

Chapter III On-Site Review Procedures

This chapter provides a framework and compendium of suggestions for conducting the on-site review. A program review is a fluid process that often requires reviewers to adjust their initial action plans based on circumstances encountered on-site. Therefore, reviewers may use their professional discretion and deviate from some of the procedures discussed herein.

Reviewers are responsible for ensuring that a reasonable and appropriate level of testing has been performed to determine the institution's compliance with Title IV requirements in the areas selected for review and for documenting that those tests were performed. Therefore, reviewers should exercise due care in performing and evaluating the results of the review while employing an appropriate degree of investigation and research.

Ideally, the program review should be a cooperative effort between the reviewers and institutional officials. It is important that each understands and respects the other's constraints. The reviewers need to understand and evaluate numerous and complex procedures and records within a short time span. At the same time, the school's staff usually still needs to address students' needs during the on-site visit. Therefore, it is important to establish a framework to maximize the efforts of everyone involved in the process, and to allow for effective communication between the reviewers and institutional officials.

Generally, the program review will be conducted by at least one team member experienced in program reviews. However, the Case Management Team (CMT) may decide to assign additional team member(s) to a review.

A. Entrance Conference

During the entrance conference, reviewers should have the opportunity to meet institutional officials, state the objectives of the program review, discuss general organizational structure, and establish time frames required for the retrieval of documents. The president/owner, school director, financial aid officer, business manager, admissions director, and registrar should be present at the entrance conference. Additional institutional officials may attend, depending on the type of institution being reviewed.

1. Topics to Discuss

- a. Reviewers should explain the following to institutional officials:

- **PURPOSE** - The purpose of the program review is to evaluate the institution's administration of the Title IV programs, and to provide guidance and technical assistance.
 - **SCOPE** - The scope of the review will generally encompass the two most recent closed award years and the current award year. Also inform the institution that the review could be expanded to encompass up to a three-year period. (Note record-retention regulatory requirements.)
 - **REASON FOR REVIEW** - Reviewers may state the most significant factors that contributed to the institution's selection for a review (e.g., repeat audit findings, results of the Institutional Assessment Model (IAM)), unless there is a need to withhold the reason, such as student or employee complaints, or suspected criminal activity. However, a detailed discussion of the Department's IAM is not appropriate.
 - **TIME FRAME** - Reviewers should provide institutional officials with an estimate of the length of the program review. In the past, standard reviews generally lasted a week, although this may now vary, based on the focus that the case team has decided on. Upon completion of the review, an **exit conference** may be held to discuss preliminary, summary information on deficiencies noted and required institutional actions. The reviewer should emphasize that the review report, not the exit conference, will provide a more definitive analysis of the findings noted in the program review.
- b. Discuss any exemptions from standard regulatory provisions noted in the pre-review research (e.g., Quality Assurance Program, Experimental Sites, Distance Ed Demo Program, Campus-Based match exemption).
- c. Discuss the institution's general administration of the Title IV programs. For example, departmental interrelationships, organizational structure, and basic responsibilities of departments. (For more suggestions on Title IV administration and institutional office relationships, see Chapter V, Office Systems and Coordination.) Some key areas for discussion:
- admissions process;
 - financial aid packaging process;
 - ability to benefit procedures, if applicable;
 - academic year definition;
 - payment period definition;
 - award authorization/disbursement process;
 - staff roles and specific procedures (take notes on who, what, when and how);
 - institutional computer systems and how they affect the Title IV awarding/disbursing process.

- d. Discuss the availability of staff in key areas for interviews. At this point, reviewers may want to actually schedule interview times, or just establish general timeframes when certain staff would be available. If necessary, establish procedures for interviewing students.
- e. Request that a suitable work area and reasonable access to a photocopy machine be provided.
- f. Discuss the general process for communicating about possible issues, that in many cases the school will be given a reasonable timeframe to resolve deficiencies (and possibly collect missing documentation), and the method for school officials to apprise the reviewers of their resolution attempts. For example, if the school's Satisfactory Academic Progress (SAP) policy was missing a minor element, school officials might offer to develop one by the next day to avoid (possibly) having the finding included in the program review report. Reviewers should explain that such a deficiency might be included in the review report even if corrected procedures are implemented during the visit. Reviewers will evaluate the financial harm to taxpayers and students of the finding, and be open to prompt corrective action, if appropriate. Discuss that the school's resolution efforts will be noted but, because of time constraints, may not be fully evaluated until after returning to the office.
- g. Allow for a question and answer period.

