

Special Cases



CHAPTER 5

There are unusual situations where you will need to exercise your discretion as a financial aid administrator: when modifying the student's data that calculate the EFC, performing dependency overrides, resolving conflicting information, reporting cases of fraud, and determining a student to be an unaccompanied homeless youth.

While many questions you get as a financial aid administrator will have routine answers, some situations will require extra discretion on your part. To account for special circumstances of a student, you may choose to exercise professional judgment (PJ) to adjust her cost of attendance or the data that determine her expected family contribution (EFC). You might decide that unusual circumstances warrant making a dependent student independent. If you receive conflicting information for a student, you will need to resolve that. In some cases you may discover that a student has been guilty of fraud and should be reported. And you may need to determine if a student should be classified as an unaccompanied homeless youth.

PROFESSIONAL JUDGMENT

An aid administrator may use PJ on a case-by-case basis only to adjust the student's cost of attendance or the data used to calculate her EFC. This adjustment is valid only at the school making it. You submit a PJ change electronically, via FAA Access to CPS Online or third-party software, and you may do it without a signature from the student or parent. In FAA Access or EDE, you must select "EFC adjustment requested" for the professional judgment field. The next ISIR will indicate "Professional judgment processed."

The reason for the adjustment **must be documented** (by a third party if possible) in the student's file, and it must relate to the special circumstances that differentiate him—not to conditions that exist for a whole class of students. You must resolve any inconsistent or conflicting information shown on the output document **before** making any adjustments. An FAA's decision regarding adjustments is final and cannot be appealed to the Department.

The statute states that nothing within it shall be construed as limiting the authority of aid administrators to make data adjustments for some situations. However, the law gives some examples of special circumstances, such as elementary or secondary school tuition, medical or dental or nursing home expenses not covered by insurance, unusually high child care costs, being homeless or a dislocated worker, recent unemployment of a family member, or other changes in the family's income or assets. Use of professional judgment is neither limited to nor required for the situations mentioned.

Adjustment example

Kitty's mother had income earned from work of \$25,000 in 2013 but is no longer employed. After receiving documentation confirming this, the FAA at Krieger College decides to adjust the AGI reported for Kitty's parents to take into account their reduced income. The FAA also reduces the income earned from work for Kitty's mother to zero.

Online review of PJ practices
<http://ifap.ed.gov/qadocs/FSAVeriModule/activity2verif.doc>

PJ and unemployment benefits

In Dear Colleague Letters GEN-09-04 and GEN-09-05, the Department issued special guidance concerning the use of professional judgment for persons who are receiving unemployment benefits during economic hardship. This continues to be in effect; see GEN-11-04 for more information.

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. However, this authority shall not be construed to permit aid administrators to deviate from the contributions expected in the absence of special circumstances. 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. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator in such cases (1) to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this title, or (2) 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 section 483 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. No student or parent shall be charged a fee for collecting, processing, or delivering such supplementary information.

Another situation where you might want to use professional judgment involves Roth IRAs. When someone converts a regular IRA into a Roth IRA by transferring funds, the amount converted has to be reported as taxable income on the tax return. So the income reported on the FAFSA will be higher than without the Roth conversion, even though the family doesn't actually have additional income or assets available. You can use professional judgment to reduce the income and taxes paid to the amount that would have been reported if there was no Roth conversion if you think the adjustment is warranted for a student. As with the specific special circumstances listed in the law, you're not required to make an adjustment in this situation.

The law doesn't allow you to modify either the formula or the tables used in the EFC calculation; you can only change the cost of attendance or the values of specific data elements used in the EFC calculation. In addition, you can't adjust data elements or the cost of attendance solely because you believe the tables and formula are not adequate or appropriate. The data elements that are adjusted must relate to the student's special circumstances. For example, if a family member is ill, you might modify the AGI to allow for lower earnings in the coming year or might adjust assets to indicate that family savings will be spent on medical expenses.

