

**Professional Judgment:
Did you know?**

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U.S. Department of Education
WASFAA Conference

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

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Agenda

- Professional Judgment (PJ) Overview
- Adjusting Cost of Attendance (COA)
- Adjusting Expected Family Contribution (EFC) Data Elements
- Adjusting COA vs. EFC Elements
- Performing a Dependency Override
- Parent Refusal to Complete FAFSA and Provide Support
- Denying or Reducing Direct Loans

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Professional Judgment (PJ) Overview



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What is Professional Judgment?

- The term *professional judgment* is found in the Code of Federal Regulations, but there are no regulations for the practice
- The law does not use the term *professional judgment*
 - The *Higher Education Act of 1965 (HEA)* refers to the financial aid administrator's authority to make adjustments, on the basis of documentation, to allow for treatment of an individual with **special circumstances**



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What is 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



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What Professional Judgment is Not

- What a PJ **cannot** be used for:
 - to carry forward a decision from year to year (unless subsequent requests are made and subsequent documentation obtained where needed)
 - to directly change an EFC
 - to make changes to the EFC formula
 - to establish automatic categories of special circumstances and provide identical outcomes to all students in that circumstance
 - to make decisions that are based on anything other than a case-by-case basis

What Professional Judgment is Not

- What a PJ **cannot** be used for (cont.):
 - to circumvent the regulations or the law
 - to waive student eligibility requirements
 - to make a dependent student independent based solely on the student's demonstrated self-sufficiency
 - to change an applicant's dependency status from independent to dependent (more on this later)

Professional Judgment Documentation

- The HEA uses the phrase, *on the basis of adequate documentation*
- ED does not define adequate documentation
- An auditor or program reviewer must be able to understand the decision from the documentation
- Documentation should show that the institution has taken proper action

Professional Judgment Documentation

- Documentation considerations:
- Should be "adequate and reasonable"
 - Use third-party documentation when possible
 - Can never have too much documentation
 - Remain flexible on documentation types

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Professional Judgment is a Choice

- Exercising PJ is at the discretion of the school and is a matter of policy
- A school may refuse PJ as a matter of policy
- If a school conducts a PJ, it must have a policy
- A school is not obligated to exercise a PJ for a student if conducted at another school

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Professional Judgment & Verification

- If a student is selected for verification, the verification process must be complete before exercising a PJ
- The results of the verification and PJ cannot be submitted on the same day
 - After the school receives the verified Institutional Student Information Record (ISIR), the school would use the resulting ISIR transaction to make adjustments for the PJ

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Cost of Attendance Adjustments

HEA Sec. 479A(a)
"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. . . to allow for treatment of an individual eligible applicant with special circumstances."



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Cost of Attendance (COA) Adjustments

- Each COA component is an estimate of the student's educational expenses
- Most schools use *average* costs rather than *actual* expenses
- Financial aid administrators are given the latitude to adjust any of these components on a case-by-case basis to allow for special circumstances



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Cost of Attendance Elements

- Tuition
- Fees
- Books
- Supplies
- Transportation
- Miscellaneous Personal Expenses
- Room and Board
- Dependent Care
- Licensure Costs
- Costs associated with Study Abroad
- Disability related expenses



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EFC Data Element Adjustments

HEA Sec. 479A(a)
"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 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."



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Adjust EFC Data Elements

- This type of professional judgment gives the FAA the latitude to modify one, or more, of the data elements listed on the FAFSA® which are used in the EFC formula
- It is important that the school choose an element and value that is appropriate to the student's special circumstances
 - Understanding the EFC formula, as described in the AVG Chapter 3, can help the FAA make a more appropriate decision



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Specific Data Element Adjustment Guidance



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IRA Roth Conversions

- When converting a regular Individual Retirement Account (IRA) into a Roth IRA by transferring funds, the amount converted has to be reported as taxable income
- This results in a higher income reported on the FAFSA, even though the family doesn't have additional income or assets available
- Schools can use PJ to adjust the income and taxes as though there was no Roth conversion
- Schools are not required to perform this type of PJ

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Unemployment Benefits

- DCLs GEN 09-04 & GEN 09-05: Use of Professional Judgment by Financial Aid Administrations
 - Unemployment benefits can be reduced to zero
 - If other family members are receiving unemployment benefits, schools are encouraged to examine the family's economic situation and make appropriate adjustments

GEN 11-04 clarifies that these DCLs are still in effect

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Unemployment Benefits (cont.)

