

Department of Education Dear Colleague Letter

GEN-09-04: Use of “Professional Judgment” by Financial Aid Administrators

Publication Date: April 2, 2009

Subject: Use of “Professional Judgment” by Financial Aid Administrators

Summary: This letter reminds financial aid administrators of their ability to exercise adequately documented professional judgment when determining the eligibility of students for federal student aid. It encourages aid administrators to consider special circumstances of students and families during these challenging economic times.

Dear Colleague:

I am writing to remind you of the authority you, as a financial aid administrator, have under the law (section 479A of the Higher Education Act) to make adjustments, on the basis of adequate documentation, and on a case-by-case basis, to address circumstances not reflected in a student’s original Free Application for Federal Student Aid (FAFSA). This authority is particularly important for families who may be struggling during these difficult economic times. When families experience a layoff, face a costly medical situation, or lose a house to foreclosure, they are likely to feel vulnerable and unsupported. Simply stated, most do not know about their right to request that you adjust one or more of the components that determine their eligibility for financial aid. It is for this reason that I encourage you to do more than provide good service to the students who request that you make an adjustment. I would ask you to reach out to your students (and prospective students), particularly those who seem to have hit a rough patch, to make sure that they know there may be ways that you can help.

Your thoughtful use of professional judgment, especially 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 in postsecondary education. A changed circumstance certainly includes the loss of a job or a reduction in work hours or wages, but it also includes, for example, the income loss associated with a prospective student’s decision to leave the workforce or to reduce work hours in order to return to school.

When you make adjustments 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 2008, you may choose to project income for the next 12-month period (December 2008 through November 2009) and use that figure instead of the base year income (calendar 2008) that was initially used in the calculation of the student’s expected family contribution (EFC). Of course, you should seek to obtain, and maintain verifiable third-party documentation of the changed circumstances in order to support your decision to use professional judgment. By way of example, if an individual has lost a job, and you choose to project income for the next 12-month period, you should seek to obtain adequate documentation of the individual’s loss of employment.

While we encourage you to exercise professional judgment where appropriate, you should be mindful of the statutory limitations. Professional judgment must only be used to address special circumstances, which are conditions that differentiate an individual student from a class of students. While students may face common or similar issues in these economic times, you may not establish automatic categories of special circumstances and provide identical treatment to all students in that circumstance. You could, however, identify a category to reach out to (for example, all students that had a parent that

had recently lost a job) but then would need to assess and document how each individual student's situation was affected. (It would not be permissible to assume that every student in that category was affected in the same way.) You should refer to the complete information on pages 99-100 of the Application and Verification Guide of the Department's 2008-09 Federal Student Aid Handbook for further guidance on the use of professional judgment.

While not every student will become eligible for a Federal Pell Grant as a result of an adjustment based on your exercising professional judgment, many may become eligible for a subsidized Federal Stafford Loan or for assistance from one of the three campus-based programs. And, of course, most students are eligible for Federal Unsubsidized Stafford Loans from either the Federal Direct Loan Program or from the Federal Family Education Loan Program. These federal student loans have much better interest rates, repayment options, and other terms than those that are available with private educational loans, credit cards, or most any other method of credit-based financing.

Most non-federal loans have high, variable interest rates, loan fees well above those for the federal student loan programs, limited repayment options, and almost none of the features and protections provided in the federal programs, including payment deferment, forbearance, and cancellation. For more information about the advantages of federal student loans over private, non-federal loans, I encourage you to share with your students the information found at:
<http://www.federalstudentaid.ed.gov/federalaidfirst/index.html>.

If you have questions regarding the information provided in this letter, please contact Carney McCullough by phone to (202) 502-7639 or by mail to carney.mccullough@ed.gov.

Within the next few weeks we will establish a "Frequently Asked Questions" page on our Information for Financial Aid Professionals (IFAP) website at www.ifap.ed.gov. An announcement of this new page will be posted to IFAP as soon as the page becomes live.

On behalf of Secretary of Education Arne Duncan, I thank you in advance for your cooperation as together we provide opportunities to ensure that all Americans have the opportunity to participate in our country's outstanding postsecondary education system.

Sincerely,

Daniel T. Madzellan
Delegated the Authority to Perform
the Functions and Duties of the
Assistant Secretary for
Postsecondary Education