

NASFAA's "Off the Cuff" Podcast – Episode 307 Transcript

OTC AskRegs Experts: What Makes Professional Judgment So Special?

Hugh Ferguson:

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Hey, everyone. Welcome to another episode of Off the Cuff. I'm Hugh Ferguson with our communications team.

David Tolman:

I'm David Tolman with training and regulatory assistance.

Sarah Austin:

I'm Sarah Austin with NASFAA's policy team.

Hugh Ferguson:

Welcome back, everyone, for another episode of AskRegs. We have a pretty filled out agenda today, so why don't we just get right into things? The topic that we're really going to be diving into today concerns some changes with professional judgment or PJ. David, do you want to kick things off?

David Tolman:

Yeah. The changes, a lot of them went into effect in the 2023-'24 award year, so last year. I'm going to do a review of those and then Sarah's going to explain those changes that took place this year just as a review and as a change from FAFSA simplification, and professional judgment decisions are still being made on campuses, so we thought it would be a good topic to hit today, but... One of the big changes was professional judgment in statute as passed by Congress defined more closely what is professional judgment in categories that exist within professional judgment, especially special circumstances that were distinguished from unusual circumstances. Previously we used to use those words interchangeably, but special circumstances now refers to changes that a financial aid administrator might make to any of the need analysis components,

The information that is reported on the FAFSA if an income adjustment is made or a cost of attendance is adjusted for a student, that is a form of professional judgment but specifically special circumstance as opposed to an unusual circumstance, which now refers specifically to those independent status determinations, a student who doesn't otherwise meet any criteria for being considered independent submits an appeal and through review of the appeal, the financial aid administrator makes an unusual circumstances professional judgment adjustment. That's one big change and hopefully in the terminology because a lot of this information needs to be shared with the public and schools should be using these terms, but when they share... Well, it has to be shared, right? Institutions have to publicly share information both about the ability of students and their families to request these and the process of requesting either a special or unusual circumstance request. It's not prescribed how and when that is done by the institution. It's got to be publicly available. Websites are good places, so are offer letters, but in there should be provided some examples of what the institution considers to be these types of circumstances.

Then all of them need to be made available, so one of the changes is an institution cannot have a policy to deny all professional judgment requests. To get further down into it, they can't refuse to consider certain types of requests such as, "Yeah, we will consider FAFSA data element adjustments, but we don't do cost of attendance increase." You can't do that. Along with not being able to deny PJ requests is that you cannot set an arbitrary deadline, that, "If you submit an appeal after this point, we're not going to consider it." Although requests can't be processed if the student's no longer enrolled at that institution for the award year. You can't make a retroactive adjustment at that point. That's prohibited, but anything else that the institution might do to prohibit an otherwise eligible student from submitting an appeal, they have to honor that.

Then another change was the timeline, especially for dependency override determinations. It's 60 days. The statute actually says as quickly as practicable, but they put a limit on how long you can draw out what quickly means. The 60-day clock will start counting on either of these two things. The first one is it starts with a student's enrollment. If a student submits an appeal prior to enrolling, then you don't have to process that if the student hasn't enrolled, but the clock will start ticking as soon as the student enrolls. Otherwise, the deadline starts from the time the student submits an appeal if they're already enrolled. Then subsequent year dependency overrides, this means that if in 2023-'24 my institution determines that a student meets the criteria to be considered independent, then we presume in '24-'25 the following year that that student continues to be independent. We don't make the student go through a reappeal process unless the student... Sorry, not the student, but unless the school has conflicting information or the student indicates a change. As part of that, the school doesn't need to request the student to annually submit a statement that their circumstances haven't changed. Remember, you can just presume that that student remains independent.

Another allowance is a dependency override that was performed at another institution can now be accepted by your institution, and that can be whether the determination was made in the current award year and the student's transferring or it was made in the prior award year and now the student's coming over. The documentation for that is within the institution's transgression, but the department has said that could be as simple as a phone call from one financial aid administrator to another at the other school and then just documenting that phone call and then you can go from there, but that is acceptable. Then finally, on the professional judgment documentation requirements, this has always kind of been a requirement but it's now codified that three years from the end of the student's enrollment is the time period in which documentation needs to be maintained. That's a quick review of things that have been in place since 2023-'24. Hopefully schools haven't missed it, but if they did, that's why we're doing the podcast. Sarah's going to go over the things that are new for '24-'25.

