

# Professional Judgment

## Professional Judgement Process

- Students must have a completed FAFSA submitted before an appeal can be considered.
- Requesting a Professional Judgement does not guarantee that the students will be granted one or that they will receive additional funds.
- If the student has a special circumstance or unusual circumstance, please request a Professional Judgment from the Financial Aid Administrator at their respective campus.
- Complete OBC's Professional Judgement form and provide an explanation detailing the qualifying reason (s) the student is requesting an appeal to be considered for review. Provide ***at least three*** pieces of supporting documentation.
- Professional Judgement applications are typically reviewed within 7-10 business days after submission.
- ***If selected for FAFSA verification***, and the student has a special circumstance, verification must be completed before the Professional Judgement can be reviewed.

### Notification Process:

The Financial Aid Administrator will contact you via email regarding the status of the request for a Professional Judgement. Professional Judgment decisions are final. A student cannot appeal to the Campus Director or to the U.S. Department of Education.

Congress delegated the authority to make professional judgment adjustments to the data elements on the Free Application for Federal Student Aid (FAFSA) to the college financial aid office and their assigned staff.

## What is a Professional Judgement?

The *FAFSA Simplification Act* (the Act) distinguishes between different categories of professional judgment by amending section 479A of the HEA.

- **Special Circumstances** refer to the financial situations (loss of a job, etc.) that justify adjusting data elements in the COA or in the SAI calculation.
- **Unusual Circumstances** refer to the conditions that justify making an adjustment to a student's dependency status based on a unique situation (e.g., human trafficking, refugee or asylee status, parental abuse or abandonment, incarceration), more commonly referred to as a dependency override.

A student may have both a special circumstance and an unusual circumstance. Ohio Business College (OBC) Financial Aid Administrator (FAA) may make adjustments that are appropriate to each student's situation with appropriate documentation. See [GEN-22-15](#) for additional guidance and discussion of the changes made by the *FAFSA Simplification Act* and implemented beginning with the 2023-24 Award Year.

FAA's may at their discretion deny a student's request for an adjustment if supporting documentation does not align the with claimed circumstance.

Documentation can include a documented interview between the student and the financial aid administrator and supplementary information, as necessary, about the student's financial status relating to the special circumstances for which the student is requesting an adjustment. FAA's must resolve any inconsistent or conflicting information before making any adjustments. An FAA's decision regarding adjustments is final and cannot be appealed to the Department.

FAA's cannot adjust data elements or the cost of attendance solely because we believe the tables and formula are not adequate or appropriate.

FAA's cannot use PJ to waive general student eligibility requirements or to circumvent the intent of the law or regulations. For instance, FAA's cannot use PJ to change FSEOG selection criteria.

OBC is not permitted to make a professional judgement for a student after that student has ceased to be eligible, including when a student is no longer enrolled.

## Special Circumstances

An FAA may use PJ on a case-by-case basis to adjust the components of a student's cost of attendance or the data used to calculate their SAI.

The law gives some examples of special circumstances that **may** be considered (HEA Sec. 479A):

- Change in employment status, income, or assets;
- Change in housing status (e.g., homelessness);
- Tuition expenses at an elementary or secondary school;
- Additional family members enrolled in college;
- Medical, dental, or nursing home expenses not covered by insurance;
- Child or dependent care expenses;
- Severe disability of the student or other member of the student's household; and
- Other changes or adjustments that impact the student's costs or ability to pay for college.

## Unusual Circumstances

The *FAFSA Simplification Act* provides a clearer directive for FAAs to assist applicants with unusual circumstances to adjust dependency status on the FAFSA form to reflect students' situations more accurately (dependency overrides).

An FAA may conduct dependency overrides on a **case-by-case** basis for students with unusual circumstances. If the FAA determines that an override is appropriate, they must acquire supporting documentation to maintain the determination.

### Dependency overrides

Under HEA Sec. 480(d)(9), the *FAFSA Simplification Act* incorporated additional unusual circumstances to consider when a student is unable to contact a parent or where contact with parents poses a risk to such student.

Unusual circumstances do include (but are not limited to):

- Human trafficking, as described in the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.);
- Legally granted refugee or asylum status;
- Parental abandonment or estrangement; or
- Student or parental incarceration.

In such cases an override might be warranted based upon the student's individual circumstances. These conditions would also not disqualify a student from being a homeless unaccompanied youth or self-supporting and at risk of homelessness.

*However, none of the conditions listed below, singly or in combination, qualify as unusual circumstances meriting a dependency override.*

*Unusual circumstances do not include:*

- Parents refuse to contribute to the student's education.
- Parents will not provide information for the FAFSA or verification.
- Parents do not claim the student as a dependent for income tax purposes.
- Student demonstrates total self-sufficiency.

An aid administrator may override only from dependent to independent.