2. Request for Documents

Ideally, records requested in the notice of visit letter will be available when reviewers arrive at the school. At the entrance conference, reviewers should confirm whether all requested documents are ready, and identify any additional records that are needed. Each request for documents should be made in writing, and reviewers should make note of each record that is received from, or returned to school officials – especially with student files.

If all the records are not ready at the start of the review, determine in the conference which documents may be obtained quickly and which documents may take longer to gather. Reviewers should set specific deadlines to receive documents. The availability of the documents will help reviewers establish the structure of the program review. For example, if student files are not available the first day, reviewers may want to begin reviewing available fiscal records, or interviewing staff, or if necessary, students.

Keep in mind that some institutions may have their documents at their corporate offices or with consultants or servicers. However, the institution is still responsible for having all records available for review at the geographical location of instruction. To facilitate document delivery, reviewers may recommend overnight express of the documents. In some cases (where

photocopies are acceptable), reviewers may require the institution to have the documents faxed to the review site.

If the reviewer is **denied access** to records or institutional officials refuse to cooperate at any time during the program review, reviewers should remind the school's chief administrator of the regulation cited in the notice of visit letter (668.23), and discuss the implications of their decision (reimbursement, and the possibility of administrative action). If the school officials persist, reviewers should immediately notify the ACD or CTLs to discuss what action should be taken. Once this action is determined, the reviewers will inform the school's chief administrator.

B. Program Review Process

The purpose of the program review is to make an assessment of the institution's administration of the Title IV programs in the selected program review focus areas (see Chapter IV), as well as other areas of concern identified during review preparation, determine if a more expansive review of the institution's records and procedures is required and, if not, determine appropriate corrective actions for any deficiencies noted. The following are general steps in the review process:

- Obtain necessary documents from institutional officials, ensuring timely delivery. Collect all relevant documents prior to examining each review item, so that reviewers may examine that item in its entirety. Example: to examine the institution's compliance with Ability to Benefit (ATB) requirements, gather the test, test score, test key, and the publisher's established minimum passing scores; identify the test administrator and determine if that person is independent of the institution. Check the test administrator's registration with the test publisher.
- Interview administrators, staff, and possibly servicers (such as the ATB test administrator discussed above) who work in key areas relating to the administration of Title IV programs. As discussed elsewhere in this guide, the movement of information between people, departments, and systems is critical. Discussing the flow of information through the school's process can provide quick insight into where potential problems may occur. Additional suggestions for conducting interviews are included in the next section of this chapter, and in Appendices C and D.
- Interview students. Talking to students allows reviewers to possibly confirm information that is reflected in school records, and to identify any other areas of concern from their perspective.
- Analyze institutional documents for compliance with the regulations and determine if any deficiencies exist.
- In general, apprise school officials of apparent deficiencies as soon as possible to allow the opportunity to track down mis-filed documents, or

provide other types of clarifications that may show there really is no problem. Provide a brief explanation of the possible actions needed to resolve any deficiencies, and explain that specific details will be provided in the review report. Reviewers should not wait until the exit conference to discuss all the review findings (although some last-minute findings may occur).

- Document each deficiency completely. As a general guideline, reviewers should document their reviews as if **each** finding will be challenged before a hearing officer. See Section D below for more detailed information on documenting findings.
- Analyze the deficiencies to determine if they are systemic or if they are isolated instances.
- Determine if the random sample needs to be expanded. Reviewers need to determine, based on their professional judgment, whether any deficiencies are material and systemic in order to determine the appropriate corrective action (refer to Section H). If reviewers feel they cannot make such a determination based on the results found in the initial sample, additional records may need to be reviewed. Any expanded random sample should be selected from within the original statistical sample.
- If serious and systemic deficiencies are noted in administrative systems, or deliberate misuse of funds is indicated, consult the CTL/ACD to determine the next step. This critical decision requires the best judgment of an experienced reviewer. If reviewers do not uncover any serious violations, they should proceed with a normal or expedited program review closure, as discussed in Chapter IX.

As noted in the beginning of this chapter, reviewers have to balance trying to minimize the interruptions to school staff in their day-to-day activities, with the need to conduct a swift – but thorough – on-site review. Therefore, in addition to scheduling interviews for detailed discussions, it may be advantageous to schedule brief meetings at the beginning or end of each day (perhaps with just one school official acting as a review coordinator) to quickly discuss possible findings or questions that need clarification.

