



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

JUN 11 2009

Mr. Jaime Cruz Agosto, Esq.
President
PRASFAA
P.O. Box 363255
San Juan, Puerto Rico 00936-3255

Dear Mr. Agosto:

Thank you for your letter of May 22, 2009, to Secretary Duncan in which you raised questions about the Department's interpretation of the term "emancipated minor" as it relates to independent student status for student financial aid purposes. Your letter was referred to the Office of Postsecondary Education and I am pleased to respond.

Specifically, you note in your letter that Puerto Rico recognizes emancipation in four different ways: 1) Through consent of the father or mother; 2) By marriage; 3) By judicial concession; and 4) By age. In your letter, you assert that the Free Application for Federal Student Aid (FAFSA) limits the application of state law to one of the four kinds of emancipation through the wording in question 56: "Are you or were you an emancipated minor as determined by a court in your state of legal residence?"

You are correct. Section 480(d)(1)(C) of the Higher Education Act (HEA) of 1965, as amended, specifies that a student is an independent student if the individual, "is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence." In developing the FAFSA questions, we consulted with our Office of General Counsel and learned that only the category of "emancipation by judicial concession" would satisfy the requirement of HEA section 480(d)(1)(C). Therefore, we applied the court determination to both legal guardianship and to emancipated minors. This means that in Puerto Rico, only students who were emancipated under the third category, Emancipation by Judicial Concession, would be eligible to answer "yes" to question 56.

I hope this information is useful to you. Thank you for writing.

Sincerely,

David A. Bergeron
Director
Policy and Budget Development Staff

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