Sarah Austin:

Great. Thanks, David. Yes, the bulk of the changes were '23-'24. We do have a few changes to highlight for '24-'25, specifically the FAFSA itself, as I'm sure you all know, has changed a lot. One of those changes is really kind of separating out some of the questions that typically would lead to some sort of a PJ. For example, there's now a specific question asking about students' unusual circumstances. Like David said, this term, unusual circumstances, now covers kind of what we would think of as dependency overrides. There's now a specific question on the FAFSA asking the student about that situation. It's actually question seven on the paper FAFSA, if you're ever referencing that, but now there is that question so instead of in the past where maybe a student just had to know that they could contact the school about it or there was some sort of language at the end of the FAFSA where you'd submit like, "If you have any unique situations, contact your financial aid office."

There was some sort of language like that. Now there's an actual question, so that way hopefully this process will be a little bit easier for the student, but also for the school to know those students who

have unusual circumstances. There's also some questions kind of broken out from what we consider the independency questions, so there's a specific question for homeless youth determinations. It's not just lumped in with all of the other dependency questions, things like that. There's also a specific question on the students who want to pursue a direct unsubsidized loan only, which is kind of another offshoot of PJ. That is now its own separate question on the FAFSA as well.

With that, there is now a concept in '24-'25 called provisionally independent. If a student is pursuing a dependency override, they can actually continue through the whole online FAFSA and be able to submit it and be considered provisionally independent and get a provisional SAI calculation and kind of an estimated eligibility. Then once the school actually makes the actual determination, they would no longer be provisionally independent. They'd actually have that dependency override. The concept of provisional independence is new this year. Also, with all of the FAFSA changes, of course we now have the FAFSA Partner Portal, which has replaced what you may know as FAA Access. Now the actual logistics or the process of performing some sort of a PJ determination or a dependency override is different because now you're using a different system, so you're making those changes in the FAFSA Partner Portal now starting with '24-'25.

Hugh Ferguson:

Awesome.

Sarah Austin:

I think that's about it for the '24-'25 changes.

Hugh Ferguson:

Yeah. Lots of change. I mean, the FAFSA's been normal this last year that there's not much to track there, but obviously joking on that point, but yeah.

Sarah Austin:

Make that very clear.

Hugh Ferguson:

Yeah. I know. It's one of those things where it's like, "Oh, wait, I need to really nail down that that was a joke." But yeah, thank you for that, Sarah. I'm wondering now that we've gone over a bit of a review and a bit of the changes, could you kind of provide some more guidance on what is and what is not professional judgment for folks?

Sarah Austin:

Yeah. We have a kind of list of maybe examples that we've seen. David and I have both worked in the AskRegs world at some point in time, so we see a lot of questions from schools and we know the things that schools may have asked in the past about, "Is this PJ, is this not, and why?" First example would be dependency overrides, which I just mentioned so shouldn't be any surprise, but this is considered PJ. Specifically PJ now falls into those two categories of unusual and special circumstances. This is the unusual circumstances. So yes, it is considered PJ. As far as the actual process of making those dependency overrides, there is kind of a specific section that a school would mark when they're making those changes in FAFSA Partner Portal, but still this does fall under PJ.

David Tolman:

Yeah. I'll put another one out there, satisfactory academic progress. A student otherwise is not meeting satisfactory academic progress standards, and they want an exception to allow them to continue to receive financial aid and maybe they're placed on an academic plan or probation. Is that whole process considered professional judgment? Everyone can talk amongst themselves. Think about this. The answer, I think a lot of schools are still surprised by this. The answer is no, it's not. Why does that matter? Why does it matter if it's not professional judgment or if it is? Because it does follow a similar circumstance or a similar process. You need documentation and such in making a decision.