C. Interviewing

A critical element of the review process is the interview. The information gathered in student and staff interviews can provide a valuable perspective on the institution's Title IV administrative practices.

In addition, such interview statements may reveal aspects of noncompliance not evident from the file review. Appendices C and D provide examples of questions that might be asked during student and staff interviews. However, above and beyond the questions asked, reviewers are encouraged to **listen with great care**

to the responses offered, and follow up with additional questions until the facts are clear.

For example, much can be learned by asking open-ended questions, questions that do not presuppose a given answer or lead the respondent in a particular direction.

EXAMPLES OF OPEN-ENDED QUESTIONS:

Question for staff: How do you admit students under the Ability to Benefit provisions? **Question for student:** Can you tell me about the financial aid you received and how your aid was processed?

Take detailed notes at interviews, sign and date them. The reviewer's own signature and date on detailed interview notes provides some documentary support in a hearing. Also, reviewers must take necessary safeguards to protect all workpapers, including sensitive or controversial interview notes.

Reviewers should strive to include in their notes and observations the basic ingredients of who, what, where, when, why, and how. Specify for every statement how the respondent knows what he or she is saying, who did what, when, where and how.

The obvious issues reviewers face regarding interviews are *who* to interview, and *when* to conduct the interviews.

Managers of the school's various offices involved in the Title IV process should be able to provide a basic understanding of the school's processes. However, a more in-depth picture of a school's procedures may be gathered by interviewing people at different levels of authority. For example, a financial aid director may explain the process based on his or her wishes/understanding of office procedures, but a counselor or data input clerk might actually follow a more expedient process.

Other parties that may not work directly for the institution that may be interviewed include:

- independent ability-to-benefit test administrator;
- representative of consultants or third-party servicers who perform Title IV related functions (e.g., Perkins due diligence, cash management, etc.), and
- managers at internship/externship sites (especially if there is one site where numerous students work).

On those occasions when you need to interview students, if reviewers are seeking to verify accuracy of school records (e.g., whether they took an ATB test

or whether the test was timed), try to interview students from the review sample. Otherwise reviewers could choose to interview students at random, possibly requesting their records afterward, if there were some issues the students raised.

Time permitting, students should be interviewed outside of their scheduled class times. Students should be interviewed without school officials present. Students may feel intimidated about being interviewed. *If applicable*, begin by assuring the students that the interview is only to confirm how the school is following procedures, that they are not being “investigated.” The decision of how many students to interview, or whether to interview any students at all, may vary, based on the scope of the review or the issues identified during the review.

There may be times when students approach reviewers to discuss problems they may be having at the school. Reviewers should always be attentive to student issues, but if time constraints prevent speaking to all students while on-site, reviewers should make arrangements for the students to contact them after the on-site visit is completed. Additionally, student concerns often relate to quality of education issues (e.g., broken equipment, teacher quality) that are best addressed by accrediting or licensing agencies. Therefore, reviewers are advised to be prepared with the phone numbers and addresses of those agencies for student referrals.

The best time in the process to interview school officials may vary depending on their position. For example, it might be necessary to talk to someone from the fiscal office at the start of the program review to get an understanding of how the disbursement/drawdown process works, and to identify what specific records need to be reviewed (since this process can be vastly different at each school). However, reviewers might want to wait until they have reviewed some actual records before meeting with staff from the financial aid office.

D. Documenting Program Review Findings

Program review findings must be thoroughly documented. Each deficiency that supports the finding must be associated with specific student files, school files, checks, documents, etc. It is insufficient to state a conclusion that a violation exists; reviewers must be able to substantiate the facts and basis of that conclusion. It is essential that documentation (copies of relevant correspondence, forms, checks, memos, attendance sheets, logbooks, registers, etc.) be clear and readable. If conflicting documents are at issue, reviewers must identify the documents and the specific information that is in conflict. All copies should be one-sided, on regular size paper, not stapled.

Reviewers should sign and date notes taken during a review, to help authenticate them as contemporaneous with the review.

If an OGC or AAAD staff member is assigned to the review, he or she will provide further guidance on what constitutes adequate and persuasive documentation. If they are not assigned to the review and you have questions while on-site, call an OGC or AAAD liaison for guidance.

E. Expanding the Program Review

As discussed in Chapter I, reviewers must determine during the program review if a more comprehensive review of the institution's records is warranted. Generally, this step is taken when reviewers determine that there are severe administrative problems at the institution or indications of possible fraud or abuse.

