

# Session #27

## Use of Professional Judgment to Address Families Impacted by the Economy

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# Authority and Guidance

- Spelled out in Sec. 479A of HEA
- No regulations
- Department is prohibited from regulating
- DCLs offer clarification on specific issues

# Professional Judgment

- Applicable areas --
  - Dependency override
  - Expected family contribution
  - Cost of attendance
  - Unsubsidized loan eligibility

# Recent Special Guidance

- 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
- More on these later in the presentation



# Dependency Overrides



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# Dependency Override

- Independent student is defined in Section 480(d) of the HEA
- Meets one of eight criteria specified in the HEA and reflected on the FAFSA or
- Is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances

# Dependency Override (cont'd)

- Case-by-case
- Unusual circumstances
  - Per Webster: rare, extraordinary, uncommon, unexpected, distinctive
- Documented!
  - Determination and supporting documentation



# Dependency Override (cont'd)

- Conditions that do NOT qualify as “unusual 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 Override (cont'd)

- Examples that may constitute “unusual 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 Override (cont'd)

- 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

# Dependency Override (cont'd)

- Documentation—cont'd.
  - Third party includes—
    - Counselors or teachers
    - Clergy
    - Community groups
    - Government agencies
    - Medical personnel
    - Courts
    - Prison administrators

# Dependency Override (cont'd)

- Documentation—cont'd.
  - In cases where third party documentation cannot be obtained, may accept signed statement from relatives, friends, or the student

# Dependency Override (cont'd)

- 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

# Dependency Override (cont'd)

- Effective for the 2009-10 award year, a financial aid administrator may rely on a dependency override performed by another institution for the same award year
  - Section 480(d)(2), College Cost Reduction and Access Act of 2007

# Dependency Override: Case

What would you do?

- Lauren lives with her grandparents. After her mother died when she was 12, her father was so distraught that he left Lauren with his parents. He gave them the \$500,000 life insurance settlement to be used for Lauren's expenses and left town. Lauren and her grandparents hear from him periodically. Sometimes he sends presents or cards for holidays or birthday but months and even years have gone by without any contact. Lauren and her grandparents don't have the father's address or a way to contact him



# Dependency Override: Case

What would you do?

- Tom is 21 years old. He got in trouble in high school and was arrested, tried, and convicted for passing bad checks. He's now on probation under very strict criteria. One of those criteria is that he is forbidden from having any contact with his mother who works for the probation department. He comes to you because he doesn't know how he can get parental information to complete his FAFSA. His father is deceased and he has a married sister who lives close by



# Expected Family Contribution (EFC) and Cost of Attendance (COA)



# EFC and COA

Section 479A of the Higher Education Act of 1965, as amended—

“(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”



# EFC and COA (cont'd)

- Examples of special circumstances listed in section 479A of the HEA—
  - Elementary or secondary school tuition expenses
  - Medical, dental, or nursing home expenses not covered by insurance
  - Unusually high child or dependent care costs
  - Recent unemployment of family member or independent student



# EFC and COA (cont'd)

- Examples of special circumstances listed in section 479A of the HEA—cont'd.
  - Family member or student is a dislocated worker
  - Parents enrolled in college
  - Change in housing status resulting in homelessness
  - Other changes in family's income, family's assets, or student's status



# EFC and COA (cont'd)

- Use of professional judgment is—
  - Not limited to these circumstances
  - Not required in these circumstances
  - Examples are just that:
    - Ideas about the types of conditions you might consider

# EFC and COA (cont'd)

- Examples of “unreasonable” adjustments—
  - Vacation expenses
  - Tithing expenses
  - Standard living expenses such as utilities, cable bills, credit card payments, children’s allowances
  - Standard maintenance items such as lawn care and home repair

# EFC and COA (cont'd)

- **Remember!**

- Must be “special circumstances”
- Must be individual, not a class of students
- Must have adequate documentation
- Cannot use professional judgment to waive eligibility requirements (e.g. regular student) or circumvent the intent of the statute



# Special Guidance: EFC

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

# Special Guidance: EFC (cont'd)

- Reminds you about—
  - Your ability to make changes
  - Your ability to use an alternate 12-month period
- Alerts you to special needs of independent students who—
  - Need job retraining to obtain employment and
  - Need funding to receive that education



# Special Guidance: EFC (cont'd)

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

# Special Guidance: EFC (cont'd)

- GEN-09-05 describes DOL's work through states with recipients of unemployment insurance benefits
- Guidance about how you can help these UI recipients who apply for federal student aid
  - With documentation, adjusting the income from work and from unemployment to zero
  - Documentation can be state letter or other evidence that student is receiving unemployment benefits
  - Retaining letter or other evidence is adequate documentation of the adjustment



# Special Guidance: EFC (cont'd)

- DOE and DOL strongly endorse using this authority for a student currently receiving unemployment benefits

