

# Professional Judgment



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**Professional Judgment:  
Did you know?**

Rick Renshaw, FSA Training Officer  
U.S. Department of Education  
NDASFAA Spring Conference 2019  
Devil's Lake, North Dakota

**Federal Student Aid**  
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April 3-5, 2019

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- Professional Judgment (PJ) Overview
- Adjusting Cost of Attendance (COA)
- Adjusting Expected Family Contribution (EFC) Data Elements
- Adjusting COA vs. EFC Elements
- Performing a Dependency Override
- Parent Refusal to Complete FAFSA and Provide Support
- Denying or Reducing Direct Loans



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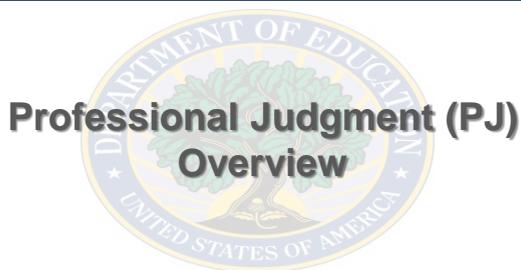
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## What is Professional Judgment?

- The term *professional judgment* is found in the Code of Federal Regulations, but there are no regulations for the practice
- The law does not use the term *professional judgment*
  - The *Higher Education Act of 1965 (HEA)* refers to the financial aid administrator’s authority to make adjustments, on the basis of documentation, to allow for treatment of an individual with ***special circumstances***

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## What is Professional Judgment?

***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***

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## What Professional Judgment is Not

- What a PJ **cannot** be used for:
  - to carry forward a decision from year to year (unless subsequent requests are made and subsequent documentation obtained where needed)
  - to directly change an EFC
  - to make changes to the EFC formula
  - to establish automatic categories of special circumstances and provide identical outcomes to all students in that circumstance
  - to make decisions that are based on anything other than a case-by-case basis

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## What Professional Judgment is Not

- What a PJ **cannot** be used for (cont.):
  - to circumvent the regulations or the law
  - to waive student eligibility requirements
  - to make a dependent student independent based solely on the student's demonstrated self-sufficiency
  - to change an applicant's dependency status from independent to dependent (more on this later)

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## Professional Judgment Documentation

- The HEA uses the phrase, *on the basis of adequate documentation*
- ED does not define adequate documentation
- An auditor or program reviewer must be able to understand the decision from the documentation
- Documentation should show that the institution has taken proper action

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## Professional Judgment Documentation

Documentation considerations:

- Should be "adequate and reasonable"
- Use third-party documentation when possible
- Can never have too much documentation
- Remain flexible on documentation types

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## Professional Judgment is a Choice

- Exercising PJ is at the discretion of the school and is a matter of policy
- A school may refuse PJ as a matter of policy
- If a school conducts a PJ, it must have a policy
- A school is not obligated to exercise a PJ for a student if conducted at another school

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## Professional Judgment & Verification

- If a student is selected for verification, the verification process must be complete before exercising a PJ
- The results of the verification and PJ cannot be submitted on the same day
  - After the school receives the verified Institutional Student Information Record (ISIR), the school would use the resulting ISIR transaction to make adjustments for the PJ

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## Cost of Attendance Adjustments

### HEA Sec. 479A(a)

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



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## Cost of Attendance (COA) Adjustments

- Each COA component is an estimate of the student's educational expenses
- Most schools use *average* costs rather than *actual* expenses
- Financial aid administrators are given the latitude to adjust any of these components on a case-by-case basis to allow for special circumstances



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## Cost of Attendance Elements

- Tuition
- Fees
- Books
- Supplies
- Transportation
- Miscellaneous Personal Expenses
- Room and Board
- Dependent Care
- Licensure Costs
- Costs associated with Study Abroad
- Disability related expenses



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## EFC Data Element Adjustments

**HEA Sec. 479A(a)**  
*"Nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case by case basis . . . to the values of the data items required to calculate the expected student or parent contribution (or both) to allow for treatment of an individual eligible applicant with special circumstances."*




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## Adjust EFC Data Elements

- This type of professional judgment gives the FAA the latitude to modify one, or more, of the data elements listed on the FAFSA® which are used in the EFC formula
- It is important that the school choose an element and value that is appropriate to the student's special circumstances
  - Understanding the EFC formula, as described in the AVG Chapter 3, can help the FAA make a more appropriate decision




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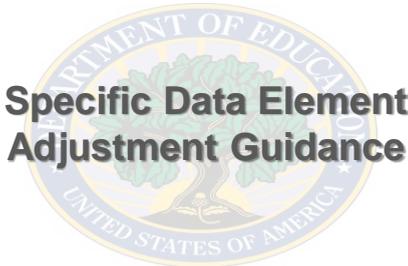
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## IRA Roth Conversions

- When converting a regular Individual Retirement Account (IRA) into a Roth IRA by transferring funds, the amount converted has to be reported as taxable income
- This results in a higher income reported on the FAFSA, even though the family doesn't have additional income or assets available
- Schools can use PJ to adjust the income and taxes as though there was no Roth conversion
- Schools are not required to perform this type of PJ

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## Unemployment Benefits

- DCLs GEN 09-04 & GEN 09-05: Use of Professional Judgment by Financial Aid Administrations
  - Unemployment benefits can be reduced to zero
  - If other family members are receiving unemployment benefits, schools are encouraged to examine the family's economic situation and make appropriate adjustments

***GEN 11-04 clarifies that these DCLs are still in effect***

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## Unemployment Benefits (cont.)