## Documentation

Documentation is critical – OBC must ensure that any supporting documentation that is collected is adequate to substantiate the student's circumstances. Documentation may include (but is not limited to) the following:

- a documented interview between the student and the FAA;
- submission of a court order or official federal or state documentation that the student or student's parents or legal guardians are incarcerated;
- a documented phone call or written statement, which confirms the unusual circumstances with:
  - a state, county or tribal welfare agency;
  - an independent living case worker who supports current and former foster youth with the transition to adulthood; or
  - a public or private agency, facility, or program servicing the victims of abuse, neglect, assault, or violence.
- a documented phone call or written statement from an attorney, guardian ad litem, a court-appointed special advocate (or similar), or a representative of a TRIO or GEAR UP program which confirms the circumstances and the person's relationship to the student;
- a documented determination of independence made by an FAA at another institution in the same or a prior award year; or
- utility bills, health insurance, or other documents that demonstrate a separation from parents or legal guardians

## Documentation for Special Circumstances

Acceptable Documentation	
<u>Special Circumstances</u>	<u>Documentation</u>
Loss of reduction of income	Letter from Employer
	Proof of unemployment
	Prior year Federal 1040 tax return and W-2s
	Dates of unemployment for this year
	Last pay stub of all jobs worked
Catastrophic medical or dental expenses	Federal 1040 Schedule A
	Copies of all medical expenses for that year
Non-recurring payments during the FAFSA year that will not be repeated	Proof that expense has been paid in full and no further payments needed.
Non-recurring income received such as inheritance, severance, IRA/pension distribution, or lottery winnings.	Statement confirming the income is nonrecurring
	Federal Income Tax Return
	IRS Schedule D Capital Gains and Losses
	Schedule 1 - Additional Income & Adjustments
Loss of benefits such as unemployment, disability, or child support	Termination order and year-end statement

## Documentation for Unusual Circumstances

Acceptable Documentation
<u>Unusual Circumstances</u>
Signed letter from the student explaining the adverse conditions between student and both parents
Signed letters from knowledgeable third-parties familiar with the situation such as clergy, school official, law enforcement or medical expert.
Signed letter from a family member or friend familiar with the situation
Living arrangement documentation such as lease/rent receipts, utility bills, health insurance policy, etc.,
Court documents that justify claims of estrangement from parents.

FAAs may use a dependency override made in a prior award year at the same institution. OBC may ask students if their unusual circumstances or homeless situation has changed each year, however we will not maintain a practice that delays or hinders financial aid for the student, unless there is conflicting information that the institution needs to resolve.

## Unable to Provide Parent Data

Students can indicate on the FAFSA form that they believe they have unusual circumstances that prevent them from providing parental data. Those who indicate this are thoroughly informed about what warrants a dependency override and what the results will be for their application. If they complete the screening steps and do not include parental data, they will receive a provisional status as an independent student and a provisional SAI calculation. The record will be rejected, pending further action from the student's FAA. OBC will review the student's situation and determine if the student:

- Is unaccompanied and homeless;
- Merits a dependency override;

- Must instead provide parental data; or
- Should be permitted to borrow only unsubsidized loans because they can document that their parents have refused to support them or to provide parental information on the student's FAFSA.

## Dependent Students without Parent Support

Dependent students whose parents refuse to support them *are not eligible for a dependency override*, but they may be able to receive a dependent level Direct Unsubsidized Loan only. For a student to be eligible for this provision OBC must document the following:

- The student's parents refuse to complete the FAFSA; or
- The student's parents do not and will not provide any financial support to the student (include the date support ended).

If the parents refuse to sign and date a statement to this effect, FAA's must get documentation from a third party (the student is not sufficient), such as a teacher, counselor, cleric, or court.

*This situation does not on its own justify a dependency override.* However, resolving the situation is at OBC's discretion. If the FAA decides that a student falls into this category, OBC must document the decision and ensure that the student submits a FAFSA form and passes all the eligibility matches. The result will be a rejected application with no SAI. OBC can then award the student a Direct Unsubsidized Loan up to the maximum the student would normally be eligible for depending on his or her grade level (but not the amount a student can get when his or her parent is unable to get a Direct PLUS Loan).

## Unaccompanied Homeless Youth

If a student does not have and cannot get documentation from any of the authorities listed under the documentation of this policy the FAA must document and determine if they are an unaccompanied youth who is homeless or is self-supporting and at risk of being homeless. Any student who is not yet 24 may qualify for a homeless youth determination. It is important to make homeless youth determinations on a case-by-case basis.

### Homeless Youth Determinations

A student is considered homeless if they lack fixed, regular, and adequate housing. This is broader than just living "on the street." It includes but is not limited to:

- youth sharing housing with other people temporarily because they had nowhere else to go;
- youth living in emergency or transitional shelters, for example, trailers provided by the Federal Emergency Management Agency after disasters;

- youth living in motels, campgrounds, cars, parks, abandoned buildings, bus or train stations, substandard housing, or any public or private place not designed for humans to live in;
- youth living in the school dormitory if they would otherwise be homeless; and
- youth who are migrants and who qualify as experiencing homeless because they are living in circumstances described above.