To justify expanding the program review, there should be significant evidence of serious, recurring or systemic problems relating to the program review items that might result in referrals to AAAD or OIG. Additional deficiencies reviewers have noticed outside of the basic review item list should also be taken into consideration when determining the need for an expanded review.

In such cases, reviewers should contact the CTL and/or ACD to confirm the need for an expanded review, and discuss strategies. Depending on the types of problems identified, further discussions may be held with AAAD or other Department personnel with particular expertise (e.g., Default Management). A work plan can then be developed that best addresses the circumstances.

If reviewers see no evidence of broad, systemic violations, an expanded program review may not be warranted. However, if an expanded program review appears to be justified, the following scenario is an example of how the new program review process should work.

1. Expanded Program Review Process

A review team determines on-site that a school has violated a number of program requirements. In addition, the team finds that the school has routinely misapplied Federal refund requirements and has calculated lower or no refund amounts. Although checks were prepared for the incorrect refund amounts, there is evidence that the business manager of the school withheld most checks. In addition, funds are unavailable to support payment at this time. Therefore, a substantial number of students (or their loan holders) have not received proper refunds.

From an off-site location, the review team contacts the CTL and/or ACD to explain why an expanded review is needed. During this contact, the team identifies areas of non-compliance, what needs to be done, if there's a need for heightened cash monitoring and other assistance needed. Based on this, an

action plan is developed and the team proceeds to take steps to gather documentation to substantiate the violations.

Shortly after the expanded review ends, the team provides a written summary that describes the key findings, citations and recommended actions to the CMT, CTL, and ACD. After discussion and consultation with the CTL and ACD, the CMT will decide what actions are appropriate (such as reimbursement, referral for administrative action, or referral to OIG for potential fraud).

If the action is to refer the school to AAAD, the review team prepares a memo, for the ACD's signature, to CMDD and AAAD stating the findings and pertinent regulatory provisions, and ensures that it is then e-mailed or faxed to both Divisions. The review team must also mail to AAAD copies of documentation that substantiate the findings that justify the referral for administrative action.

The ACD's memo will request AAAD to evaluate the case for administrative action, identifying the team members who observed and collected documentation on the findings. The memo also requests AAAD to discuss the findings with the review team and provide a preliminary assessment of the case, including any additional information that may be helpful to AAAD.

For potential fraud, the review team also provides a brief memo to OIG noting the nature of the case and the findings prompting the referral for possible investigation. The referral to the OIG is in addition to the referral to AAAD for administrative action. Copies of the memo to AAAD or CMDD should be attached to the OIG memo.

2. Expanded Review Team Members

In addition to team members experienced in program review, members of the expanded review team may include CMT members with experience in financial analysis, institutional eligibility, recertification and audit analysis. Moreover, expanded reviews will often involve staff from various offices within CMO (AAAD, DMD, PIP) and/or may also include staff from other components of OSFA, OGC, or the OIG, depending on the expertise needed. In addition, personnel from state agencies, guaranty agencies, or accrediting agencies may also accompany team members on the review.

Expanded review teams do not necessarily need to be composed of staff from the same CMT. Since expanded reviews may last several days or weeks, the review teams should also draw upon staff resources from other CMTs, based on review experience, language skills and availability. Whenever possible, if the expanded review is to be conducted at a school with a large percentage of students whose native language is not English, at least one member of the review team should be able to converse with the students in their language. A

list of ED staff with foreign language skills may be found on the ConnectEd web site at <http://connected1.ed.gov/ref/expert>.

The actual composition of the expanded review team will depend upon the issues identified during the review preparation process or on the findings discovered during a review. As with all reviews, the team should examine all available information, prepare a written work plan, and, if necessary, call in specialists in other functional areas before beginning the review.

3. AAAD/OGC Involvement in Expanded Reviews

Depending on the nature of the expanded review, staff from AAAD and OGC may accompany the review team on the review. Where appropriate, AAAD and OGC may take the lead in locating, contacting, and meeting with current and former students, instructors, school personnel and other potential material witnesses. If necessary, AAAD and OGC will draft affidavits for signature by these individuals. This will enable the review team to concentrate on conducting the review. In addition, AAAD and OGC may assist in the acquisition of evidence necessary to support grounds for an administrative action.

Generally, the team members will meet each evening to discuss the outcome for that day, and to determine the next steps. This will ensure that the review team obtains the strongest evidence possible to enable AAAD and OGC to proceed quickly with an administrative action (if warranted), to protect the student aid programs, students, and taxpayers from further harm.

