verification selection model and therefore, will not be selected for verification as long as the FAA sets the professional judgment flag when the changes are submitted.

NOTE: If you make a PJ adjustment, you must set the FAA Adjustment flag in FAA Access or within CUNYfirst.

The school does not have to complete verification before submitting any of the following:

- a dependency status override
- homeless youth appeal
- parent refusal

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The authority to make an otherwise dependent student independent (or to process a parental refusal to originate an unsubsidized loan for a dependent student) is separate and apart from exercising the authority to adjust data elements that affect the EFC. If, for any reason, the application is selected for verification by the CPS when processed, it is necessary to complete verification before awarding and disbursing aid.

Student Marital Status Changes

A change in a family's financial situation after a FAFSA is filed due to the death, separation or divorce of one of the parents of a dependent student, or the spouse of an independent student, has long been recognized as a special circumstance that might warrant the use of professional judgment because the information reported on the original FAFSA may no longer accurately reflect a family's ability to pay.

The verification regulations provide the FAA with the discretion to update a student's marital status (and corresponding changes in household size, number in college and dependency status) "to address an inequity or to more accurately reflect the applicant's ability to pay". The FAA may change an applicant's marital status without regard to whether the applicant's information was selected for verification except when the change in marital status would not result in a change in the applicant's dependency status for the award year. In those instances, the student must be selected for verification first before you can exercise discretion to update the student's marital status and all other associated information.

There are two reasons why a student might change the answer to the FAFSA question concerning the student's marital status:

- **Correction**: If the answer on the FAFSA was incorrect as of the FAFSA application date, the applicant may change the answer to correct the error.
- **Update**: If the answer on the FAFSA was correct as of the FAFSA application date, but has subsequently changed, the FAA may choose to allow or disallow a change to the answer on the FAFSA. See [34 CFR 668.55](#).

In both cases the change in status should be reviewed by the FAA for comment code 75 to identify students who have changed the student's marital status.

If the student says that the marital status was in error, the FAA should ask for a copy of the marriage certificate and compare the date of the certificate with the FAFSA's application date. If the marital status was not in error, but has subsequently changed, the FAA will need to decide whether to allow or disallow the change.

The FAA may update an applicant's marital status on a case by case basis and must document the reason for the decision. An institution that allows updates to applicants' marital statuses may have as part of its policy a cut-off date after which it will no longer consider such updates.

When an applicant updates marital status, the CPS will apply Reject 21 to the resulting transaction. If the FAA agrees to accept the applicant's marital status change, he or she will enter an appropriate administrator-only override that will result in a new transaction with a corrected EFC.

When an allowable change in an applicant's marital status is made, all other FAFSA information that relates to the new marital status and new dependency status must be updated, regardless of

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whether the student is being verified. This includes income (either adding the spouse's income/asset information or deducting a former spouse's income/asset information) as well as household size and number in college.

It is reasonable to expect that if a school chooses to update an applicant's marital status, it will be in situations where the marital status changes from single to married and the dependency status changes from dependent to independent. However, under the regulations, it is possible for an applicant who was independent only because he or she was married when the FAFSA was first completed to go from independent to dependent. If the institution changes the applicant's marital status to unmarried, making the student dependent, the FAFSA must be updated with parental information.

Note that the regulations do not allow for updating when an otherwise independent student marries or divorces, i.e., there is no change in dependency status **AND** the student is not selected for verification. In such a case the FAA must select the student for verification if he or she wants to exercise the discretion to update the student's marital status and all other associated information.

Unaccompanied Homeless Youth

As a result of the College Cost Reduction and Access Act ([CCRAA](#)) of 2007-2008, a student is independent if at any time on or after July 1, 2008, he or she is determined to be an *unaccompanied homeless youth* by a school district homeless liaison or the director (or designee) of an emergency shelter program funded by the Department of Housing and Urban Development (HUD). A director (or designee) of a runaway or homeless youth basic center or transitional living program can also determine a student to be an *unaccompanied homeless youth* or an *unaccompanied youth who is self-supporting and at risk of being homeless*. These authorities make this determination if the student is receiving their programs' services or if, in the case of a school district homeless liaison, the student is in high school. The FAA may also determine if a student is either an unaccompanied youth who is either homeless or is self-supporting and at risk of being homeless.

