
Chapter III. On-Site Review Procedures

Upon arrival at the institution, the reviewer should present the chief administrative officer with the Notice of Visit letter (see Appendix B), and have copies of the letter available for distribution to other institutional officials. This letter will introduce the reviewer, inform the institution of the Department's authority to review Title IV records, and provide a comprehensive list of documents to be provided to the reviewer.

If the reviewer is denied access to the records or institutional officials refuse to cooperate, the reviewer should immediately notify his or her supervisor with a recommendation for transfer of the school to reimbursement; then inform the school that it will be transferred to the reimbursement system of payment because the lack of access to records indicates a heightened need to monitor federal funds. In addition, adverse administrative action may be initiated.

A. Entrance Conference

During the entrance conference, the reviewer should state the objectives of the program review, meet institutional officials, discuss general organizational structure and establish time frames required for the retrieval of documents. The President/Owner, School Director, Financial Aid Officer, Business Manager and Registrar should be present at the entrance conference. Additional institutional officials may attend, depending on the type of institution being reviewed.

1. The reviewer should explain the following items to institutional officials:

PURPOSE - The purpose of the program review is to examine the institution's administration of the Title IV programs.

SCOPE - The scope of the review will be 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 five-year period. (Note: record-retention regulatory requirements.)

REASON FOR REVIEW - The reviewer may state the factors which contributed to the institution's selection for a review (factor list criteria), unless there is a need to withhold the reason, e.g., student or employee complaints, or suspected criminal activity.

TIME FRAME - The reviewer should inform the institutional officials that the program review time period will be approximately one week, although it may be extended if necessary. Upon completion of the review, an **exit conference** will 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.

RETRIEVAL OF DOCUMENTS - The reviewer should first request readily available items; e.g., catalogs, eligibility letter and program participation agreement, accreditation information, and state licensure documentation. These should be obtained by the reviewer directly after the entrance conference. Each request for documents should be made in writing.

Determine in the conference which documents may be obtained quickly and which documents may take longer to gather. The reviewer should set specific deadlines to receive documents. An example of this would be to request that student files be provided by that afternoon, offering to pull the files in an effort to facilitate the process. The availability of the documents will help the reviewer establish the structure of the program review. For example, if student files are not available the first day, the reviewers may want to begin reviewing Student Status Confirmation Reports (SSCRs), available fiscal records, or interviewing students or staff.

Keep in mind that some institutions may have their documents at their corporate offices or with their 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), the reviewer may require the institution to have the documents faxed to the review site.

2. Request student files by giving officials portions of the selected random sample list taken from the statistical sample. Provide the list only in portions, so as not to disclose more of the sample than can be reviewed at one time. Advise the institution that additional files may be selected.

Discuss with officials the general characteristics of Title IV recipients at the institution, including approximate percentages of grant and loan recipients (e.g., percentage of FFEL-only recipients). If the school has provided a list of all Title IV recipients, select a new statistical sample from the list. Ask school officials to provide student lists in an electronic database format, if possible.

3. Discuss the institution's general administration of the Title IV programs. For example: departmental interrelationships, organizational structure, and basic responsibilities of departments. Some key areas for discussion:

- N Admissions process
- N Financial aid packaging process
- N Ability to benefit procedures

- N Academic year definition
- N Payment period definition

Ask institutional staff to informally discuss their roles and specific procedures. Take notes on who, what, when and how.

(For more details on Title IV administration and institutional office relationships, see Office Systems and Coordination later in the Guide.)

4. Schedule interviews with institutional officials in key areas. (See appendix items C and D for suggested interview questions)
5. Request that a suitable work area and unimpeded access to a photocopy machine be provided for the program reviewer(s). If the school's photocopier is out of service, the reviewer should consider renting a copier and bringing it (or having it delivered) to the site.
6. Allow for a question and answer period.

B. Survey Review Process

The purpose of the Survey Review is to make an assessment of the institution's administration of the Title IV programs in the critical program review focus areas (see Chapter Four), determine if it is necessary to conduct a Concentrated Team Review, and, if not, determine appropriate corrective actions for any deficiencies noted. The following are general steps in the review process:

1. Obtain necessary documents from institutional officials, ensuring timely delivery. Collect all relevant documents prior to examining each focus review item, so that the reviewer may examine that item in its entirety. Example: in order 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 the administrator.
2. Analyze institutional documents for compliance with the regulations and determine if any deficiencies exist.
3. If documentation is missing, ask the institution if it is found any other place. If not, inform the officials that your report will cite this as a finding. Some institutions try to give the reviewer newly created documents for deficiencies identified during the review. This delays the review or takes time away from examining other areas. Example: the reviewer finds that the institution does not have a complete Satisfactory Academic Progress (SAP) policy; school

officials offer to develop one by the next day to avoid having the finding included in the program review report. The reviewer should indicate that the institution will be responsible for developing, implementing and retroactively applying a new policy **in response to the program review report**.