If, as a result of any review, AAAD determines that an administrative action is necessary, additional work may be required from the review team to document fully the scope and severity of findings which may lead to such action, including emergency action. The work to be performed by the review team must be defined case by case, and will vary, depending on the findings relied upon to justify the appropriate administrative action.

The review team, ACD, CTL, AAAD, and OGC must communicate closely in selecting the key findings and in identifying the relevant documentation that must be examined to sustain an administrative action. If the Department has decided to take an emergency action and subsequent termination, the team's initial task is to support that effort. After addressing the need for effective support of any administrative action, the primary task of the expanded review team, is to evaluate thoroughly the school's compliance with the SFA regulations and agreements with the Department, and determine the status of its administrative and fiscal systems.

F. Detecting and Documenting Suspected Fraud and Abuse

Reviewers should be aware that what might appear to be programmatic deficiencies resulting from oversight or misunderstanding of the regulations may, in fact, be part of the institution's plan for doing business. Considerations such as who benefits from the error, whether or not the error is a deliberate act, and the frequency and consistency with which the error occurs, determine whether the set of facts observed by reviewers is an oversight or an indication of fraud or abuse.

In instances where frequent errors sometimes result in an advantage to the institution and sometimes result in an advantage to the student or the Title IV programs, the errors are probably indicative of a lack of administrative capability rather than deliberate abuse or fraud. For example, if a school's refund calculations are found to be timely but mathematically incorrect, so that sometimes the institution benefits, but other times the Title IV programs benefit, it is most likely the institution is not being careful enough with its calculations.

However, if the incorrect calculations consistently result in a benefit to the institution, reviewers should attempt to determine whether apparent errors are actually attempts by the institution to avoid having to repay refunds.

1. Indicators of Fraud and Abuse

Reviewers should be aware of the factors that may lead a school to engage in program abuse or fraudulent activities:

- An institution that is experiencing cash flow problems may overlook or suspend administrative procedures that would reduce enrollment, and therefore, institutional income. Some examples include not following admission policies, not enforcing satisfactory academic progress standards, and /or not verifying enrollment.
- In more extreme cases, an institution that is experiencing cash flow problems may falsify attendance records to enable it to claim a larger portion of a student's financial aid, or to falsely claim disbursements subsequent to the initial disbursement, retain refund checks or not pay refunds, and/or drawdown and maintain excess cash.
- Additional abuses may include manufactured high school diplomas or GED certificates, falsified ATB tests, falsified enrollment agreements, or evidence of "ghost" students -- students who never attended class, yet on whose behalf the institution obtains Title IV funds.

There are many other factors that can become indicators of fraud and abuse to be tested by reviewers. Prior to any review, the CMT should ascertain the financial condition of the school, past performance of the institution, and the school's default rate status.

In addition, potential problems may exist at institutions whose primary source of income comes from a public agency based on the number of students enrolled at the school. A cash flow squeeze could lead to institutional reluctance to take actions that will reduce its full-time equivalent (FTE) student count. For example, schools may fail to determine whether students actually ever attend courses for which they register; fail to enforce satisfactory academic progress policies that could reduce enrollment; and generally not have a system for determining a student's last date of attendance.

It is also possible that institutional policies for rewarding employee performance will encourage employees to abuse or defraud the Title IV programs. For example, an admissions representative may coach students to falsify by understating their income information on the FAFSA so that they will qualify for Title IV aid.

2. If Fraud is Suspected

If reviewers suspect fraud, they should first contact the CTL and/or ACD to discuss review observations. Any contacts should be made away from the school. If not already involved with the review, reviewers should also contact the CMT's AAAD liaison. Together, these individuals can discuss the types of documentation necessary to sustain the finding and the manner in which it should be documented. To protect Title IV programs from further loss in cases of fraud, it is the responsibility of the reviewers and CMT to work closely with AAAD and OGC in initiating the appropriate administrative action. Joint consultations with AAAD and OGC are recommended to assist reviewers and CTLs/ACD in providing necessary documentary support for an administrative action.

Reviewers and CTLs/ACD should also contact the Office of the Inspector General for Investigation (OIGI). Although the OIGI has the primary responsibility for investigating fraud and abuse, reviewers can provide valuable preliminary information and documentation.