But I think one reason that it's important to distinguish SAP from unusual or special circumstances is it could make a difference on how the workload is assigned within a financial aid office. Maybe professional judgment is reserved for counselor levels or assistant directors or above, but satisfactory progress doesn't have to follow that same route. It could be reviewed by a different set of staff. That's one advantage I would've seen in the financial aid office, especially now that it's clearly been detached from the professional judgment rule world. You don't obviously need to set a flag on anything to indicate professional judgment has been made on staff. Sarah, I'll ask you this one because this I know comes in a lot. Homelessness determination. Is it professional judgment?

Sarah Austin:

It is not, which I think is another surprising one. A lot of schools may think this falls under PJ because they're thinking it's kind of in line with a dependency override, but it technically is not PJ and it is not a dependency override. It's kind of the separate category, the homeless youth determination. It has its own kind of set of guidelines, and then also if you are in fact making the determination for a student that they are going to meet that criteria, there is a way to indicate that when you're making that change in FAFSA Partner Portal, but it is not considered a dependency override, which I think is different than a lot of people realize.

David Tolman:

Yeah. One important note I think on that is if the student meets the criteria, then there's not a decision to be made. It needs to be honored for that student to be determined independent based on that status.

Sarah Austin:

Correct. The next one, which kind of goes right along with this, so how I mentioned earlier the FAFSA breaks out several questions now where it did not previously. We mentioned there's now a question specifically asking about the direct unsubsidized only, whether that is PJ or not. I also think this one is surprising, but it's because the answer is yes. This is considered PJ, which without going too deep into the actual logistics behind making PJ determinations, this one is tricky because you're not actually setting a PJ flag, which I think is what trips people up when you get the ICR for a student who has indicated that they want the direct unsubsidized loan only, it's actually a rejected ICR. I think a lot of people think it needs to go then through the normal process of either a dependency override, which it is not, or through PJ, which while it is PJ, it's not going to go through that normal process. I think that's where it kind of trips people up, but it is allowable to award a student a direct unsubsidized loan only if they indicate that on the FAFSA and then of course provide the required documentation, but that authority is under PJ even though it doesn't follow the typical PJ process.

David Tolman:

Related to that is denying a student's ability to borrow a loan or to reduce the amount that they would otherwise be eligible to receive. That is also professional judgment, but we teach professional judgment in the NASFAA U online course series and it is rare that a school will indicate that they exercise professional judgment to do that. Why do you think that is? Why do you think schools are so reluctant to do that?

Sarah Austin:

I think it's probably dependent on the school. I'd say that in most cases, at least in my experience, they just don't have reason to kind of go that way. They believe that the student understands what they're doing. I'd say it's rare because it's so specific in the law on what you can use in terms of denying that that schools are then hesitant to have any sort of... They don't want to make that judgment. They really want to make sure like, "Hey, if they're eligible, they're eligible and they're moving on." That would be my assumption, but I personally have never... Now that I'm thinking back, I don't think I've ever experienced denying that.

David Tolman:

No. The only ones that have, usually it's the student that's going from program to program to program and they're like, "Okay, enough." That's the example that's come up probably most frequently in those few schools who actually admit to having done it.

Sarah Austin:

Yeah.

David Tolman:

All right, special circumstances. Hopefully you know this. Yeah, of course. Special circumstances is a whole category. Then just to review, that's when you're making cost of attendance adjustments or adjusting one of the components of the FAFSA. Remember, you can't adjust the SAI itself, but you can adjust the components.

Sarah Austin:

Right. No adjusting the formula either, just the data elements.

David Tolman:

Yeah, and no making, "You know what? I think this student has really high need, even though it's not reflected. We're going to give the student a negative 1500 even though they're at positive something."

Sarah Austin:

Right. I'll ask you the last one, David.

David Tolman:

Sure.

Sarah Austin:

How about situation where a student files a FAFSA, completes it, submits it, and then their marital status changes?

David Tolman:

After filing?

Sarah Austin:

After filing.

David Tolman:

Okay.

Sarah Austin:

Is that a PJ?