- Documentation: Letters for unemployment insurance issuance from state unemployment agencies can be used for up to 90 days from date of issue
- Documentation: Other verification of current receipt of unemployment benefits is an acceptable substitute for the state unemployment agency letter
- Schools should make an effort to determine if the student or family member is still unemployed before applying this provision

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## Prior-Prior Year Data

- Since prior-prior year data may be significantly different than prior year data, schools may see more cases to justify the use of PJ to adjust income data elements upward or downward
- While schools may identify a category of students who have similar circumstances, they may not automatically provide identical treatment to students in that category
  - Each PJ case must be determined and documented on a case-by-case basis

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## Prior-Prior Year Data

- When making an adjustment to income data elements, a school can use any 12 month period that it determines best demonstrates the family's financial strength
- If satisfactory documentation is obtained, 12 month periods may include, but are not limited to:
  - Prior year income data
  - Past 12 months income data from time of request
  - Anticipated income data for the financial aid award year
  - Anticipated income data for the current calendar year

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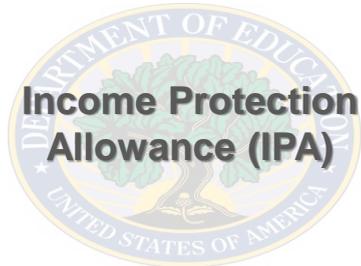
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## Income Protection Allowance (IPA)




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## Income Protection Allowance (IPA)

- Understanding the Income Protect Allowance (IPA) in the EFC formula can be helpful in adjusting an EFC data element
- The IPA is an allowance value in the EFC formula that directly reduces the AGI
- A school can determine the IPA by reviewing page three of the student's ISIR under Intermediate Values
  - It is the value labeled IPA

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## Income Protection Allowance (IPA)

- IPA element breakdown is as follows:
  - 30% for food
  - 22% for housing
  - 9% for transportation
  - 16% for clothing and personal care
  - 11% for medical expenses
  - 12% for other family consumption

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## Income Protection Allowance (IPA)

Example:  
 Knowing that a student has an IPA of \$7,780, you can determine that the formula took into account \$856 for medical expenses (11% of \$7,780). If a student provides documentation that \$2,856 will be spent on out of pocket medical expenses, you have the ability to adjust either the AGI or taxes paid for the difference of \$2,000.

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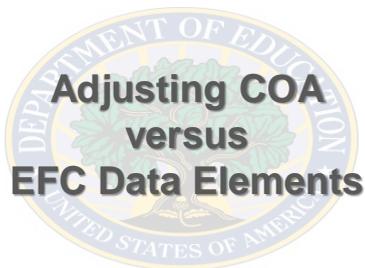
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## Adjusting COA vs. EFC Data Elements

**Adjusting COA:** Generally, when making an upward adjustment of a COA element, the intent is to **potentially** increase the student's need based and/or non-need based aid eligibility

- Since COA does not often alter the amount of Federal Pell Grants, there is typically no change in the amount of Pell a student will receive under a COA adjustment

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## Adjusting COA to Affect Eligibility

		<u>Award</u>	
<u>COA Prior to PJ</u>		COA	\$16,300
		EFC	\$7,200
		Need =	\$9,100
Tuition/Fees:	\$7,200		
Books/Supplies:	\$1,300		
Transportation:	\$1,080		
Misc. Expenses:	\$ 900		
Room/Board:	\$5,820		
		<u>Need Based</u>	<u>Non-Need Based</u>
		Scholarship	\$7,500 DL Unsub \$3,900
		DL Sub	\$1,600 PLUS \$3,300
			\$9,100
			\$7,200
Total:	\$16,300	Total Aid:	\$16,300

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## Adjusting EFC to Affect Eligibility

EFC Adjustment to Account for Out of Pocket Medical Expenses

### Award After EFC Adjustment

COA \$16,300 Need = \$12,100↑  
EFC \$4,200↓

Total Aid Eligibility = \$16,300

Need Based		Non-Need Based
Pell	\$1,770*	
Scholarship	\$7,500	DL Unsub \$2,670↓
DL Sub	\$2,830↑	PLUS \$1,530↓
	\$12,100↑	\$4,200↓

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## Dependency Override

### HEA Sec. 480(d)(7)

States that a student who does not qualify as an "independent student" in one or more of the 13 categories, as defined in Step 3 of the FAFSA, may be considered an independent student if he or she; . . . is a student for whom a financial aid administrator makes a determination of independence by reason of other unusual circumstances.

