

Chapter IX After the Site Visit

Upon returning from the on-site visit, reviewers should discuss the findings with the CMT, including the Co-Team Leader (CTL), and determine the appropriate next steps. These next steps will include preparation of the program review report, but might also include referral for technical assistance or development of a corrective action plan. In consultation with the ACD and CTL, reviewers determine when the program review report will be issued. In general, reviewers will notify the school, within 15 days of the date that the on-site review ends, when it can expect to receive the report.

If no administrative action is pending, a program review report is prepared and is normally sent to the school within approximately 30 to 60 days after the site visit ends. However, if an administrative action is pending, the ACD/CTL, in consultation with AAAD and OGC may elect **not** to issue a program review report at all, so as not to prejudice the case for administrative action. The ACD/CTL may choose to issue a final program review determination letter in lieu of the program review report. There is no legal requirement that the Department issue a program review report.

Prior to issuing any type of report following an expanded review, a copy of such report must be sent to AAAD and OGC for comment. This will ensure that the findings and citations are accurate and enforceable, should the institution choose to contest any asserted liabilities. Any such report or final determination (like the finding relied upon to justify administrative action) must contain logical narratives of observed violations and must include accurate citations and be supported by relevant documentation.

A. The Program Review Report

1. Report Preparation

The program review report is the official ED notification to the institution of the findings discovered during the on-site visit. The report lists the regulatory and statutory findings and establishes a prima facie case. The report also specifies required corrective actions, including a time frame for institutional response.

Appendix N provides an example of a program review report, including a cover letter, institutional review data sheet, and an appendix of students sampled. Reviewers should be guided by this example. Items to be included in the report and in supporting documentation are:

Type of file sample used Describe the type of file sample and how the sample was derived. The recommended language is as follows:

Example: "A sample of XX student files was selected for the review, X each for the 200X-0X and 0X-0X award years. The files were selected randomly from a statistical sample of the total population receiving Title IV student financial assistance for each award year, valid to a 95 percent confidence level with a plus or minus five percent confidence interval.

If additional files were selected on a judgmental basis, describe the number of files, method of selection and purpose of the selection.

The structure for reporting findings is described below.

Finding - Describe the statutory or regulatory violation; provide sufficient detail in order to build a strong case. The report should describe the regulatory violations in a way that would be clear to a third-party reader who may have only limited knowledge of Title IV programs. For example, for a finding of unpaid refunds, do not just indicate the school failed to pay a certain refund; include each student's start date, withdrawal date, refund amount, and date due.

Requirement - Describe what the statute and/or regulations require and the corrective action to be taken by the institution to return it to compliance.

Reference - List the statutes, regulations, and policy issuances supporting the requirement. However, **do not cite a policy issuance alone without a supporting regulation or statute**. Make sure the document cited is in final form, not a draft policy.

Harm statement - Include in the finding a concise statement identifying the harm to ED or to students that results from the specific violation. Example, "The institution's failure to make timely refunds of Title IV loans may contribute to an increase in student defaults and cause financial harm to the U.S. Department of Education and students."

Reviewers should state in the program review report whether the school must have a CPA review any required file review results, because the school will have to pay for this. For A-133 schools, however, consistent with PIP Mailbox Message #191, we cannot request any auditor follow-up of program review findings. In addition, the program review report should notify the school that a follow-up visit may be scheduled to test or sample the school's file review results.

2. Timelines for Issuing the Program Review Report

Program review reports should be reviewed by the CTL and in most cases, issued **no later than 30 days** after conclusion of the review visit, or as determined after consultation with the CTL. When the level of the review is more

serious or when the case has been referred to AAAD for an administrative action, the Area Case Director (ACD) may approve an extension of an additional 30 days.

Program review reports requiring greater than 60 days should be discussed with the Case Management Division Director.

Similar timelines also apply to the process of reviewing institutional responses to the program review report. School requests for extensions should also be discussed with the CTL/ACD.

B. Final Program Review Determinations

PIP 98-02 [PIP Procedures Memo](#) provides guidance on preparing the Final Program Review Determination letter (FPRD), including FPRD procedures and models. As with the program review report, a guiding principle for FPRD preparation is to describe the items identified at the institution that did not comply with the Department's regulations in sufficient detail both as to the facts and the legal requirements to state a prima facie case in the FPRD itself.

The cover letter provides the dates of the review and a summary of the findings. The structure for reporting findings is the same as for a program review report.

Finding - Describe the statutory or regulatory violation; provide sufficient detail to build a strong case. The FPRD should describe the regulatory violations in a way that would be clear to a third-party reader who may have only limited knowledge of Title IV programs. For example, for a finding of unpaid refunds do not just indicate the school failed to pay a certain refund; include each student's start date, withdrawal date, refund amount, and date due. If a large number of students are involved, this can be done in a chart and included as an attachment.

Reviewers should document fully in the work-papers, and summarize in the FPRD, the reasons supporting resolution of certain findings (i.e., reasons for not including certain program review report findings in the FPRD).