4. Document each deficiency completely. In conjunction with the Office of the General Counsel (OGC) and CED, a standard documentation guide will be developed and added to this Guide to assist reviewers. However, as a guideline, reviewers should document their reviews as if **each** finding will be challenged before a hearing officer.
5. Analyze the deficiencies to determine if they are systemic or if they are isolated instances.
6. Determine if the random sample needs to be expanded. Generally, an error rate of any deficiency greater than **ten percent** for any given award year would signal a systemic problem and warrant a more complete review of the statistical sample for that award year. Reviewers should use professional judgement in making that determination. Any expanded random sample should be selected from within the original statistical sample.
7. If serious and systemic deficiencies are noted in administrative systems, or deliberate misuse of funds is indicated, consult the appropriate regional office supervisor to determine the next step, or discuss assignment of a concentrated team review. This assessment should be made by the end of the second or third day of the survey review, if possible. This critical decision requires the best judgement of an experienced reviewer.

If the reviewer does not uncover any serious violations in the survey review, the reviewer should proceed with a normal or expedited program review closure, as discussed in Chapter VII.

C. Recommending The Concentrated Team Review

*****THIS IS THE MOST CRITICAL DECISION TO BE MADE DURING THE SURVEY REVIEW.*****

As discussed earlier in the Program Review Guide (Chapter I, Types of Review, Concentrated Team Review), the reviewer must determine during the survey review if a concentrated team review may be warranted.

Although detailed information on this process is provided in Chapter I, some key guideposts should be remembered. To justify recommending a concentrated team review, there must be significant evidence of serious, recurring or systemic problems relating to the program review focus items. Additional deficiencies the reviewer has noticed outside of the focus item

list should also be taken into consideration when determining the need for a concentrated team review.

The concentrated team review should be considered when **1)** serious violations are observed, **2)** systemic breakdown is noted, and **3)** the annual Title IV funding is greater than \$500,000 (reviewer discretion should be used).

If the reviewer sees no evidence of a broad, systemic breakdown, a concentrated team review may not be warranted. Instead, the reviewer may decide to complete the file review of the statistical sample, or may allow the school to complete the review (with a CPA attesting to accuracy).

However, if a concentrated team review appears to be justified, the reviewer should follow the steps provided in Chapter I, Types of Review, Concentrated Team Review.

D. Detecting and Documenting Suspected Fraud and Abuse

Reviewers should be aware that what may appear to be programmatic deficiencies resulting from oversight or a 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 the reviewer 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 school benefits, but other times the Title IV programs benefit, it is most likely the school isn't being careful enough with its calculations.

However, if the incorrect calculations consistently result in a benefit to the school, the reviewer should attempt to determine whether apparent errors are actually attempts by the institution to escape having to pay refunds. School staff performing the calculations should be interviewed to determine who instructed them how to do the calculations; if they are aware that the calculations are incorrect and, if they are aware, whether they brought this to the attention of their supervisor or the CEO of the school; and what the response of their supervisor or the CEO was.

Once this information is gathered, the reviewer should consult with his or her supervisor to determine what further action is appropriate:

- N referral to CED for emergency action, and/or
- N referral to the Office of Inspector General for Investigations (OIG-I) for possible fraud.

The Inspector General has the primary responsibility for investigating fraud and abuse, but the reviewer can provide valuable preliminary information and documentation. The reviewer 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:

1. Any institutional documents that support the findings of fraud or abuse must be photocopied. The reviewer must initial and date the back of each photocopy so that he/she can attest to when the document was copied and by whom, in the event of a future administrative or criminal hearing. CED should be consulted regarding documentation requirements before photocopying documents, if possible.
2. Interviews of students and staff should be summarized and the respondent should be asked to read the statement, make corrections, and sign, with the attestation that the document is a true and accurate representation of the interview. The document can be typed or handwritten. Where possible, interviews should be conducted in teams, with one person asking most of 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. (See Appendices C and D of this guide for suggested interview questions.)