You can't use PJ to waive general student eligibility requirements or to circumvent the intent of the law or regulations. For instance, you cannot use PJ to change FSEOG selection criteria. Nor can you include post-enrollment activity expenses in the student's COA. For example, professional licensing costs to be incurred after the enrollment period would not be includable (though one-time licensing costs incurred during the enrollment period may be—see *Cost of Attendance* in *Volume 3*).

Occasionally aid administrators have made decisions contrary to the professional judgment provision's intent. These "unreasonable" judgments have included, for example, the reduction of EFCs based on recurring costs such as vacation expenses, tithing expenses, and standard living expenses (related to utilities, credit card expenses, children's allowances, and the like). Aid administrators must make "reasonable" decisions that support the intent of the provision. Your school is held accountable for all professional judgment decisions and for fully documenting each decision.

An FAA should keep in mind that an income protection allowance (IPA) is included in the EFC calculation to account for modest living expenses. Before adjusting for an unusual expense, consider whether it is already covered by the IPA. It is reasonable to assume that approximately 30% of the IPA is for food, 22% for housing, 9% for transportation expenses, 16% for clothing and personal care, 11% for medical care, and 12% for other family consumption. The income protection allowance is one of the intermediate values in the FAA Information section of the output document (labeled as "IPA"). See *Chapter 3* for the IPA values.

If you use professional judgment to adjust a data element, you must use the resulting EFC consistently for all FSA funds awarded to that student. For example, if for awarding the student's Pell Grant you adjust a data element that affects the EFC, that new EFC must also be used to determine the student's eligibility for aid from the Campus-Based and Stafford Loan programs.

If you make a PJ adjustment, you must set the FAA Adjustment flag in FAA Access or via the Electronic Data Exchange (EDE).

Finally, if you use PJ for a student who was selected for verification (by you or the Department), you must complete verification before exercising professional judgment. However, using PJ does not require you to verify a student's application if he was not selected for verification.

Students without parent support

Students whose parents refuse to support them are not eligible for a dependency override, but they may be able to receive unsubsidized Stafford loans only. For a student to be eligible for this provision (the text of which is in the "Professional judgment" margin note on page 122), you must get documentation (1) that his parents refuse to complete his FAFSA and (2) that they do not and will not provide any financial support to him. Include the date support ended. If the parents refuse to sign and date a statement to this effect, you must get documentation from a third party (the student himself is not sufficient), such as a teacher, counselor, cleric, or court.

As noted in the next section, this situation does not justify a dependency override. But as with overrides, resolving the situation is at your discretion. 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. The result will be a rejected application with no EFC. You can then award the student unsubsidized Stafford loans up to the maximum the student would normally be eligible for depending on his grade level (but not the amount a student can get when his parent is unable to get a PLUS loan). See DCL GEN-08-12 for more information.

DEPENDENCY OVERRIDES

A financial aid administrator (FAA) may do dependency overrides on a **case-by-case** basis for students with unusual circumstances. If the FAA determines that an override is appropriate, she must write a statement detailing the determination and must include the statement and supporting documentation in the student's file. **However, none of the conditions listed below, singly or in combination, qualify as unusual circumstances meriting a dependency override:**

1. Parents refuse to contribute to the student's education.
2. Parents are unwilling to provide information on the FAFSA or for verification.
3. Parents do not claim the student as a dependent for income tax purposes.
4. Student demonstrates total self-sufficiency.

Unusual circumstances do include (and may cause any of the above conditions) abandonment by parents, an abusive family environment that threatens the student's health or safety, or the student being unable to locate his parents. In such cases a dependency override might be warranted.

IPA percentage example

In 2014 Alan had \$3,550 in medical expenses that were out-of-pocket costs. He is married, has two children, and is the only member of his household in college, so his IPA is \$38,180. Because his expenses are less than the amount for medical expenses already provided for in the IPA (11% of \$38,180 is \$4,200), the aid administrator at Sarven Technical Institute does not adjust Alan's FAFSA information.

Dependency overrides

HEA Sec. 480(d)(1)(I) and (d)(2). Also see Dear Colleague Letters GEN-03-07 and GEN-11-15.