3. Documenting Suspected Fraud

Reviewers should fully document any program exceptions serious and pervasive enough to warrant administrative action or which may represent fraudulent activity on the part of the school. These include, but are not limited, to the following items:

- Any institutional documents that support the findings of fraud or abuse must be photocopied. Reviewer must initial and date the back of each photocopy so that they can attest to when the document was copied and by whom, in the event of a future administrative or criminal hearing. The AAAD liaison to the CMT, or OGC, should be consulted regarding documentation requirements before photocopying documents, if possible.
- In cases of suspected fraud, staff and student interviews are critical. Interviews of both current and former students will be necessary in most cases. If AAAD and OGC staff are not present during the review, reviewers should conduct interviews of students and staff. The interviews should be summarized and the respondent should be asked to read the statement, make corrections, and sign, with the attestation that the document is true and accurate representation of the interview. Ideally, the document should be typed; however, it can be handwritten, if necessary. Where possible, interviews should be conducted in teams, with one person asking the questions and the other taking notes and asking follow-up questions. In some cases, students or staff may be more willing to discuss questions away from the school location.

Reviewers perform an important function in preserving the integrity of the Title IV programs. To perform effectively, reviewers must be able to identify and test areas of program vulnerability or risk. The Title IV programs are designed to be administered by the institution acting as a steward of Federal funds. When an institution violates this trust, the Title IV programs and Federal funds are at risk.

4. Areas for Potential Fraud

The following areas identify fraud situations that have been discovered during recent program reviews. Note that these are some areas for potential fraud and abuse:

a. Ability to Benefit (ATB)

Students who are enrolled under ATB standards must pass an independently-administered admissions test that is approved by the Department. Reviewers should check for the following:

- Tests that have been altered to show that the student passed.
- Tests not scored properly. Be sure to examine tests with scores exceeding the passing score by only one or two points.
- Tests completed with a pencil and obvious changes made.

- Discrepancies between test proctor's listings of students tested (if available), and students who took ATB test.
- On a timed test, all students routinely answered every question.

b. Attendance Records

Federal financial aid disbursements are contingent upon a student's attendance at the institution. Check for the following items:

- Attendance records are altered or missing.
- Discrepancies in the supporting documents maintained for attendance records.
- Extended leaves of absence followed by one or two days of attendance (that coincide with the disbursement dates of funds), followed by a final withdrawal.
- Majority of students taking leaves of absence.
- An unusually high number of make-up hours for many students in classes that are not self-directed.
- Majority of withdrawal students with hours supporting full year disbursements and/or no refunds due.

c. Signatures

Many documents in the students' files require student certifications and signatures. Examine them closely:

d. Refund Checks

Verify original refund checks for the bank's processed date.

e. Misrepresentation

Some institutions may:

- Lure students to attend their schools by misrepresenting the educational program or the opportunities a student may have after completion of the educational program. Check for these items:

- Offering recruiting "gimmicks" to encourage students to sign up family and friends. Check with state licensing agency for improper referral practices.
 - Providing prospective students with erroneous placement and completion statistics.
 - Using job placement agencies, making false job placement promises, or placing blind advertisements in help-wanted section of newspapers to attract students looking for employment (students think they are applying for jobs, not to go to schools).
 - Promising full transferability of credits.
- Misrepresent the costs of tuition and fees; the catalog may state one cost while the contract may indicate another.
 - Describe availability of the latest equipment in advertising, but provide inferior equipment on-site; malfunction or disrepair of equipment.
 - Promise internship/externship opportunities for professional development, but refer students to positions that are menial and are not program-related.

G. Administrative Action Issues

The Department has the authority to take various administrative actions against a school, whenever a school "...violates any Title IV, HEA program statute, regulation, special arrangement, agreement or limitation prescribed under the authority of Title IV of the HEA." The authority to take these actions is found in Subpart G - Fine, Limitation, Suspension and Termination Proceedings at 34 CFR 668.81-668.98. Subpart G also authorized the imposition of emergency actions.

In addition, the Higher Education Amendments of 1998 also granted the Secretary authority to issue administrative subpoenas to obtain documents, reports, answers, records, accounts, papers, and other documentary evidence pertaining to a school's participation in any SFA program.

AAAD is the entity within OSFA that is responsible for taking these administrative actions. In addition, AAAD is also responsible for initiating suspension and debarment actions against individuals. AAAD staff works closely with attorneys in OGC.

1. Referral to AAAD

The CMT should consult with the AAAD liaison to determine whether a referral is appropriate. If a referral is appropriate, reviewers should prepare a "Case Team Referral" form for their Area Case Director's signature that is then forwarded to the Director of AAAD.