Additional guidance on documentation will be provided in a standard documentation guide being developed with the aid of CED and OGC.

If the reviewer suspects fraud, he/she should first contact the regional supervisor to discuss review observations. Any contacts should be made away from the school from a secure telephone. The supervisor may decide to communicate any suspicions of fraud to the OIG before the reviewer leaves the school. The OIG's early involvement may provide significant input into planning for a concentrated team review, providing guidance on documentation priorities; ED may request that an OIG staff member also join the concentrated team.

While the OIG cannot direct the activities of the program review staff, it can make a determination if there is reason to suspect fraud, and it can sometimes provide assistance in securing school documents through its subpoena powers. This becomes especially important when reviewers suspect document alterations and the Department will need to secure the original files.

If the OIG obtains documents using an **OIG subpoena**, it can generally share the information obtained with the program reviewer. If the OIG obtains documents using a **Grand Jury subpoena**, it is prohibited from sharing documents or information disclosed to the Grand Jury. It is usually possible for the program reviewer to work parallel with the Inspector General for Investigations special agents in pursuing an administrative action as they are developing a criminal case. However, there may be some situations where the program reviewer is asked to withdraw from the program review so the Inspector General's staff can begin their investigation.

To protect the Title IV programs from further loss in cases of fraud, it is the responsibility of the program reviewer to work with CED in initiating appropriate administrative action. (OIG cannot initiate administrative actions.) Joint consultations with OIG and CED are recommended to assist the reviewer and supervisor in providing necessary documentary support for an administrative action. (See detailed discussion on coordinating administrative action under Chapter I, Concentrated Team Review, Review Options and Decision-making Authority.)

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

1. An institution that is experiencing cash flow problems may overlook or suspend administrative procedures that would reduce enrollment and, therefore, institutional income. Some examples: not enforcing satisfactory academic progress standards and not verifying enrollment.
2. 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.
3. Additional abuses may include manufactured high school diplomas or GED certificates, or falsified ATB tests.

There are many other factors that can become indicators of fraud to be tested by the program reviewer. The reviewer should try to ascertain the financial condition of the school prior to conducting the review. This can be a strong indicator of a motive to commit fraud or to abuse the Title IV programs. (The Financial Analysis Branch (FAB) maintains information on the financial condition of participating institutions.)

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 actual day 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, a recruiter may coach students to falsify (understate) their income information on the aid application so they will qualify for full Pell Grants.

The reviewer is the first line of defense in preserving the integrity of the Title IV programs. In order to effectively perform this function, the reviewer must be able to identify and test areas of program vulnerability or risk. It should be remembered that 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' funds are at risk.

Building on the concepts described above, the following examples illustrate some fraud situations which have been revealed in program reviews. Note that these are only indicators which **may** signal potential fraud and abuse:

1. ABILITY TO BENEFIT (ATB)

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

- a. Tests which have been altered in order to show that the student has passed.
- b. Tests not scored properly. Be sure to examine tests with scores exceeding the passing score by only one or two points.
- c. Tests completed with a pencil and obvious changes made.
- d. Test proctors telling students the answers to the questions.

2. ATTENDANCE RECORDS

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

- a. Attendance records altered or missing.
- b. Discrepancies in the supporting documents maintained for attendance records.
- c. Extended leaves of absence followed by one day of attendance (day of disbursement of funds) and then withdrawal.
- d. Majority of students taking extended leaves of absence.

3. SIGNATURES

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

- a. Inconsistencies in the use of middle name or middle initial.
- b. Signatures for the same person which appear to be dissimilar. If possible, interview the students to determine if they authorized someone to sign for them. Also, check for similarities between student and staff signatures.

4. SARS OR ESARS

Check for valid student signatures and dates (signed after LDA or prior to the processing date).

5. REFUND CHECKS

Verify original refund checks for the bank's processed date. Some institutions have made photocopies of checks and put them in the student files to make it appear as though the refunds have been paid, but have not actually processed the original check.

6. MISREPRESENTATION

Some institutions may:

- a. 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:
 - N** Offering recruiting "gimmicks" to encourage students to sign up family and friends. Check with the state licensing agency for improper referral practices.
 - N** Providing prospective students with erroneous placement and completion statistics.
 - N** 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 school).
 - N** Promising full transferability of credits.
- b. Misrepresent the costs of tuition and fees; the catalog may state one cost while the contract may indicate another.
- c. Describe availability of the latest equipment in advertising, but provide inferior equipment on-site; malfunction or disrepair of equipment.