David Tolman:

It might make the student independent or not, but if you change it, you've got to change everything.

Sarah Austin:

Right. [inaudible 00:21:18].

David Tolman:

It's a no. It's another surprise. No, it's not a professional judgment decision if you are allowing a change in marital status. Why that matters is it's a different set of criteria to determine whether to allow that change or not. That criteria is to address an inequity or to better reflect an applicant's ability to pay for school. If you can do that by allowing that marital status change, then you just gather the documentations, you make the student obviously independent, but then you would also need to adjust to include the spouse's income and make all those other changes, but it's actually not professional judgment.

Sarah Austin:

I think the reason there is some confusion is it is still on a case-by-case basis and it still requires that documentation piece. In that sense, it feels like PJ. They're making an actual decision to allow it case-by-case, want documentation. That all feels like PJ, but it is not. It's an actual update, an allowable update. We have an AskRegs article that I know I've personally referenced many times. It's like, "What's the difference between an update, an adjustment, and a correction?" This one very clearly is an update.

David Tolman:

Yeah, an update. This one, unlike other professional judgment decisions where you've got to have circumstances that are just abnormal circumstances, this doesn't follow that. It could just be, "Well, we've got 10 students and they all have something in common and that's that they've had a change in marital status. We're going to look at these and we've got all the documentation here." Yeah. It's kind of like doing it for a whole class of students, but it's fine in this case because it's not professional judgment. They all have the same circumstance, it's just it better reflects the student's ability to pay by making the adjustment and that's fine.

Hugh Ferguson:

Awesome. Thank you both for all that extra information on PJ and those scenarios. I'm sure it's going to be super helpful for our listener. I was wondering is there anything else you two wanted to highlight about PJ before we wrap things up?

Sarah Austin:

Yeah. We touched on it a little bit, but one thing I did want to mention that's specific to this new '24-'25 FAFSA, so, like we said, you cannot change just the bottom line SAI. That's not allowable in PJ. You also cannot change the formula. With the FAFSA Simplification Act, of course there's all these changes to the actual calculation. One of the things that we hear a lot about is the number in college no longer factoring into the calculation even though it's a question on the FAFSA still. We get the question a lot, "Well, can I PJ number in college?" I think what the question really means is like, "Can we split that SAI in half like we used to with the EFC if there was two in college versus one?" The answer is no. You cannot do that. You can't change the formula to now use number in college to split that SAI in half. However, you follow the normal rules for special circumstances. If there's actual special circumstances that would make it or you can adjust something else like maybe the AGI or assets or something, that is allowable, but you cannot simply PJ in the number of college to change that formula or the SAI.

Hugh Ferguson:

Anything else, David?

David Tolman:

Also a couple that we mentioned. If the student's no longer enrolled, you can't process a professional judgment adjustment once they've ceased it, no matter how much merit there is to doing it, if they're no longer enrolled, and that means for the award year. You can still do it... Simple example of a fall and a spring semester. You do it in the spring semester, they're still enrolled and the adjustment you make applies to the whole year, both retroactive to fall and to spring, but if fall has come, spring has come, the student's no longer enrolled and now you've got some documents that you're reviewing and trying to make a decision, you can't do it. We mentioned you can't have deadlines. You've got to submit it before the semester starts or all kinds of deadlines that used to exist out there, those can't exist anymore. The only prohibition now is that enrollment status.

Other ones, this is like a... I'm not going to say pet peeve, that's not really what it is, but you're making an income adjustment or maybe a cost of attendance adjustment because of unusually high medical expenses. If it's unusually high, it's generally because there is an unusual medical circumstance that's happening to the family, the tragic things that we face in life. It's not just your regular doctor visit. I will admit I see this differently than some of my colleagues do, and I know schools see it differently, but... This is going to get a little wonky, but 11% of the income protection allowance is made up of the assumption that 11% of your income is going to be used to pay for medical expenses, so if you're making an adjustment, you should first subtract out that 11% of the IPA.

