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I will be filling out the FAFSA soon for my daughter who will be attending college next fall. My question is regarding her father, who is my ex-husband. Her father does not pay child support and has not supported her financially since our divorce 5 years ago. Do I have to include his financial information, or any of his information, on the FAFSA? Also, I have remarried, and my daughter lives with me and her step-father. Do I have to include her step-father's information, both financial and personal, on the FAFSA? — Kari L.

You must include the step-father's information, not your ex-husband's information, on your daughter's Free Application for Federal Student Aid (FAFSA).

When a student's parents are divorced or separated, only one parent's information is reported on the FAFSA. This parent is often referred to as the *custodial parent*. The term custodial parent has nothing to do with which parent has legal custody of the student. The custodial parent is defined in section 475(f)(1) of the Higher Education Act of 1965 as the parent with whom the student lived the most during the 12 months ending on the FAFSA application date. Since your daughter lives with you, you are responsible for completing the FAFSA.

If your daughter lived with you and your ex-husband equally or with neither of you, the custodial parent would be the parent who provided more support to her during the 12 months ending on the FAFSA application date. Since there usually are an odd number of days in the year, this situation most often arises in leap years, in recent divorce cases, when the parents continue to live together after the divorce or when the student no longer lives at home. Cash support includes money, gifts and loans. It also includes food, clothing, housing, car payments and expenses, auto insurance, medical and dental care and insurance, college costs and any money paid to someone else on her behalf. Money you receive for her from her stepfather and government benefit programs for dependent children counts as part of your support of your daughter. Note that if the non-custodial parent provides some cash support for your daughter beyond the requirements of a legal child support agreement, this money must be reported as untaxed income to your daughter on her FAFSA.

If both parents split the student's support equally or neither provided support during the 12-month period, then the custodial parent is the parent who provided more support during the most recent calendar year during which either parent provided support for the student. It is quite rare for a student to live with both parents and receive support from both parents equally. Usually there is at least a day or a dollar difference. If none of the statutory criteria apply, the college's financial aid administrator will determine which parent is considered the custodial parent; financial aid administrators usually choose whichever parent has the greater income.

Section 475(f)(3) of the Higher Education Act of 1965 specifies that if the custodial parent is married as of the FAFSA application date, then the stepparent's income and assets must be reported on the FAFSA. There are no exceptions to this statutory requirement, not even if the parents have a prenuptial agreement. The stepparent's income during the prior tax year must reported even if the stepparent and custodial parent weren't married until after the end of the prior tax year.

(If the custodial parent dies, the non-custodial parent becomes responsible for completing the FAFSA. The income and assets of the stepparent who was married to the custodial parent are no longer reported on the FAFSA, even if the student continues to live with the stepparent. Any support received by the student from this stepparent will be reported as untaxed income to the student on her FAFSA. If the student has had no financial support from or significant contact with the non-custodial parent for an extended period of time, some colleges will use a dependency override to treat the student as independent.)

Note that separation is treated the same as divorce. A separation does not need to be a legal separation. An informal separation is considered a separation for federal student aid purposes, but the parents may not live together. Colleges are often suspicious of recent separations because of a high frequency of sham separations. They will want to see proof that the parents maintain separate residences and that the relationship has ended. Having one parent live in a hotel room, with friends and family or in a separate bedroom in the same house is usually not considered sufficient.

When one divorced parent has much lower income than the other parent, it can be financially advantageous to have the parent with the lower income complete the FAFSA. But falsely identifying this parent as the custodial parent is fraud. Likewise, failing to report the income and assets of the stepparent on the FAFSA is fraud. Colleges legally may not disburse federal student aid until all discrepancies are resolved. For example, if the student's custodial parent lives in a different school district than the student's high school, the college financial aid administrator will want more information to resolve this apparent discrepancy. College financial aid administrators often ask for a copy of the original divorce decree or separation agreement to verify assertions concerning living arrangements and child support. If a college financial aid administrator discovers credible evidence of fraud affecting eligibility for federal student aid or the amount of aid, the college is required to refer the case to the Office of the Inspector General at the US Department of Education for further investigation. Criminal penalties for financial aid fraud include fines of up to \$20,000 and/or imprisonment for up to 5 years, in addition to disgorgement of the fraudulently-obtained student aid funds.

Ask Kantro is written by Mark Kantrowitz, an expert on paying for college and publisher of FinAid.org and FastWeb.com, the leading free web sites for information about student financial aid, student loans and scholarships. Write to Ask Kantro at AskKantro@FastWeb.com.