Overrides and professional judgment

The phrase "professional judgment" is loosely used for the discretion that FAAs apply to dependency overrides and to data adjustments in the application. The provisions for these two types of changes are in separate places in the HEA. The citation for dependency overrides is in Sec. 480(d)(7); the citation for data adjustments is in Sec. 479A and is copied *in toto* in the margin on page 122.

Refusing or reducing a loan

Remember that the discretion of FAAs extends to refusing or reducing Direct Loan (DL) funds as long as the reason is documented and given in written form to the student and is not due to discrimination against the student on the basis of race, national origin, religion, sex, marital status, age, or disability. HEA Sec. 479A(c)

Unable to provide parent data

FAFSA on the Web allows students to indicate that they believe they have special circumstances that prevent them from providing parent information. A student who indicates this is thoroughly informed about what warrants a dependency override and what the results will be for his application. If he persists through those screens and does not include parent data, he will get a rejected ISIR that will have the special circumstances flag set. You will have to review the student's situation and determine if he: is an unaccompanied homeless individual, merits a dependency override, must instead provide parent data, or should be permitted to borrow only unsubsidized Stafford loans because he can document that his parents have refused to support him and to provide their information on his FAFSA. In the last case he does not receive a dependency override.

The presence of these conditions would not disqualify a student from being an unaccompanied youth who is homeless or self-supporting and at risk of being homeless.

An aid administrator may override only from dependent to independent (though as suggested earlier, if an independent student receives substantial support from others, a school may use PJ to adjust the COA or FAFSA data items such as untaxed income).

Documentation is critical to the dependency override process. The documentation must support, and include the reason for, the decision and should in almost all cases originate from a third party with knowledge of the unusual circumstances of the student.

An FAA may, without gathering documentation, use an override that another school granted in the same award year. However, overrides do not carry over from one year to the next; the FAA must reaffirm each year that the unusual circumstances persist and an override is still justified.

A third party that knows the student's situation—such as a teacher, counselor, medical authority, member of the clergy, prison administrator, government agency, or court—should establish the unusual circumstances. Evidence can be a signed letter or an official document, such as a court order. If third party documentation is truly not available, the school may—though it is not required to—accept a signed and dated statement from the student or a family member detailing the unusual circumstances. Such a statement should be a last resort.

To override the student's dependent status on an initial application through FAA Access, the FAA should use the Dependency Override code of "1" (see the *EDE Technical Reference* for more information).

To authorize a dependency override on a paper FAFSA, the FAA marks the bubble for an override, labeled "D/O," in the "College Use Only" area, fills in the school's federal code, and signs. A separate letter attached to the application in lieu of making the override is **not** acceptable.

Overrides on the paper FAFSA

<p>COLLEGE USE ONLY</p> <p>D/O <input type="radio"/> 1 Homeless Youth Determination <input type="radio"/> 4</p>	<p>FEDERAL SCHOOL CODE</p> <table border="1" style="width: 100%; height: 30px; border-collapse: collapse;"> <tr> <td style="width: 15%;"></td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> </tr> </table>						
<p>FAA Signature</p> <div style="border: 1px solid black; padding: 5px; min-height: 30px;"> <p style="margin: 0;">1</p> </div>							

If the student has already applied, you can use FAA Access to authorize or cancel an override; overrides cannot be done on the SAR. If she had an override done at another school in the current year, that will be noted with

the school's federal code on FAA Access. Only the school performing the override will receive that transaction. If the student adds your school to the transaction or if she gives you her data release number (DRN), you can access the record.

CONFLICTING INFORMATION

In addition to reviewing application and data match information from the CPS, a school must have an adequate internal system to identify conflicting information—regardless of the source and regardless of whether the student is selected for verification—that would affect a student's eligibility, such as information from the admissions office as to whether the student has a high school diploma or information from other offices regarding academic progress and enrollment status. The school must resolve all such conflicting information, except when the student dies during the award year.

If your school has conflicting information concerning a student's eligibility or you have any reason to believe a student's application information is incorrect, you must resolve the discrepancies before disbursing FSA funds. If you discover discrepancies *after* disbursing FSA funds, you must still reconcile the conflicting information and take appropriate action under the specific program requirements.