I kind of disagree with that because I think that 11% is for the standard type of medical care that people need throughout the year, the doctor visits and the band-aids and the vaccinations or whatever, but if someone's got a cancer diagnosis, that doesn't mean that all of a sudden all those things go away and you're not going to count the first 11% of their IPA, whatever that amount is. Say it's \$10,000 for somebody with high income, we're not going to count that first \$10,000 of your medical care because it's already counted in the IPA. I say if it's that unusual of a circumstance, the family's still having to use 11% of their IPA. That's where I am on it. I don't know, Sarah, if you see it the same way or if you are like, "No, I think you should do the 11%."

Sarah Austin:

Yeah. I think this is a perfect example of PJ. There really is the authority for the financial aid administrator to make a determination to make the adjustment. This is a perfect example of where you may see it one way and a different financial aid administrator in a different school may see it another way. Of course you're following your school's policies. We're not saying throw all your school's policies out the window, but there really is a lot of leeway with PJ, and that's one of the great things about PJ is it's up to the financial aid administrator and their school policies. I think specifically in the handbook where it even mentions the IPA, it says something along the lines of, "Take into consideration that certain amounts of the income are already protected." Take into consideration. It doesn't say you have to subtract 11% every time you're doing a PJ for medical expenses. It says take that into consideration when you're making your determination, so whether you see it one way or someone else sees it a different way, I think both are valid and may apply to different situations. That's the great thing about PJ, right?

David Tolman:

It's so different than everything else that happens in the financial aid office because we're teaching return of title IV funds in one class and need analysis in another, and it's so specific on how you count the number of days that go into that denominator and that numerator, and same with need analysis. It's so specific in what you do with this tax line item and so forth. That professional judgment, we almost move not completely away from that because there are still some rules to follow, but it's not nearly as prescribed as almost everything else we do. Projected income is another example of that.

Sarah Austin:

Yes. We get that question a lot on what 12-month period... "Do I need a completed 12 month-period of tax returns in order to change the income?" No, you can use projected income. You can use really any 12-month period as kind of your basis of the income adjustments, which I know scares some financial aid administrators, they want it to be prescribed, they want you to say exactly what the numbers are, but that's just not the case with PJ.

David Tolman:

Yeah. I'll say I encouraged... When I was in a financial aid office when I was a director, I encouraged a July 1 to June 30th timeframe when appropriate because that was a better reflection of the 12 month that the student would actually be enrolled, and then you move away from that question of, "Well, what if they project and then they file the FAFSA and you see that they were off in their projection? Do we need to go back and adjust the professional judgment decision we made two years ago when they were doing it?" It's like, "Look, you don't even have conflicting information if you're doing July 1 to June 30th." Not that it is conflicting information, that's a whole different topic, but yeah. Then another area of flexibility is documentation. It can be... We talked about if you're going to use another school's independence status determination on an unusual circumstance, it can be a phone call between two financial aid administrators at the different schools. The same thing can apply to the documentation that you use on making a professional judgment decision. As appropriate, it can be as simple as a phone call or an interview.

Sarah Austin:

Yes. Documented phone call or interview.

David Tolman:

Documented, yeah. "We talked, we discussed these things. Based on this, we're going to adjust the cost of attendance." It does get a little bit more prescriptive on unusual circumstances, and we don't have time to go into all the details, but there is not a prescribed, "This is what you must collect." The school might set a policy that prescribes it, but it's not in statute except for a few cases in unusual circumstances. I'm going to take... We've referred to online courses. If any of the listeners have had a "wait, what" kind of moment as we're going through, we do have... We've had, what, half an hour to talk about this. We've got a professional judgment course coming up in NASFAA U next month, and there's still space available. We spend four weeks with two one-hour trainings each week and then lesson videos and reading covering just the topic of professional judgment because there is actually a lot to it, and we talk about those flexibilities and options that schools have when they form their policy, so I'll plug that. I'll give the link to you here so you can put it in the show notes.

Hugh Ferguson:

Yeah, that sounds great. We will definitely have that link handy for listeners to navigate to.

Thanks, everyone, for joining us on this week's episode of Off the Cuff. Make sure to send us your comments, subscribe on your podcast channel of choice, and we will be talking to you again really soon.