If there is reason to suspect fraud in the administration of Title IV funds by an institution, referral to AAAD (and notification to the OIG) should be made without hesitation. In addition, referrals to AAAD for administrative action are encouraged if reviewers suspect that a school is either unwilling or unable to properly administer Title IV funds; specifically, with findings that appear to be systemic or repetitive in nature and have placed, or may continue to place, Federal funds at risk, or cause harm to students. Finally, referrals may also be appropriate if, in the course of resolving a review, the institution has failed to respond timely and in good faith to the required corrective actions specified in the program review report and/or corrective action plan.

For AAAD referrals, the review team working with its AAAD liaison, must ensure that specific findings and backup documentation are prepared and promptly forwarded to the AAAD Director for evaluation and subsequent action. AAAD will evaluate for appropriate administrative action. The ACD should notify the Case Management Division Director (CMDD), or the designee, of the referral to AAAD because this could affect the scope, planning and scheduling of any expanded team review activity. AAAD and CMDD should coordinate their subsequent activities to ensure that any pending administrative action can proceed swiftly.

2. AAAD Action

AAAD will impose or initiate an action after evaluating the referral, and after consulting with reviewers, CTLs and ACD, and personnel from OGC. Although the regulation authorizing AAAD to take action requires only that a school violate any Title IV regulatory provision, obviously AAAD will not take action against every school that makes a mistake.

There are many circumstances under which AAAD will take action without reviewers completing the program review report. The guiding regulation for AAAD to take action only requires the finding of any regulatory violation; it does not require a written program review report or any notice to the school, of any kind, prior to AAAD's administrative action notice, which must cite the violations on which the action is based.

As with Subpart H actions, reviewers must be able to support their findings with documentation and testimony that will convince a hearing official that their findings are correct and accurate, and that they followed appropriate and

reasonable procedures. Generally, this means following normal program review procedures, taking reliable notes of interviews with school personnel and students, and making legible copies of pertinent documents.

H. Evaluating Program Review Results

Once the program review site visit is completed, the CMT must evaluate the results. Reviewers should consult with the CMT, CTLs/ACD, and AAAD liaison, to determine the appropriate course of action. Depending on the severity of any violations, actions may include:

- referral to the IIS for technical assistance;
- development of a corrective action plan to rectify the problem;
- assessment of liabilities;
- immediate transfer to the reimbursement system of payment or to heightened cash monitoring;
- referral to AAAD for administrative action, including emergency action, when appropriate; and/or
- immediate notification of the Office of Inspector General (OIG), if fraud is suspected.

1. File Reviews

As previously noted, reviewers can require that an institution perform reviews of its records (file reviews) to ascertain the extent of a deficiency that appears to be systemic and material. Generally, an error rate of greater than **10 percent** for any given award year would signal a systemic problem. (Refer to IRB Memorandum [Target Numbers and Reviewer Discretion](#).issued 12/6/95.)

A material deficiency is one which may result in funds payable to the Title IV programs or students, or one in which the nature and frequency of the problem may be serious enough to warrant a fine or other administrative action. For example, reviewers discover in the file review that tax returns were not being collected for most students who were selected for verification. The school should be required to review all students who were selected for verification in the applicable award year(s), and identify funds that were disbursed without verification being completed. In an expanded review, reviewers (having discussed time and staff availability with the supervisor) may decide to review the files for the students in the statistical sample, instead of having the school do it.

In most cases, to determine liabilities payable to the Title IV programs, an institution should be offered the choice of performing file reviews using the

students included in the valid statistical sample that was identified at the beginning of the program review. Reviewers would then extrapolate any liability amounts determined for students in the statistical sample over the total universe of students for the applicable period(s).

There are situations where it is not appropriate to permit the institution to review only those students contained in the statistical sample. This is in cases where the school will be required to repay monies directly to students or to students' loan holders (e.g., unpaid FFEL/DL refunds, underpayment of FWS, unpaid credit balances). In such cases, schools would be required to review all students in a given time period to determine the extent of non-compliance and resultant liabilities.

In either case, file reviews often require an extensive amount of work for schools. Careful consideration should be given to whether a file review is appropriate and if so, what the scope of that file review should be. For example, if the program review encompassed two award years, but a majority of the problems were found in one year, reviewers should ascertain (ideally while still on-site) if there was a systemic problem in the other year to determine if a file is required for both years. This might involve expanding the review sample to look at a few more cases from both years, and/or talking to school officials to find if there was a particular problem that could be traced to one award year (e.g., staff turnover resulted in inadequately trained staff). This could also help reviewers determine what type of corrective action is most appropriate.