Requirement - Describe what the statute and/or regulations require and the corrective action to be taken by the institution to return it to compliance.

Reference - List the statutes, regulations, and policy issuances supporting the requirement. However, **do not cite a policy issuance alone without a supporting regulation or statute.** Make sure the document you use is in its final form, not a draft policy.

Harm statement - Include in the finding a concise statement identifying the harm to ED or to students that results from the specific violation. Example, "The institution's failure to make timely refunds of Title IV loans may contribute to an increase in student defaults and cause financial harm to the U.S. Department of Education and students."

Summary of liabilities - Include a summary of liabilities by finding and by program, with a total for each program.

Payment instructions – As necessary, include specific instructions on the amount of funds due to current loan holders for applicable students or on funds due to ED or the program accounts. Include applicable mailing addresses.

However, if the total liability resulting from the review is less than \$1000, the liability should be asserted in the FPRD, but the reviewer should not include instructions for payment to ED. Instead, the reviewer should include a statement that mirrors the language for FADs, as shown in PIP 97-20, Procedures for Resolving Deficient Audits. The FPRD should read:

“Since this liability amount is minimal, we will not require repayment at this time. However, the institution must ensure that it has corrected its procedures, so this type of finding does not recur. If similar findings are noted in future program reviews, we will require repayment of those improper amounts, as well as the amount noted here. In addition, we may refer the matter to Administrative Actions and Appeals for a possible adverse administrative action.”

This minimum liability only applies to funds owed to ED, not to students, or lenders/noteholders on behalf of students. See [PIP Mailbox Message 233](#)

Appeal procedures - Include detailed information on timelines, documents that must be submitted, and applicable addresses for mail and overnight delivery.

Appendix O contains an example of an FPRD.

1. Expedited Determination Letter (EDL)

To save time for reviewers and for school staff when reviews uncover only minor deficiencies, the Expedited Determination Letter (EDL) is recommended. This combination program review report/FPRD eliminates the need for ED to generate two separate documents and simplifies the response process for school officials.

The EDL consists of three parts: a cover letter, an attachment that describes the findings noted, and an Appendix that lists the students in the sample. The findings are written just as in a conventional program review report with a

description of the finding, an explanation of the harm and the regulatory reference, but no required actions. It is an expedited process because ED does not require a written school response to the report, and no final determination is issued.

There are two types of EDLs:

Version A - The first type is designed to be used when the liabilities identified are minimal and the school corrects the problem(s) identified while the reviewers are on-site or shortly thereafter (before the report is issued). Reviewers can use it for a school that has isolated, minimal liabilities, and funds are due to a student or payable against a student's loan. Reviewers could ask the school to either:

- make the required payment and notify ED of same; or
- make the required payment and submit documentation of same.

The school does not have to provide a detailed response to each finding as is required with the conventional program review report. However, any final determination that contains a requirement that a school repay funds must contain appeal language. (PIP Memo 98-02). Since schools are not necessarily required to submit verifying documents in response to this type of EDL, reviewers should advise them of the follow-up accountability requirements, in accordance with the guidance contained in PIP Mailbox Message #191 dated 3/10/99. [Audit Follow-up of FPRD Findings](#)

Version B - The second type of EDL that reviewers can use is for schools with isolated problems with no or small liabilities. Version B can be used if liabilities or potential liabilities identified during a site visit are cured or the liabilities are paid **while the reviewer is on site**. Version B cannot be used if funds are owed to students or are payable (on a loan) on their behalf. Version B is also not appropriate if the school is directed to take any action resulting in a payment of liabilities.

Version B of the EDL is used to document the site visit and to make any errors found a part of the official record. The fact that the liabilities were identified and promptly cured or repaid should be included in the EDL. Since no liabilities are assessed in the EDL, do not include the appeal language.

An example of an EDL is included in Appendix J. Please note that the contents must be modified to fit the situation.

Time frame for EDL issuance - The Expedited Determination Letter should be reviewed and approved by the ACD/CTL and issued no later than 30 work days,

or as determined after consultation with the CTL, after conclusion of the review visit.

C. PEPS Data Entry and File Maintenance

1. PEPS Data Entry

Reviewers play a vital role in maintaining the integrity of PEPS. Basic information on entering data into PEPS is found in the PEPS user's manual. It is important that staff enter program review information into PEPS at key points in the process: at the conclusion of the on-site visit, issuance of the review report, issuance of the final program review determination, and closure of the review. The CMIS module should also be updated at the time reviewers return from the review to the office.

2. Level of Review Seriousness

The following PEPS codes indicate the five levels of review:

- 0 No regulatory violations
- 1 Moderate deficiencies
- 2 Serious deficiencies
- 3 Very serious deficiencies
- 4 Fraud/abuse: OIG referral/emergency action

3. Deficiency Codes

CMO uses deficiency codes for classifying regulatory violations. Entering deficiency codes into PEPS is vital for tracking and analysis. Codes may be entered into PEPS as soon as possible after a review, but no later than issuance of the program review report. Since findings may change, reviewers must assure that the findings in PEPS match the findings in the program review report.