- Documentation: Letters for unemployment insurance issuance from state unemployment agencies can be used for up to 90 days from date of issue
- Documentation: Other verification of current receipt of unemployment benefits is an acceptable substitute for the state unemployment agency letter
- Schools should make an effort to determine if the student or family member is still unemployed before applying this provision

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Prior-Prior Year Data

- Since prior-prior year data may be significantly different than prior year data, schools may see more cases to justify the use of PJ to adjust income data elements upward or downward
- While schools may identify a category of students who have similar circumstances, they may not automatically provide identical treatment to students in that category
 - Each PJ case must be determined and documented on a case-by-case basis

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Prior-Prior Year Data

- When making an adjustment to income data elements, a school can use any 12 month period that it determines best demonstrates the family's financial strength
- If satisfactory documentation is obtained, 12 month periods may include, but are not limited to:
 - Prior year income data
 - Past 12 months income data from time of request
 - Anticipated income data for the financial aid award year
 - Anticipated income data for the current calendar year

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Income Protection Allowance (IPA)

Income Protection Allowance (IPA)

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Income Protection Allowance (IPA)

- Understanding the Income Protect Allowance (IPA) in the EFC formula can be helpful in adjusting an EFC data element
- The IPA is an allowance value in the EFC formula that directly reduces the AGI
- A school can determine the IPA by reviewing page three of the student's ISIR under Intermediate Values
 - It is the value labeled IPA

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Income Protection Allowance (IPA)

- IPA element breakdown is as follows:
 - 30% for food
 - 22% for housing
 - 9% for transportation
 - 16% for clothing and personal care
 - 11% for medical expenses
 - 12% for other family consumption

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Income Protection Allowance (IPA)

Example:
 Knowing that a student has an IPA of \$7,780, you can determine that the formula took into account \$856 for medical expenses (11% of \$7,780). If a student provides documentation that \$2,856 will be spent on out of pocket medical expenses, you have the ability to adjust either the AGI or taxes paid for the difference of \$2,000.

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Adjusting COA versus EFC Data Elements

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Adjusting COA vs. EFC Data Elements

Adjusting COA: Generally, when making an upward adjustment of a COA element, the intent is to **potentially** increase the student's need based and/or non-need based aid eligibility

- Since COA does not often alter the amount of Federal Pell Grants, there is typically no change in the amount of Pell a student will receive under a COA adjustment

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Adjusting COA to Affect Eligibility

<u>COA Prior to PJ</u>		<u>Award</u>	
		COA	\$16,300
		EFC	\$7,200
		Need =	\$9,100
Tuition/Fees:	\$7,200		
Books/Supplies:	\$1,300		
Transportation:	\$1,080		
Misc. Expenses:	\$ 900		
Room/Board:	\$5,820		
		<u>Need Based</u>	<u>Non-Need Based</u>
		Scholarship	\$7,500 DL Unsub \$3,900
		DL Sub	\$1,600 PLUS \$3,300
			\$9,100 \$7,200
Total:	\$16,300	Total Aid:	\$16,300

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Adjusting COA to Affect Eligibility

\$1,700 Adjustment to COA

COA After PJ		Award	
Tuition/Fees:	\$7,200	COA	\$18,000↑ Need = \$10,800↑
Books/Supplies:	\$1,300	EFC	\$7,200
Transportation:	\$1,080		
Misc. Expenses:	\$2,600↑	<u>Need Based</u>	<u>Non-Need Based</u>
Room/Board:	\$5,820	Scholarship \$7,500	DL Unsub \$2,200↓
		DL Sub \$3,300↑	PLUS \$5,000↑
Total:	\$18,000↑	\$10,800	\$7,200
		Total Aid: \$18,000	

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Adjusting COA vs. EFC Data Elements

Adjusting EFC Data Elements: Generally, when adjusting EFC Data elements, the intent is to lower the EFC to potentially increase Pell eligibility and/or other need-based aid.

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Adjusting EFC to Affect Eligibility

Award Prior to EFC Adjustment

COA	\$16,300	Need = \$10,300
EFC	\$6,000	

<u>Need Based</u>	<u>Non-Need Based</u>
Scholarship \$7,500	DL Unsub \$2,700
DL Sub \$2,800	PLUS \$3,300
\$10,300	\$6,000

Total Aid: \$16,300

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Adjusting EFC to Affect Eligibility

EFC Adjustment to Account for Out of Pocket Medical Expenses

Award After EFC Adjustment

COA \$16,300 Need = \$12,100↑
EFC \$4,200↓

Total Aid Eligibility = \$16,300

Need Based	Non-Need Based
Pell \$1,770*	
Scholarship \$7,500	DL Unsub \$2,670↓
DL Sub \$2,830↑	PLUS \$1,530↓
\$12,100↑	\$4,200↓

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Dependency Override

Dependency Override

HEA Sec. 480(d)(7)

States that a student who does not qualify as an "independent student" in one or more of the 13 categories, as defined in Step 3 of the FAFSA, may be considered an independent student if he or she; . . . is a student for whom a financial aid administrator makes a determination of independence by reason of other unusual circumstances.