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## Dependency Override

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

However, in accordance with DCL GEN 03-07, there are four identified conditions that individually, or in combination, **do not** merit unusual circumstance.

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## Dependency Override (GEN 03-07)

For purposes of dependency override, the following conditions do not merit unusual circumstance:

- 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;
- Parents live separately from student or in a foreign country (GEN 11-15)
- Students demonstrating total self-sufficiency

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## Dependency Override

- GEN 03-07 further recognizes that unusual circumstances could include an abusive family environment or abandonment by parents
- GEN 11-15 provides examples as it relates to a family crisis or unlawful act wherein a dependency override might be considered

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## Parent Refusal to Complete FAFSA & Provide Support

### HEA Sec. 479A(a)

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

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## Parental Refusal

*Prior to introducing this new category of PJ, a student whose parents refused to complete the FAFSA and refused to provide financial support would be ineligible for any Title IV student aid. With this provision in place, the school can now exercise professional judgment and make the student, in this situation, eligible for a Dependent Level Unsubsidized Direct Loan ONLY.*

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## Parental Refusal to Complete FAFSA/Support

- Provision does not act as a dependency override. The student under this provision is still a dependent student
- A non-custodial parent may still borrow a PLUS loan and the student would still be eligible for this provision
- If parents are unwilling to sign a statement the school must obtain confirmation/information from a third-party

*For documentation purposes, the custodial parent (if not married) or both parents (if married) must sign a statement indicating a refusal to provide both support and the FAFSA data*

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## Denying or Reducing Direct Loans

**34 CFR 685.301(a)(8)**  
*A school may refuse to originate a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan or may reduce the borrower's determination of need for the loan if the reason for that action is documented and provided to the borrower in writing, and if -*

- (i) The determination is made on a case-by-case basis;*
- (ii) The documentation supporting the determination is retained in the student's file; and*
- (iii) The school does not engage in any pattern or practice that results in a denial of a borrower's access to Direct Loans because of the borrower's race, gender, color, religion, national origin, age, disability status, or income.*

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## Denying or Reducing Direct Loans

If the reason is documented and provided to the borrower in writing:

- A school has the option to refuse to originate
  - Direct Subsidized Loan
  - Direct Unsubsidized Loan
  - PLUS Loan
- May reduce the borrower's determination of need for the loan
  - Originate a loan for less than what the borrower would otherwise be eligible to receive

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## Denying or Reducing Direct Loans

- The denial or reduction of the loan can be done if:
  - The determination is made on a case-by-case basis
  - The school provides the reason to the student in writing
  - The documentation supporting the determination is retained in the student's file and
  - The school does not engage in any pattern or practice that results in a denial of a borrower's access to Direct Loans because of the borrower's race, gender, color, religion, national origin, age, disability status, or income

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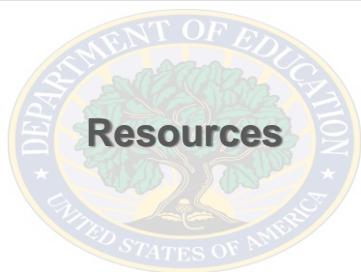
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## Resources




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## Resources

*Federal Student Aid Handbook*  
 Application and Verification Guide CH. 5

*Federal Regulations – 34 CFR*  
 685.301(a)(8) Denying or Reducing Direct Loans

*Higher Education Act (HEA)*  
 HEA Sec. 479A General  
 HEA Sec. 480(d)(7) Dependency Override

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## Resources (Continued)

*Dear Colleague Letters*

GEN 03-07 Dependency Overrides  
 GEN 11-15 Dependency Overrides  
 GEN 08-12 Parent Refusal to Provide FAFSA Data & Support  
 GEN 09-04 PJ & Family Financial Circumstances  
 GEN 09-05 PJ for Unemployment Benefits  
 GEN 11-04 PJ & Combat Pay Reminder; Extends 09-04 & 09-05  
 GEN 11-07 Denying or Reducing a Direct Loan  
 GEN 16-03 Prior-Prior Year and PJ

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## My Contact Information

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## Training Feedback

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To ensure quality training we ask all participants to please fill out an online session evaluation

- You will receive an email in the next few days from FSA\_internet\_Registration@ed.gov with a Training Evaluation Survey.
- This feedback tool will provide a means to educate and inform areas for improvement and support an effective process for "listening" to our customers
- Additional feedback about training can be directed to my supervisor [john.davisson@ed.gov](mailto:john.davisson@ed.gov)

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## QUESTIONS?



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