At the issuance of the FPRD or EDL, the lead reviewer should ensure that the deficiency codes and the liability amounts are updated. Should a school appeal and successfully reduce its liability, the lead reviewer will be notified by AAAD and should ensure that PEPS deficiency codes are again updated. Also, revised liability (accounting documents) should be updated and submitted to Finance.

4. File Maintenance

Reviewers should maintain a record of work performed during the program review. This includes notes of pertinent discussions with school staff, notes from the entrance and exit conferences, interview notes, work papers, and information on resolved findings. Please refer to the section in Chapter III on Documenting Program Review Findings for additional information. In summary, everything that supports the conclusions of the review should be maintained in the Case Team's files.

Copies of the program review report and the FPRD should continue to be submitted to the Document Receipt and Control Center for filing in the school's file.

D. Appeals

Although technically not a part of the program review process, the following information is provided to assist reviewers in understanding the appeals process. The quality of the work performed and the documents prepared during a program review are vital to the appeal process, and reviewers are needed to assist during the entire review process.

Under the Subpart H, General Provisions Regulations, an institution may file a formal appeal if it disagrees with the monetary liabilities asserted in a final program review determination (FPRD). To preserve its appeal rights, the institution must file an appeal within 45 days of its receipt of the FPRD. Standard language in the FPRD contains instructions to the institution for filing an appeal. The institution appeals by submitting a written request for review to the Director of AAAD. The request must state the basis for the appeal, and include any documents that the institution may wish to present to support its case.

Upon receipt of the appeal, the AAAD staff member who is handling the appeal will notify the reviewers, the Co-Team Leaders, and the Area Case Director that a Subpart H appeal has been received. In most instances, the AAAD staff member that is handling the appeal will also be the AAAD liaison to that particular Case Management Team. AAAD will provide a copy of the appeal to the reviewer who prepared the FPRD and request that he/she prepare a detailed assessment of the school's arguments and documentation.

These assessments serve as a valuable aid to AAAD and OGC in litigating administrative appeals. The written assessment must include an analysis and evaluation of the issues that the institution disputes in its appeal. The assessment should not be a synopsis or recapitulation of the institution's appeal letter and/or the FPRD. The reviewer must determine for each finding under appeal, whether the claims or arguments raised by the institution have merit and satisfactorily resolve, or reduce, the liabilities associated with the findings. If the documentation does or does not support the finding, the reviewer must clearly

state the reasons why in the assessment. The written assessment must reflect the total amount appealed. In general, the written assessment must be reviewed by the CTL and transmitted to AAAD within 15 days of the date the reviewer received the appeal from AAAD. However, additional time may be provided depending on work constraints and/or the complexity of the appeal. The assessment may be submitted to AAAD electronically, via e-mail, or in hard copy format.

Frequently, an institution may submit documents as part of an appeal package that, for whatever reason, were not made available to the reviewer earlier in the program review process. The fact that documentation could or should have been submitted earlier in the review process is not a valid reason for failing to prepare an assessment or failing to evaluate the school's arguments and exhibits.

Reviewers may also be asked to answer questions or prepare charts, especially when OGC and AAAD are preparing briefs and exhibits for filing with the hearing official.

AAAD must transmit the administrative record of the appeal, including the request for review and supporting documents, to the Office of Hearing and Appeals (OHA) within 30 days of receipt of the appeal. If, after the assessment, it is determined that satisfactory documentation was submitted with the institution's appeal request, and the reviewer and AAAD staff member agree that the submitted documentation resolves the appealed liabilities, AAAD will resolve the appeal without forwarding it to OHA and OGC. However, if contested liabilities still exist, AAAD will forward the appeal to OHA. The appeal and the reviewer's assessment will also be forwarded to OGC at the same time.

From this point, either a settlement between the institution and the Department is reached, or the hearing official issues an initial decision. Either party may appeal such decisions to the Secretary within 30 days of receipt of the hearing official's decision. Once an appeal has been resolved (either by AAAD, settlement, or final decision), the AAAD staff person will notify the reviewer, the Co-Team Leaders, and the Area Case Director of the resolution, and will provide the appropriate documentation to the reviewer. PIP 98-01 provides further guidance on the Subpart H appeal process. [PIP Procedures Memo](#)

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- Appendix B Notice of Visit Letter
- Appendix C Staff Interview Questions
- Appendix D Student Interview Questions
- Appendix E Fiscal Review Worksheet
- Appendix F Sample Student File Worksheet
- Appendix G Satisfactory Academic Progress (SAP) Policy Checklist
- Appendix H Default Management Checklist
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- Appendix J Sample Expedited Final Program Review Determination Version B
- Appendix K PIP Guidance Available on Web Site
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