Finally, reviewers must determine whether any verification of the file review results is required. The two most common methods are:

- require that the school have an independent CPA attest to the accuracy of the results of the file review, or
- schedule a follow-up visit to the school to test the results.

Reviewers should specify in the program review report whether a CPA review is needed (especially because the school will have to pay for this), or that a follow-up visit may be scheduled.

2. Corrective Action Plans

In addition to determining whether there are any potential liabilities resulting from deficiencies noted during the program review, it is important to work with the school to develop corrective action plans to ensure that the problems do not reoccur.

The corrective action process can begin during the on-site program review. Some problems may simply be the result of a misunderstanding of a regulatory requirement. For example, reviewers may find that a school is still taking 60 days to pay FFEL refunds for students who withdrew from school, instead of 30 days under current regulations. Identifying the revised regulation when discussing the issue with school officials during the review should ensure that procedures are changed immediately.

In many cases, however, the causes of the non-compliance are not so readily apparent; and reviewers' ability to prescribe specific corrective actions is limited. If possible, reviewers should try to determine the cause of a problem, to facilitate identifying the best resolution. However, the realities of time constraints and internal school dynamics may prevent this.

For instance, the specific cause of a finding that a school took 120 days to pay FFEL refunds may be more difficult to identify. The refund process generally requires communication between different offices at a school, and poor communication could cause refunds to be paid late – or not at all. Trying to identify exactly where the bottleneck occurred could become very time-consuming and involve reviewers in inter-office conflicts at the institution. In this case, the best corrective action may be to have the institution develop and describe its enhanced student withdrawal/refund process from the time a student's withdrawal is identified through the date the refund is paid (identifying timeframes and lines of communication) that meets the 30 day regulatory requirement.

Then, there are more complex problems that may require a much broader approach. For example, systemic problems with awards to ineligible students, incomplete verification, and improper loan certification may be the result of a total breakdown in the financial aid office. There may be inadequate staffing and training. In such a case, it may be appropriate to require the school to perform an evaluation to determine the cause of the problem, and have them propose a solution.

In all cases, reviewers should consider what Department resources might assist the school in implementing the corrective action plan(s). This may include reviewer suggestions, utilizing the Institutional Improvement Specialist, the SFA Assessment, or other ED training materials/activities.

3. Technical Assistance

CMT staff should always try to assist schools by offering technical assistance or responding to school requests for technical assistance. The commitment to addressing a school's technical assistance questions should be discussed at the entrance and exit conferences.

Any clarification of regulations and statutes that reviewers provide regarding review findings is a form of technical assistance, and it is important to ensure that schools are provided complete and accurate regulatory and statutory references for each issue identified. However, there may also be opportunities during a program review to provide information and advice separate from findings.

Additionally, reviewers may discuss some “best practices” that they have observed at other schools, which might ease some organizational or administrative burden they have identified. HOWEVER, in doing so, the reviewers must stress that they, and the Department, are not endorsing any product or service provided by any entity. Also, reviewers should confirm the willingness of the person/institution with the “best practices” to be referred to others.

I. Exit Conference

The exit conference is considered a courtesy to institutional officials; the Department is **not required** to provide an exit conference. However, it provides an opportunity to share information with school officials and seek additional information from them, including their comments/responses to the deficiencies summarized by reviewers. The president/owner, school director, financial aid officer, business manager and registrar should be present at the exit conference. Other institutional officials may attend the exit conference (depending on the type of institution reviewed).

During the exit conference, reviewers should:

- Discuss the scope of the program review (e.g., award years and number of student files reviewed).
- Summarize the deficiencies identified.
- Discuss the possible scope of required corrective actions.
- Advise the institutional officials of the time frames for issuing and responding to the program review report or issuance of the expedited determination letter. Mention that reasonable dialog regarding the findings and questions of regulatory interpretation will be considered, but a timely resolution of program review issues will be expected. Also, explain the final program review determination, with a brief discussion of the formal appeal process.
- Remind officials that the deficiencies noted and corrective actions required are preliminary, that consultation with the supervisors and final review of the information collected may result in additional findings. However, as a courtesy, schools generally should be apprised of any substantial findings not noted in the exit conference before the issuance of the review report.

- Reiterate the commitment of the Case Management Team to provide technical assistance.
- Thank the officials for their cooperation during the review process.

As a general rule, the exit conference should be brief, avoiding excessive detail in describing deficiencies, but emphasizing that the review report will provide additional information.