UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

February 11, 2016

GEN-16-03

Subject: Use of Professional Judgment When Prior-Prior Year Income is Used to Complete the Free Application for Federal Student Aid (FAFSA)

Summary: This letter reminds financial aid administrators of their authority under section 479A of the Higher Education Act of 1965, as amended, (HEA) to exercise what is known as "professional judgment" to address the special circumstances that may arise for families who, beginning with the 2017–2018 FAFSA, apply for federal student financial aid using prior-prior year income.

Dear Colleague:

On September 14, 2015, President Obama announced two major changes to the FAFSA process that together are designed to make it easier to apply for financial aid and to know what aid is available. First, the President announced a change to the date when students and families can begin submitting FAFSAs. Beginning with the 2017–2018 financial aid application cycle, the FAFSA will be available on October 1 of the year prior to the upcoming award year. Therefore, students will be able to file a 2017–2018 FAFSA beginning on October 1, 2016.

Second, the President announced a change to which tax year's information will be collected on the FAFSA. Currently when completing a FAFSA, students provide income information from the most recently completed tax year prior to the beginning of the financial aid application cycle (e.g., 2014 income information for the 2015–2016 FAFSA). Beginning with the 2017–2018 FAFSA, to simplify the process for determining financial aid eligibility, income information will be collected from one tax year earlier – referred to as the "prior-prior year." This change is made under the authority of section 480(a)(1)(B) of the HEA. This means that, on the 2017–2018 FAFSA, the Department will collect tax year 2015 income information and not 2016 income information. As a result of this change, most students will be able to complete their FAFSAs using information from an already completed tax return and will be able to electronically transfer their income tax return information from the Internal Revenue Service (IRS) into the FAFSA using the IRS Data Retrieval Tool (IRS DRT).

The Department uses information collected on the FAFSA to calculate the student's expected family contribution (EFC) according to a formula specified in the HEA. The formula uses income from a previous year as a predictor of the family's income for the upcoming award year. Because the income from a previous year is used, the formula does not take into account recent changes in a family's financial circumstances.

With the transition from prior year income to prior-prior year income, financial aid administrators (FAAs) may see an increase in requests from students to consider making adjustments to their income to more accurately reflect the students' and families' current financial circumstances. Any action taken by FAAs in this regard is commonly known as the use of professional judgment.

Section 479A of the HEA gives FAAs the authority to make case-by-case adjustments of the data items used to calculate a student's EFC, based on adequate documentation to address current circumstances not reflected on a student's FAFSA. The thoughtful use of professional judgment may be critical to a student's ability to begin or continue with postsecondary education. When making a professional judgment adjustment to student or family income, it is appropriate for the FAA to consider if the use of prior-prior year income is the best predictor of income for the upcoming award year. A professional judgment adjustment may be warranted if a family member experienced a significant change of income, either upward or downward. For example, for an individual who has lost a job or has taken a significant salary cut beginning in August of 2015, the FAA may use the income for the 12-month period following the reduction in income (September 2015 through August 2016) instead of the prior-prior year income (calendar 2015) that was initially used in the EFC calculation. Alternatively, the FAA may choose to use more recent income that the FAA believes more accurately reflects the family's current financial circumstances, i.e., the student or parent moved from part-time employment to full-time employment.

The Department encourages FAAs to use their professional judgment when appropriate to adjust income and other financial information used to determine the EFC. The Department expects that there will be some increased uses of professional judgment. For the 2017–2018 and future award years, the Department will make appropriate adjustments to its risk-based model as it reviews and analyzes the use of professional judgment and will continue to monitor and enforce requirements for appropriate use of professional judgment. As long as the institution retains evidence of the changed financial circumstances supporting the professional judgment decision, as described below, the Department will consider that to be adequate documentation for the adjustment to the student or family income.

In exercising professional judgment, FAAs must obtain and maintain documentation of the changed circumstances supporting the professional judgment decision. For example, if an individual has lost a job and the FAA chooses to project income for the next 12-month period, the FAA must obtain and maintain adequate documentation of the individual's loss of employment, as well as documentation of projected income. An example of adequate documentation of a job loss could include a letter from the former employer, or a letter from the State unemployment office that makes reference to the job loss.

While the Department encourages the exercise of professional judgment where appropriate, section 479A of the HEA limits its use. Professional judgment must only be used to address special circumstances, which are conditions that apply to an individual student, rather than to a class of students. FAAs may identify a category of students with similar circumstances to consider for a possible professional judgment adjustment (for example, all students whose income or whose family's income was affected by a recent military deployment). The institution would then need to assess and document how each individual student's situation was affected, making sure not to assume that every student in that category was affected in the same way. FAAs may not, however, automatically provide identical treatment to all students in that category.

The Department reminds FAAs that, when they submit professional judgment changes to a student's information to the Department's Central Processing System (CPS), they must set the Professional Judgment Flag to 1 (EFC Adjustment Processed) to indicate that the submission was the result of a professional judgment determination.

Further guidance on the use of professional judgment can be found on pages 121–123 of the Application and Verification Guide of the Department's *2015–2016 Federal Student Aid Handbook*. The Department also previously posted Dear Colleague Letters (DCLs) in April 2009 (GEN-09-04) and in May 2009 (GEN-09-05) that provided information to FAAs regarding their ability to exercise professional judgment for families that are receiving unemployment benefits. The Electronic Announcement published on May 21, 2010, extended the guidance provided in the two DCLs for 2010–2011, and subsequent award years, until further notice.

The Department appreciates institutions' cooperation and support as together we ensure that all Americans have the opportunity to participate in our country's postsecondary education system.

Sincerely,

Lynn B. Mahaffie
Deputy Assistant Secretary
for Policy, Planning, and Innovation