Subsequent ISIRs

You are generally required to review all subsequent transactions for a student for the entire processing year even if you verified an earlier transaction. First determine if the EFC or the "C" flag has changed or if there are new comments or NSLDS information that impacts eligibility for aid. Also, check any updates or corrections. If the EFC has not changed and there are no changes in the "C" flag or NSLDS information, no action is generally required. If the EFC does change but it either doesn't affect the amount and type of aid received or the data elements that changed were already verified, no action is required. But if the EFC changes and the pertinent data elements were not verified, then you must investigate. Of course, any time the "C" flag changes or NSLDS data have been modified, you must resolve any conflicts.

Discrepant tax data

We have already stated that financial aid administrators do not need to be tax experts, yet there are some issues that even a layperson with basic tax law information can evaluate. Because conflicting data often involve such information, FAAs must have a fundamental understanding of relevant tax issues that can considerably affect the need analysis. You are obligated to know: (1) whether a person was required to file a tax return, (2) what the correct filing status for a person should be, and (3) that an individual cannot be claimed as an exemption by more than one person.

Publication 17 of the IRS, *Your Federal Income Tax*, is a useful resource that you can view on the Web at www.irs.gov. It addresses pertinent tax issues on these pages: the filing requirements—i.e., who is required to file a return—are on pages 5–7; the instructions on which form a person should file are on pages 7–8; and the filing status requirements are on pages 20–25.

Requirement to identify and resolve discrepant information

34 CFR 668.16(f)

Requirement to verify questionable data

34 CFR 668.54(a)(2)

"If an institution has reason to believe that an applicant's FAFSA information is inaccurate, it must verify the accuracy of that information."

Online review of conflicting information policies

<http://ifap.ed.gov/qadocs/FSAVeriModule/activity1verif.doc>

IRS Publication 17

The IRS's Publication 17 is a large document, but so that you won't be daunted by its size, we have included the page numbers you might need to refer to.

OIG referrals

34 CFR 668.16(g)

For example, an FAA who notices that a dependent student’s married parents have each filed as “head of household” (which offers a greater tax deduction than filing as single or married) must question whether that is the correct filing status. Publication 17 explains on pages 23–25 the criteria a person must meet to file as head of household. Resolution of the conflict may be a reasonable explanation of why there appears to be a conflict but is none, or the parents may refile and submit a copy of the amended return.

Resolution of conflicting information

You may not disburse aid until you have resolved conflicting information, which you must do for any student as long as he is at your school. Even if the conflict concerns a previous award year, you must still investigate it. You have resolved the matter when you have determined which data are correct; this might simply be confirming that an earlier determination was the right one. Of course, you must document your findings in the student’s file and explain why, not simply assert that, your decision is justified.

Marital and tax filing status

The ISIR/SAR comments with codes 361–368 indicate a possible error when the filing status and marital status do not match. This is not considered to be conflicting information subject to the resolution requirements of 34 CFR 668.16(f), but we do encourage schools to review the application for mistakes when these comments appear. See the electronic announcement from 5/15/14.

REFERRAL OF FRAUD CASES

If you suspect that a student, employee, or other individual has misreported information or altered documentation to fraudulently obtain federal funds, you should report your suspicions and provide any evidence to the Office of Inspector General. See also *Volume 2*.

OIG Address and Phone Numbers

<i>Regional Offices</i>	<i>Telephone No.</i>	<i>National Hotline</i>
Boston, MA	(617) 289-0174	Inspector General’s Hotline Office of Inspector General U.S. Department of Education 400 Maryland Avenue, SW Washington, DC 20202-1500 1-800-MIS-USED (1-800-647-8733) Hours: M, W 9:00–11:00 a.m. T, Th 1:00–3:00 p.m. To submit a complaint online at any time, go to http://www2.ed.gov/about/offices/list/oig/hotline.html and click on the appropriate link.
New York, NY	(646) 428-3861	
Philadelphia, PA	(215) 656-6900	
Atlanta, GA	(404) 974-9430	
Pembroke Pines, FL	(954) 450-7346	
Chicago, IL	(312) 730-1630	
Dallas, TX	(214) 661-9530	
Denver, CO	(303) 844-0058	
Kansas City, MO	(816) 268-0530	
Long Beach, CA	(562) 980-4141	
Phoenix, AZ	(562) 980-4141	
San Juan, PR	(787) 773-2740	
Washington, DC	(202) 245-6911	