# EFC

- To adjust the EFC—
  - Must adjust a data element in the formula (e.g. AGI)
  - May **not**—
    - Change the formula itself (e.g. asset conversion rate) or the tables
    - Make an adjustment to the PC, SC, or EFC
    - Make the adjustment on the initial FAFSA



# EFC (cont'd)

- **Remember—**

- Must first resolve any conflicting information before making an adjustment
- Must verify base year data if selected for verification
- Adjustment is only valid at the school making it
- Must use resulting EFC consistently for all FSA funds



## EFC (cont'd)

- Things to remember—
  - Income Protection Allowance (IPA)
    - For parents and independent students with dependents
      - Increases as family size increases
      - Decreases as number in college increases
    - For dependent students
      - 2009-10 = \$3,750



# EFC (cont'd)

- More things to remember—IPA
  - For independent students without dependents other than a spouse
    - Single and married with both in college
      - » 2009-10 = \$7,000
    - Married with one in college
      - » 2009-10 = \$11,220



## EFC (cont'd)

- The IPA is—
  - 30% food
  - 22% housing
  - 9% transportation
  - 16% clothing and personal
  - 11% medical
  - 12% other family consumption



# EFC: Case

What would you?

- Rob is married and has two children. He worked almost full-time until June, then lost his job and has not been able to find another. He is the only family member in college. His wife earns \$750/month babysitting for a neighbor's child.



# EFC: Case

What would you?

- Katie is a dependent student who lives with her mother and sister. She is the only family member in college. Her mother has incurred credit card debt of \$9,500. The IPA for Katie's family is \$19,730.
  - $\$19,730 \times 12\% = \$2,368$



# EFC (cont'd)

- Things to remember—
  - Education Savings and Asset Protection Allowance
    - Increases with the age of the parent/independent student
    - Deducted from net worth

## EFC (cont'd)

- More things to remember
  - Asset Conversion Rate
    - Parent's rate = 12%
    - Dependent student's rate = 20%
    - Independent student
      - Without dependents other than a spouse = 20%
      - With dependents other than a spouse = 7%



# EFC (cont'd)

- How the asset contribution is calculated

\$150,000	net value rental home
<u>+ 5,000</u>	savings
\$155,000	net worth
<u>- 48,700</u>	APA
\$106,300	discretionary net worth
<u>x .12</u>	asset conversion rate
\$ 12,756	included in parental contribution



# EFC: Case

What would you do?

- Sarah's parents own a rental home with a net worth of \$150,000. The rental home burns down. The family loses potential rental income but has the potential for an upcoming insurance settlement



# COA

- Tuition and fees
- Room and board
- Books and supplies; computer allowance
- Transportation
- Miscellaneous personal expenses
- Dependent care allowance



# COA (cont'd)

- Disability related expenses
- Study abroad expenses
- Cooperative education expenses
- Loan fees
- Cost of obtaining first professional credential or license

# COA (cont'd)

- Less than half-time students—
  - Tuition and fees
  - Books and supplies
  - Transportation
  - Dependent care
  - Room and board (limited to not more than 3 semesters/2 consecutive)

# COA (cont'd)

- Students enrolled in correspondence program—
  - Tuition and fees
  - Books and supplies, if required
  - Transportation
  - Room and board (only for required residential training)



# COA (cont'd)

- Incarcerated students—
  - Tuition and fees
  - Books and supplies, if required

# EFC and COA

- Documentation—
  - Must document the reason for the determination
  - Must maintain documentation supporting the decision

# EFC and COA (cont'd)

- Examples of documentation
  - Medical bills not reimbursed by insurance
  - Elementary/Secondary school tuition bills
  - Child care or dependent care bills
  - Pay stubs
  - Documentation of unemployment
  - Tax returns



# EFC and COA (cont'd)

- Can you collect too much documentation?
  - **Not a chance!**
  - **No way!**
  - **NO!**
  - **NEVER!**
  - **Not!**

**(Get the idea?)**



# Unsub Loan Eligibility



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# Unsub Loan Eligibility

- FAAs may offer a dependent student an unsubsidized FFEL/DL without parental data being provided on the FAFSA if the FAA verifies that—
  - The parent or parents of such student have ended financial support of the student, and
  - The parents refuse to file such form

# Unsub Loan Eligibility (cont'd)

- Eligible for base amount for grade level & additional \$2,000
- Must collect and maintain appropriate documentation
  - Signed and dated statement from parents
    - Has stopped providing financial support and date
    - Will not provide financial support in the future
    - Refuses to complete parental section of FAFSA

# Unsub Loan Eligibility: Case

What would you do?

- Matt is a 21-year-old student. His parents do not believe that the Federal government has the legal right to levy income tax, so they have not paid taxes or filed a tax return for the last ten years. He has worked since he turned 18 and files a tax return each year. His parents refuse to provide any information or sign the FAFSA

# Contact Information

We appreciate your feedback and comments. We can be reached at:

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