The documentation for an FAA's evaluation of the living arrangements of a student must demonstrate that they meet the definition of this category of independent student. The determination may be based upon:

- a written statement from, or a documented interview with, the student that confirms that they are an unaccompanied homeless youth, or unaccompanied, at risk of homelessness, and self-supporting.

Such determinations are made without regard to the reasons that the student is unaccompanied and/or homeless.

When FAA's are making a homeless youth determination:

- 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/higher-education/>), or the National Association for the Education of Homeless Children and Youth (<https://naehcy.org/higher-education/>). Search for "Making Student Status Determinations for Unaccompanied Homeless Youth" to find worksheets and tools to help make the determination.
- 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.*
- Determine eligibility based on the legal definitions provided
- Recall that unaccompanied homeless youth may use the address of OBC as their own on the FAFSA form.

Finally, FAA's should also presume that a student for whom OBC has decided of homelessness continues to be independent in each subsequent year at OBC unless the student tells the Financial Aid office their circumstances have changed or there is conflicting information. OBC will also consider documentation from an FAA at another institution that made a documented determination that a student was an unaccompanied homeless youth in the same or prior award year to be adequate documentation to make such a determination at OBC.



## 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 or her 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 Status Definitions

- **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.

## Timing of Determinations of Independence

OBC will act on a request for a determination of independence within 60 days of the student making such a request with all supporting documentation provided. OBC may deny such requests if a student does not provide requested documentation within the 60-day timeframe.

FAA’s will notify the students via official letter of their dependency status outcome within the 60-day timeframe.

## Professional Judgment During a Disaster, Emergency, or Economic Downturn

The *FAFSA Simplification Act*, enacted into law as part of the *Consolidated Appropriations Act, 2021*, and amended by the *Consolidated Appropriations Act, 2022*, codifies previous guidance from the Department (as issued in earlier Dear Colleague Letters) to use statutory authority to exercise professional judgment during a disaster, emergency, or economic downturn.

Financial aid administrators may, during a qualifying emergency:

- determine that the income earned from work for an applicant is zero, if the applicant can provide paper or electronic documentation of receipt of unemployment benefits or confirmation that an application for unemployment benefits was submitted; and

- make additional appropriate adjustments to the income earned from work for a student, parent, or spouse, as applicable, based on the totality of the family's situation, including consideration of unemployment benefits.

Acceptable documentation of unemployment should be submitted no more than 90 days from the date it was issued. OBC may use discretion to accept documentation older than 90 days under general professional judgment authority if we do not have reason to believe there is conflicting information.

## Refusing or Reducing a Loan

FAAs may also use their discretion to refuse or reduce Direct Loan funds if they document the reason, make the determination on a case-by-case basis, notify the student in writing, and ensure the decision is not due to discrimination based on race, national origin, religion, sex, income, age, or disability.

### Refusing or reducing a loan

#### Requirement to identify and resolve discrepant information

OBC has conflicting information concerning a student's eligibility or we have any reason to believe his or her application information is incorrect, OBC must resolve the discrepancies before disbursing *Title IV* funds and, as with verification, before making any PJ adjustment. If OBC discovers discrepancies after disbursing *Title IV* funds, OBC must still reconcile the conflicting information and take appropriate action under the specific program requirements (depending on the outcome, funds may have to be returned).

#### Requirement to verify questionable data

##### Subsequent ISIRs

OBC is generally required to review all subsequent transactions for a student for the entire processing year even if verified an earlier transaction. *An exception to this requirement is if a later transaction comes in after the student is no longer enrolled at OBC.* If the SAI has not changed and there are no changes in the C flag, verification tracking group, or NSLDS information, no action is generally required. If the SAI 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 SAI changes and the pertinent data elements were not verified, then OBC must investigate. Of course, any time the C flag changes or NSLDS data have been modified, OBC must resolve any conflicts.

##### Discrepant Tax Data

Financial aid administrators are not 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 impact the need analysis. FAA's are obligated to know:

- whether a person was required to file a tax return and
- what the correct filing status for a person should be.

The IRS's online [Interactive Tax Assistant](#) can help with these and other issues by walking the user through a series of questions. [IRS Publication 17](#) is also a useful resource.

### **Resolution of Conflicting Information**

OBC must resolve conflicting information prior to disbursing aid to a student enrolled at OBC. **Even if the conflict concerns a previous award year, OBC must still investigate it.** OBC will have resolved the matter when it has been determined which data are correct; this might simply be confirming that an earlier determination was the right one. OBC must document the findings and include an explanation that justifies the decision.