[DCL GEN 15-16](#) provides information on how the McKinney-Vento Homeless Assistance Act impacts the HEA. It also provides guidance:

- on the definition of a homeless unaccompanied youth
- on how FAAs can make a determination
- that FAAs are required upon request of a student to perform such a determination
- that inquiry about the circumstances should be limited to establishing that the student meets the legal definitions of homeless unaccompanied youth under the McKinney-Vento Homeless Assistance Act
- that FAAs are prohibited from inquiring why the student is homeless
- that a student is not required to justify why they are homeless in order to gain access to aid

Defining an Unaccompanied Homeless Youth

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HEA section 480(d)(1)(H)(i)–(iv) provides that a claim of being an unaccompanied homeless youth, or unaccompanied, at risk of homelessness, and self-supporting, must be verified by a local educational agency (LEA) homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of McKinney-Vento (42 U.S.C. 11432(g)(1)(J)(ii)), the director of a program funded under the Runaway and Homeless Youth Act (RHYA), 42 U.S.C. 5701 et seq., or a designee of the director, the director of a program funded under subtitle B of title IV of McKinney-Vento (relating to emergency shelter grants) (42 U.S.C. 11371 et seq.) or a designee of the director, or a financial aid administrator (FAA).

A student is defined as homeless if he or she lacks fixed, regular, and adequate housing. This is broader than just living “on the street.” It includes:

- temporarily living with other people because he or she had nowhere else to go
- living in substandard housing (if it doesn’t meet local building codes or the utilities are turned off, it is generally not adequate)
- living in emergency or transitional shelters, for example, trailers provided by the Federal Emergency Management Agency (FEMA) after disasters
- living in motels, camping grounds, cars, parks, abandoned buildings, bus or train stations, or any public or private place not designed for humans to live in
- living in the school dormitory if the student would otherwise be homeless

The McKinney Vento law defines the term “unaccompanied youth” as “youth not in the physical custody of a parent or guardian.” To be considered an unaccompanied homeless youth, an individual must meet both of these definitions. A student living in any of these situations and fleeing an abusive parent may be considered homeless even if the parent would provide support and a place to live.

In a case where it is the FAA making the determination, it is important that students’ living situation and claims be examined on a case-by case basis. Documentation that FAAs may consider in determining whether an applicant is an unaccompanied youth who is homeless, or at risk of being homeless, includes but is not limited to information from:

- Local school district personnel
- State homeless education coordinators
- Third parties such as private or publicly funded homeless shelters and service providers
- Financial aid administrators from other colleges
- Staff from college access programs, such as TRIO or GEAR UP
- College or high school counselors or
- Mental health professionals, social workers, mentors, doctors, and clergy

NOTE: The FAA’s determination may be based on a documented interview with the student if there is no other written documentation available.

Students who are older than 21 but not yet 24, are also considered unaccompanied homeless youths or unaccompanied, self-supporting youths at risk of being homeless. They are not treated as a dependency override and may be considered independent on a case by case basis through the exercise of a homeless unaccompanied youth determination.

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When the FAA is making a determination of homelessness:

- Ask for help with determining eligibility from local school district homeless liaisons, state homeless education coordinators, the National Center for Homeless Education (<https://nche.ed.gov/>), or the National Association for the Education of Homeless Children and Youth (www.naehcy.org)
- School district homeless liaisons and shelter providers can help you develop and implement procedures for verification
- Relevant information can come from recognized third-parties such as private or publicly funded homeless shelters and service providers, financial aid administrators from another college, college access programs such as TRIO and GEAR UP, college or high school counselors
- Other mental health professionals, social workers, mentors, doctors, and clergy
- Use discretion when gathering information and respect the student’s privacy. Some information, such as that protected by doctor-patient privilege, is confidential. Also, documents such as police or Child Protective Services reports are not necessary. Do not focus on why the student is homeless or unaccompanied but on whether the evidence shows that he is an unaccompanied homeless youth as defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a):
 - **At risk of being homeless**—when a student’s housing may cease to be fixed, regular, and adequate,
 - **Homeless**—lacking fixed, regular, and adequate housing
 - **Self-supporting**—when a student pays for his own living expenses, including fixed, regular, and adequate housing
 - **Unaccompanied**—when a student is not living in the physical custody of a parent or guardian
 - **Housing Fixed**—stationary, permanent, and not subject to change
 - **Regular**—used on a predictable, routine, or consistent basis
 - **Adequate**—sufficient for meeting both the physical and psychological needs typically met in the home
- Determine eligibility based on the legal definitions provided.
- Unaccompanied homeless youth may use the address of your school as their own on the FAFSA.