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Dependency Override

Dependency Override

Section 480(d)(7) provides the financial aid administrator with great latitude in determining what constitutes unusual circumstances.

However, in accordance with DCL GEN 03-07, there are four identified conditions that individually, or in combination, **do not merit unusual circumstance**.

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Dependency Override (GEN 03-07)

For purposes of dependency override, the following conditions do not merit unusual circumstance:

- Parents refusing to contribute to the student’s education;
- Parents unwilling to provide information on the application or for verification;
- Parents not claiming the student as a dependent for income tax purposes;
- Parents live separately from student or in a foreign country (GEN 11-15)
- Students demonstrating total self-sufficiency

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Dependency Override

- GEN 03-07 further recognizes that unusual circumstances could include an abusive family environment or abandonment by parents
- GEN 11-15 provides examples as it relates to a family crisis or unlawful act wherein a dependency override might be considered

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Parent Refusal to Complete FAFSA & Provide Support

HEA Sec. 479A(a)
"... In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator . . . 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 sections 482 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."

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Parental Refusal

Prior to introducing this new category of PJ, a student whose parents refused to complete the FAFSA and refused to provide financial support would be ineligible for any Title IV student aid. With this provision in place, the school can now exercise professional judgment and make the student, in this situation, eligible for a Dependent Level Unsubsidized Direct Loan ONLY.

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Parental Refusal to Complete FAFSA/Support

- Provision does not act as a dependency override. The student under this provision is still a dependent student
- A non-custodial parent may still borrow a PLUS loan and the student would still be eligible for this provision
- If parents are unwilling to sign a statement the school must obtain confirmation/information from a third-party

For documentation purposes, the custodial parent (if not married) or both parents (if married) must sign a statement indicating a refusal to provide both support and the FAFSA data

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Denying or Reducing Direct Loans

34 CFR 685.301(a)(8)
A school may refuse to originate a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan or may reduce the borrower's determination of need for the loan if the reason for that action is documented and provided to the borrower in writing, and if -

- (i) The determination is made on a case-by-case basis;*
- (ii) The documentation supporting the determination is retained in the student's file; and*
- (iii) The school does not engage in any pattern or practice that results in a denial of a borrower's access to Direct Loans because of the borrower's race, gender, color, religion, national origin, age, disability status, or income.*

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Denying or Reducing Direct Loans

If the reason is documented and provided to the borrower in writing:

- A school has the option to refuse to originate
 - Direct Subsidized Loan
 - Direct Unsubsidized Loan
 - PLUS Loan
- May reduce the borrower’s determination of need for the loan
 - Originate a loan for less than what the borrower would otherwise be eligible to receive

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Denying or Reducing Direct Loans

- The denial or reduction of the loan can be done if:
 - The determination is made on a case-by-case basis
 - The school provides the reason to the student in writing
 - The documentation supporting the determination is retained in the student’s file and
 - The school does not engage in any pattern or practice that results in a denial of a borrower’s access to Direct Loans because of the borrower’s race, gender, color, religion, national origin, age, disability status, or income

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Resources

Resources

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Resources

Federal Student Aid Handbook
Application and Verification Guide CH. 5

Federal Regulations – 34 CFR
685.301(a)(8) Denying or Reducing Direct Loans

Higher Education Act (HEA)
HEA Sec. 479A General
HEA Sec. 480(d)(7) Dependency Override

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Resources (Continued)

Dear Colleague Letters

GEN 03-07 Dependency Overrides
GEN 11-15 Dependency Overrides
GEN 08-12 Parent Refusal to Provide FAFSA Data & Support
GEN 09-04 PJ & Family Financial Circumstances
GEN 09-05 PJ for Unemployment Benefits
GEN 11-04 PJ & Combat Pay Reminder; Extends 09-04 & 09-05
GEN 11-07 Denying or Reducing a Direct Loan
GEN 16-03 Prior-Prior Year and PJ

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Contact Information

Contact us with follow-up questions about this session:

FAA policy questions: AskAFed@ed.gov

FAA operational questions: CODSupport@ed.gov

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Questions and Answers



AskaFed@ed.gov

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Conflicting Information

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WASFAA Conference
October 2019

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Agenda

- What is conflicting information?
- Why and how does it arise?
- How do schools handle conflicting information?
- What resources are available?