UNACCOMPANIED HOMELESS YOUTH

A financial aid administrator can also determine if a student is an unaccompanied youth who is either homeless or is self-supporting and at risk of being homeless. It is important to examine students' living situations and claims on a case-by-case basis. If a student does not have and cannot get documentation from any of the authorities given on page 26, you must determine if she is an unaccompanied youth who is homeless or is self-supporting and at risk of being homeless.

As defined in the margin note, a student is considered homeless if he lacks fixed, regular, and adequate housing. This is broader than just living “on the street.” It includes temporarily living with other people because he 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; or 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. It also includes living in the school dormitory if the student would otherwise be homeless. 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.

The documentation for an FAA's evaluation of the living arrangements of a student must demonstrate that she meets the definition of this category of independent student. The determination may be based on a documented interview with the student if there is no written documentation available.

When you are making a determination of homelessness:

- Ask for help with determining eligibility from local school district homeless liaisons, state homeless education coordinators, or the National Center for Homeless Education (<http://center.serve.org/nche>).
- 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); see the margin note.

Homeless youth definitions

At risk of being homeless—when a student's housing may cease to be fixed, regular, and adequate, for example, a student who is being evicted and has been unable to find fixed, regular, and adequate housing.

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.

Youth—a student who is 21 years old or younger or still enrolled in high school as of the date he signs the application.

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.

Homeless youth determinations

DCL GEN-15-16

Confirmation not required

You are not required to confirm the answers to the homeless youth questions unless you have conflicting information. A documented phone call with, or a written statement from, one of the relevant authorities is sufficient verification when needed.

It is not conflicting information if you disagree with an authority's determination that a student is homeless. If you believe the authority is incorrect or abusing the process, accept his determination but contact the following oversight party, as relevant, to evaluate the authority's determinations:

- School district homeless liaison: contact the coordinator of education for homeless children and youth programs of the state's educational agency. A list of state coordinators can be found at: http://center.serve.org/nche/states/state_resources.php.
- Director of an emergency shelter or transitional housing program: you should contact the local Continuum of Care (CoC) administering the HUD homeless assistance program. Go to <https://www.hudexchange.info/coc/> and click on "Contact a CoC" on the right side of the page.
- Director of a runaway or homeless youth basic center or transitional living program: contact the National Clearinghouse on Families and Youth by phone at (301) 608-8098 or by e-mail at nfcy@acf.hhs.gov.

- Determine eligibility based on the legal definitions provided.
- A determination of being homeless is not a dependency override or a case of professional judgment. Students should understand that they are able to contest an eligibility determination by a financial aid office by providing supporting information to be reviewed collaboratively by the school's general counsel, the financial aid director, and a recognized McKinney-Vento practitioner (such as a school district homeless liaison, state homeless education coordinator, or the National Center for Homeless Education).
- Unaccompanied homeless youth may use the address of your school as their own on the FAFSA.

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 (#4) in the dependency override field in FAA Access to CPS Online or EDE. On the paper FAFSA, fill in the relevant bubble in the "College Use Only" box (see the graphic on page 124), include your school code, and sign. For students who have already filed their FAFSA, submit a FAFSA correction using the Homeless Youth Determination flag on the "dependency determination" page (Special Circumstances flag item 176 on the 2015–2016 ISIR). To cancel a homeless youth determination, you use the same method as when canceling a dependency override: change the dependency override value to "2—FAA override canceled" in FAA Access or EDE.

As with a dependency override, you may rely on a determination by another school that on or after July 1, 2014, a student was in this category. Also, a new determination must be made each year for an applicant who is homeless or at risk of being homeless.

Students who don't meet the definition of youth because they are older than 21 (and not yet 24) and who are unaccompanied and homeless or self-supporting and at risk of being homeless qualify for a homeless youth determination.