Important Notes about Homeless Youth Determination

The FAA will review the documentation to determine whether the student was an unaccompanied homeless youth, or at risk of being homeless, at any time on or after July 1st of the FAFSA “base year” (e.g., July 1, 2020, for the 2020-2021 FAFSA). Because of the sensitive nature of these situations, if an institution has no conflicting information about the status of the student, the institution should not request additional documentation, proof, or statements. Doing so may appear as if the FAA is asking applicants to explain, clarify, or justify their circumstances, instead of simply providing documentation of their homeless status.

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Institutions are not required to verify the answers to the homeless youth questions; however, in instances where the institution has conflicting information, a documented phone call or a written statement from the relevant authority is sufficient. It is not conflicting information if the FAA disagrees with an authority's determination that a student is homeless. If the FAA believes the authority is incorrect or abusing the process, the FAA should contact the relevant oversight party to evaluate the determination.

For students you determine to be unaccompanied homeless youths or unaccompanied, self-supporting youths at risk of being homeless, select the homeless youth determination option for reporting to CPS. Like a dependency override you may rely on a determination by another school that a student was in this category on or after July 1st of the award year. Also, a new determination must be made each year for an applicant who is homeless or at risk of being homeless.

Students Without Parental Support –Parent FAFSA Refusal

Although students whose parents refuse support are not eligible for a dependency status override, the Higher Education Opportunity Act of 2008 (HEOA) granted that such students may receive Unsubsidized Direct Loans only. For a student to be eligible for this provision, the student must meet **all** of the criteria below:

- the student must have completed the FAFSA with no parental information provided
- The student must have selected special circumstances on the FAFSA
- The parent(s) refuse to provide their information on the FAFSA
- The parent(s) do not and will not provide **any** financial support to the student
- The student does not reside with their parent(s)

The FAA must collect a signed and dated statement from the parents indicating that:

- The parent(s) refuse to provide their information on the FAFSA AND
- The parent(s) do not and will not provide **any** financial support to the student AND
- The student does not reside with the parent(s)

The date the support ended must be included as part of the statement. If the parents refuse to provide such a statement, the FAA must obtain a third-party statement from a teacher, counselor, cleric or court. There is no requirement that the parent provide a reason for ending financial support and refusing to complete the FAFSA. Self-certification from the dependent student is not sufficient documentation.

NOTE: Providing financial support includes not only payment by the parent of educational costs, but also providing other cash and non-cash support to the student such as room and/or board.

Finally, before making a decision the financial aid administrator may, but is not required to, determine how the student intends to financially support himself or herself without parental support.

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As noted above, this situation does not justify a dependency status override. However, making this determination is up to the discretion of the FAA. If you decide that a student falls into this category, you must document your decision and ensure that the student submits a FAFSA and passes all the eligibility matches before originating an unsubsidized direct loan.

The result will be a rejected application with no EFC. The FAA can then award the student an Unsubsidized Direct Loan up to the maximum the student would normally be eligible for depending on his/her grade level and dependency status (but not the amount a student can get when his/her parent is unable to get a PLUS loan). The parent(s) cannot request a PLUS loan. (For more information see [DCL GEN-08-12](#)).

NOTE: When completing the FAFSA the student should select special circumstances for parent refusal and will be able to continue the application without providing parental information. A student who has already provided parental information cannot appeal for parent refusal since the [HEOA](#) indicates that to be eligible for this process the parent refuses to complete the FAFSA, therefore once the parent has completed the parent portion of the FAFSA this special circumstance provision is no longer applicable.

Denying the Origination of a Direct Loan

While the law permits the FAA, on a case by case basis, with adequate documentation to deny the origination of a Direct Loan to a student, this allowance is left to the discretion of each aid director within the university. Any college seeking to implement this allowance should consult with the Central Office of Student Financial Assistance, University Financial Aid Director and Compliance Officer before taking any such action.

Guide to Addressing Special Circumstances Chart

The following Guide to Addressing Special Circumstances suggests how one may evaluate situations that would seem to warrant a professional judgment adjustment. Apart from those conditions already mentioned in the previous discussion, such circumstances might include:

- Support of “extended” family members, i.e., persons receiving support who do not qualify as family members according to FAFSA criteria
- Non-recurring or “windfall” income (or assets) that do not accurately reflect award year resources or
- Situations where families face unusually high debt burden not accounted for in the federal methodology formula

This chart has been adapted from NASFAA Monograph #21 entitled: *Professional Judgment in Eligibility Determination and Resource Analysis*, a useful document available in its entirety from <http://www.nasfaa.org>.