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What is conflicting information?





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Definition – 34 C.F.R. § 668.16(f)

(f) Develops and applies an adequate system to identify and resolve discrepancies in the information that the institution receives from different sources with respect to a student's application for financial aid under Title IV, HEA programs...

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



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How does conflicting information arise?





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Common Sources

- FAFSA data
- ISIR comments and rejects
- Documents for verification or C-flag resolution
- Tax returns or tax return transcripts
- Information from school offices
- Correspondence from students and parents
- Verbal statements

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Common Sources

- Other financial aid applications: institutional, CSS Profile, NeedAccess
- State and federal agencies
- Outside scholarship organizations and donors
- Information from other schools
- Tips from outside sources

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Common Discrepancies

- Household data
- Social Security Administration information
- Citizenship information
- Drug conviction information
- High school completion
- Tax filing requirements (see IRS Publication 17)
- Financial data
- NSLDS history

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Common Discrepancies

- Cost of Attendance elements
- Satisfactory Academic Progress and enrollment status
- Grade level status
- Date of withdrawal or last date of academic activity
- Outside resources

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What is NOT Conflicting Information?

- Differences between household size and exemptions on the tax return
- Dependency status differences between the Education Department and Internal Revenue Service
- Privacy-protected information
 - Mental health professionals, chaplains, physicians, attorneys

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What is NOT Conflicting Information?

- Expired immigration documents with successful Secondary Confirmation match
- ISIR comment codes 361-368
 - Identify possible conflicts between tax filing and marital statuses
 - Schools are encouraged to review ISIR for errors

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How do I resolve
conflicting information?



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School Responsibilities

- Internal system to identify conflicting information
 - Regardless of school office or department
 - Regardless of verification selection or completion
 - Must monitor all subsequent ISIR transactions
 - Basic tax law information and EFC methodology
- Procedures for collecting documents for resolution
- Resolution must occur prior to exercising Professional Judgment
- Resolving errors or inconsistencies, not fraud

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Referral of Fraud Cases

OIG Address and Phone Numbers		
Regional Offices	Telephone No.	National Hotline
Boston, MA	(617) 289-0174	Inspector General's Hotline
New York, NY	(646) 428-3861	Office of Inspector General
Philadelphia, PA	(215) 656-6900	U.S. Department of Education
Pittsburgh, PA	(215) 656-6900	400 Maryland Avenue, SW
Atlanta, GA	(404) 974-9430	Washington, DC 20202-1500
Pembroke Pines, FL	(404) 974-9430	1-800-MIS-USED
Chicago, IL	(312) 730-1630	(1-800-647-6733)
Ann Arbor, MI	(312) 730-1630	Hours: M, W 9-11am
Dallas, TX	(214) 661-9538	T, Th 1-3pm
Denver, CO	(303) 844-0058	To submit a complaint online
Kansas City, MO	(816) 268-0530	at any time, go to http://www.ed.gov/about/offices/list/oig/
Long Beach, CA	(562) 980-4141	hotline.html and click on the
Phoenix, AZ	(562) 980-4141	appropriate link.
San Juan, PR	(787) 766-6278	
Washington, DC	(202) 245-6911	

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Documentation

- Information collected to resolve conflict is considered student eligibility documentation
- For grant and Campus Based Programs:
 retain at least 3 years from year awarded
- For Direct Loans:
 retain at least 3 years from year of most recent attendance

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Basic Tax Knowledge

Financial aid administrators are not expected to be tax experts, but are expected at a minimum to know...

- Whether an individual was required to file taxes
- What an individual's correct filing status should be
- That an individual cannot be claimed as an exemption on more than one tax return

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Disbursement

- No disbursement until conflict resolved
- If already disbursed, aid must generally be repaid if the student was later determined to be ineligible
 - **Except** when the student is no longer in attendance, all disbursements were already made, and student is not expected to return
 - Includes deceased students

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Where can I get more information?



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Resources – IFAP.ed.gov

- FSA Handbook
 - Application and Verification Guide
 - Volume 1: Student Eligibility
 - Volume 2, Chapter 3: School Eligibility and Operations
- FSA Assessments
 - Verification, Activity 1: Resolving Conflicting Data
- Early FAFSA Webpage
 - <http://ifap.ed.gov/EarlyFAFSA/indexV1.html>
- ISIR Guide and SAR Comment Code and Text Guide
- Dear Colleague Letter GEN-16-14

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Questions about this session?



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