

## The Jay Treaty and Title IV Financial Aid

**N**ative Americans with at least 50% Indian blood who were born in Canada have certain unique rights under the jurisdiction of the Jay Treaty of 1794, subsequent treaties, and U.S. Immigration Law. The Jay Treaty provides that Native Americans with at least 50% Indian blood who were born in Canada have the legal right to cross the Canadian border into the United States freely. *They are not required to obtain documentation from the Immigration and Naturalization Service (INS), and are deemed "lawfully admitted for permanent residence" and thus, eligible for Title IV student financial assistance.*

### **Application Process:**

Because there are a limited number of Title IV applicants who are eligible under the Jay Treaty, the citizenship question on the 1997-98 FAFSA (question #15) does not have a separate response for such students. A Native American who is eligible for Title IV student financial assistance because of the Jay Treaty should report on the paper FAFSA that he or she is an "eligible non-citizen", leaving the question about Alien Registration Number (question #16) blank. When the application is matched by the Central Processing System (CPS) with the INS, this response will not be confirmed. It is then the responsibility of the financial aid administrator to obtain proof that the student has at least 50% Native American blood and was born in Canada.

While this process will work for those applicants who complete a paper FAFSA, there are edits in both FAFSA Express and EDEXpress that will not allow a response of "eligible non-citizen" to be entered if the applicant does not complete the Alien Registration Number field. Therefore, if the applicant is filing using either of these two electronic methods they should fill the Alien Registration Number with A999999999". This will allow the record to pass through the electronic edits and be submitted to the CPS for processing. Once again, the data match with the INS will not confirm the applicant's status and the school **must** confirm the student's eligibility.

### **Documentation Needed:**

Documentation of the applicability of Jay Treaty status for an applicant can be accomplished by asking the student to provide one or more of the following documents:

- A "band card" issued by the Band Council of a Canadian Reserve, or by the Department of Indian Affairs in Ottawa.
- Birth or baptism records.
- An affidavit from a tribal official or other person knowledgeable about the applicant's or recipient's family history.

Identification from a recognized Native American provincial or territorial organization.

If a Canadian-born Native American with at least 50% Indian blood can provide one of the above forms of documentation, and meets other Title IV eligibility criteria, the institution, after documenting the student's file, can award Title IV financial aid.