Circumstance	Reason for Response	Possible Data Verification	Suggestions for Implementing the
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			Adjustment
Unusual medical, dental or nursing home expenses	Can be a hardship affecting a family's ability to pay.	<ol style="list-style-type: none"> 1. Base year federal income tax form, Schedule A- Itemized Deductions 2. Receipts of actual medical, dental or nursing home payments. 	<ol style="list-style-type: none"> 1. Reduce adjusted gross income (AGI) by medical, dental or nursing home expenses that exceed a certain percentage of total income. 2. Reduce AGI by annual installment payments made for long-range medical, dental or nursing home care (e.g., cancer therapy or orthodontic work). 3. Consider such long-range indebtedness as allowance against assets (may be a more accurate reflection of cash flow, since expenses may be paid for over a period of years). 4. Other.
Support of extended family	To address on a case-by-case basis families who provide financial support to relatives who are unable to support themselves adequately but don't qualify as family members using usual FAFSA criteria.	<ol style="list-style-type: none"> 1. Receipts 2. Billing statements 	<ol style="list-style-type: none"> 1. Reduce AGI by amount of support; or 2. Adjust household size; or 3. Adjust assets; or 4. Other.
Circumstance	Reason for Response	Possible Data Verification	Suggestions for Implementing the Adjustment
Elementary and secondary school costs; child-care and dependent care costs.	Identified added expenses related to attendance at tuition-charging schools, child-care, care of an elderly family member.	Base year federal income tax return (# of exemptions claimed, credits taken for care of dependent children, elderly or disabled family members); receipts for tuition payments; signed itemized statement of expenses.	<ol style="list-style-type: none"> 1. Reduce AGI by tuition expense amount; or 2. Add amount of dependent care expenses to student's cost of attendance; or 3. Adjust assets; or 4. Other
Unusual debts	To address on a case-by-case basis families with high debt payments for unusual situations, such as mortgages or credit card debts to cover unemployment expenses or failed	<ol style="list-style-type: none"> 1. Contracts, mortgages, or liens 2. Billing or payment summaries from persons, companies, or agencies to which money is owed. 	<ol style="list-style-type: none"> 1. Reduce AGI by amount of total annual installment payments on these debts; or 2. Adjust assets, if this treatment may be a more accurate reflection of the family's cash flow, since the

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	businesses; legal fees for divorce, adoption, etc.; education loans of parents/spouses; or personal debts for non-discretionary expenses.		debt(s) will be paid for over a period of years; or 3. Other.
Income reduction or non-recurring income	To address on a case-by-case basis instances when base year income does not accurately reflect a family or student's ability to pay for education, such as divorce or death, change or loss of employment, disability, or receipt of non-recurring (or "windfall") income.	<ol style="list-style-type: none"> 1. For estimated income: signed statements documenting estimated earnings; alimony or child support designated in divorce agreements; unemployment compensation & JTPA benefits; actual disability & social security benefits received. 2. For non-recurring income: base year federal income tax return, Schedule A-Itemized Deductions; Form 3903 (moving expenses); Schedule D- Capital Gains & Losses, etc. 	<ol style="list-style-type: none"> 1. Use expected year income. Consider using either anticipated current year income or academic year income. 2. If non-recurring income was spent in the base year, reduce AGI by that amount. 3. Replace the "windfall" amount with an average of incomes over the past several years. 4. If source of non-recurring income is an IRA or pension distribution that has been rolled over, it should not be counted as either income or as an asset because such retirement funds are not currently part of the need analysis calculation. 5. Other.
Circumstance	Reason for Response	Possible Data Verification	Suggestions for Implementing the Adjustment
Dependency Status	To address on a case-by case basis a student who does not meet the federal criteria for independent status but who may still be considered to be independent due to unusual circumstances (i.e. physical/ emotional abuse by a parent, abandonment, or estrangement).	<ol style="list-style-type: none"> 1. Student personal statement 2. Base year federal income tax return for student 3. Court documents 4. Third party statements 5. Rental agreement; utility bills, etc. 	<ol style="list-style-type: none"> 1. Evaluate information submitted to determine if student should be considered independent based on "other unusual circumstances" category included in the statute. 2. Other

Another useful reference is the *Guide to Best Practices for Professional Judgment* prepared by Mark Kantrowitz which is available at: <http://www.finaid.org/educators/pj/>

Other resources include:

FSA PJ Practice Assessment Tool-Designed to aid offices in ensuring compliance with PJ:

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<https://ifap.ed.gov/fsa-assessments/03-05-2019-verification>

Chapter 5 of the 2020-2021 AVG:

<https://ifap.ed.gov/sites/default/files/attachments/2020-05/2021FSAHbkAVGCh5.pdf>