§ 663. Income, a determinant of amount of awards. 1. Income defined. Except as otherwise provided in this section, "income" shall be the total of the combined net taxable income and income from pensions of New York state, local governments, the federal government and any private employer of the applicant, the applicant's spouse, and the applicant's parents, including any pension and annuity income excluded for purposes of taxation pursuant to paragraph three-a of subsection (c) of section six hundred twelve of the tax law, as reported in New York state income tax returns for the calendar year coinciding with the tax year established by the U.S. department of education to qualify applicants for federal student financial aid programs authorized by title IV of the Higher Education Act of 1965, as amended, for the school year in which application for assistance is made, except that any amount received by an applicant as a scholarship at an educational institution or as a fellowship grant, including the value of contributed services and accommodations, shall not be included within the definition of "income" for the purposes of this article. The term "parent" shall include birth parents, stepparents, adoptive parents and the spouse of an adoptive parent. Income, if not a whole dollar amount, shall be assumed to be equal to the next lowest whole dollar amount. Any change in the status of an applicant with regard to the persons responsible for the applicant's support occurring after the beginning of any semester shall not be considered to change the applicant's award for that semester.

2. Separation of parents. If the parents of an applicant are living apart, the income of the applicant shall be based upon the income of that parent with whom the applicant is living; or who exercises custody if the applicant is a minor, or would exercise custody if the applicant were a minor, and any appropriate payments for the support of the applicant from the other parent.

3. Exclusion of parental income in the determination of the amount of an award. a. In determining the amount of an award for students, the income of the parents shall be excluded if the student has been emancipated from his parents.

b. A student shall be considered emancipated if:

(1) The applicant is a student who was married on or before December thirty-first of the calendar year prior to the beginning of the academic year for which application is made or is an undergraduate student who has reached the age of twenty-two on or before June thirtieth prior to the academic year for which application is made and who, during the calendar year next preceding the semester, quarter or term of attendance for which application is made and at all times subsequent thereto up to and including the entire period for which application is made:

(i) has not resided and will not reside with his or her parents for more than six weeks; and

(ii) has not and will not receive financial assistance or support valued in excess of seven hundred fifty dollars from his or her parents; and

(iii) has not and will not be claimed as a dependent by either parent for purposes of either federal or state income tax; or

(2) The applicant has reached the age of thirty-five on or before June thirtieth prior to the academic year for which application is made; or

(3) The applicant was enlisted in full time active military service in the armed forces of the United States and (i) has been honorably discharged from such service, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, and, provided, however, that the applicant has not and will not be claimed as a dependent by either parent for purposes of either federal or state income tax.

c. In making a determination of where a student resides for the purposes of item (i) of subparagraph one hereof, the president may consider such criteria as he deems appropriate. Residence by the student in an apartment, building, or other premises owned by a parent shall be considered residence with that parent, for the purposes of this section, even if the student makes payment therefor in the form of rent or other considerations.

d. Any undergraduate student who was allowed to exclude parental

income pursuant to the provisions of subdivision three of section six hundred three of this chapter as they existed prior to July first, nineteen hundred seventy-four may continue to exclude such income for so long as he continues to comply with such provisions.

e. In making a determination of whether a student has been claimed by a parent as a dependent for purpose of either federal or state income tax, the president may require the student to submit a copy of that portion of the parents' federal income tax return which includes the parents' signature and the list of claimed dependents.

4. Relinquishing of parental control. In determining the amount of an award, the president may, in cases of unusual and exceptional family circumstances warranting such action, recognize an existing condition wherein parental control has in effect been relinquished by the parents or others responsible for the applicant, and notwithstanding the provisions of subdivision three of this section, the applicant has in effect been emancipated. Provided, however, that students who have qualified as an orphan, foster child, or ward of the court for the purposes of federal student financial aid programs authorized by Title IV of the Higher Education Act of 1965, as amended, shall not be considered emancipated for the purposes of determining an award pursuant to section six hundred sixty-seven of this article. The criteria used in determining these cases of unusual and exceptional family circumstances shall be established by the president with the approval of the board of trustees and the director of the division of the budget.

5. Adjustments of income. In the determination of income for purposes of paragraphs a and b of subdivision three of section six hundred sixty-seven of this part if, during the academic year in which the applicant will receive an award, one of either the parents of the applicant or other dependent child of such parents, the spouse of the applicant, or one or more dependent children of the applicant, in addition to the applicant, will be in full-time attendance in an approved program, the combined net taxable income determined under subdivision one of this section shall be reduced by three thousand dollars and an additional two thousand dollars for each other such

person additional to the aforesaid persons (including the applicant) who will be in such attendance, and the resulting amount shall be deemed the applicable income in determining the applicant's award for the academic year.

6. Income tax return not filed or not including income outside New York state. If a person required to report income to the corporation did not file an appropriate New York state income tax return, or if the return did not include income outside New York state, such person shall report to the corporation what his income would have been had his total income been subject to New York state income tax and had such income tax return been filed.

7. Statement of income. An applicant, the applicant's spouse, and the applicant's parents, if their income is included in "income" for purposes of this article, shall file annually with the corporation, in a manner prescribed by the president, a statement of their income, signed and affirmed as true under penalties of perjury.

8. Verification of financial report. The state tax commission shall, upon request by the president, compare any statement filed with the corporation pursuant to this article or any information derived therefrom with the state income tax returns filed by the persons making such statement and shall report any discrepancies to the president.

9. Confidentiality of financial reports. All statements filed with the corporation and all reports made by the state tax commission pursuant to this section shall be deemed confidential.