While any student may be a victim of misrepresentation, low-income students seeking to improve their job prospects may be especially targeted; check for students' addresses from the same public housing authority or high percentages of "in care of" addresses.

For guidance on evaluating misrepresentation violations, see IRB procedures memorandum 91-19. Detailed documentation must support such allegations.

E. Compliance and Enforcement Issues

The Department has the authority to take various adverse 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 authorizes the imposition of "emergency actions."

The CED of IPOS is the Student Financial Assistance Program (SFAP) entity responsible for taking these actions and also takes suspension and debarment actions against individuals and corporations. CED works closely with attorneys in OGC. Program reviewers should recommend to the supervisor that schools be referred to CED for initiation or imposition of adverse administrative action(s), if such action is warranted.

If there is reason to suspect fraud in the administration of Title IV funds, referral to CED (and notification to OIG) should be made without hesitation. In addition, referrals to CED for administrative action are encouraged if the reviewer suspects 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 an open review, the institution has failed to respond timely and in good faith to the required corrective actions specified in the program review report.

Although the referral can recommend a particular administrative action, specifying a particular action is not necessary. CED will impose or initiate action after evaluating the referral, and after consulting with the reviewer, his or her supervisor, and personnel from OGC. Although the regulation authorizing CED to take action requires only that a school violate any Title IV regulatory provision, obviously CED will not take action against every school that makes a mistake.

If a reviewer is not certain a referral to CED is in order, he or she is urged to raise the matter for discussion with the supervisor. Usually, the referral only requires preparing a short memorandum to CED, including a copy of the program review report. CED will then consider the review report's findings, along with other factors not always readily available to

the reviewer, such as a school's compliance with audit report submission requirements and the school's financial condition.

Please note that there are circumstances under which CED will take action without a reviewer completing a program review report. The guiding regulation for CED 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 CED's official action letter, which must cite the violations on which the action is based.

As in Subpart H actions (formal appeals), 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 only means following normal program review procedures, taking reliable notes of interviews with school personnel and students, making legible copies of important documents and generally paying attention to details.

Since CED's administrative actions often seek to terminate a school's eligibility to participate in the federal SFAPs and thus threaten most schools' continued existence, schools hire competent attorneys to challenge CED's cases and reviewers' findings. If a reviewer has conducted the review properly and appropriately reported the findings, the reviewer has nothing to fear if cross examined during any litigation. Therefore, **CED recommends that all reviewers assume that every review that they conduct will result in litigation and that they will be witnesses in some litigation.**

Procedures memorandums (IRB 90-8, 91-10, 92-5, 93-7) have been developed by IRB to guide reviewers in their decision to recommend administrative action. A standard documentation guide is being developed with assistance from OGC and CED. This guide will contain minimum standards for documentation to support the Department's case in a hearing when an administrative action is challenged.

F. 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. The attached interview checklists provide suggested questions for student and staff interviews (see Appendices C and D). 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 which 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 you were processed?

Reviewers must take detailed notes at interviews, sign and date them. If students and staff are willing to sign statements, this can be extremely helpful in documenting serious program abuse or mismanagement. If they are unwilling to sign, record this, and check your observations with them, noting any changes or revisions they offer. In the absence of these signatures, 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.

G. 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 both share information with school officials and seek additional information from them, including their reactions to the deficiencies summarized by the reviewer. It is important to record the reactions of school officials to specific deficiencies. 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).

The exit conference has several purposes:

1. Summarize the deficiencies identified.
2. Inform institutional officials of the required corrective actions.
3. Advise the institutional officials of the time frames for issuing and responding to the program review report or issuance of the expedited determination letter.
4. Remind officials that the deficiencies noted and corrective actions required are preliminary. After consultation with the supervisor, additional findings and corrective actions may be required in the program review report.
5. Thank the officials for their cooperation during the review process

Sample - For survey reviews, advise institutional officials that a random sample of XX student files was selected from a statistically valid sample of the institution's Title IV recipients. Option: An additional XX student files were selected and reviewed. For concentrated team reviews, inform institutional officials that the **entire** statistically valid sample was reviewed.

Disclaimer - Inform the institution that although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the exit conference or program review report (or Expedited Determination Letter) concerning the institution's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve the institution of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV programs.

As a general rule, the reviewer at the exit conference should be brief, avoid excessive detail in describing deficiencies, take notes of staff reaction to deficiencies, and emphasize that the review report will provide additional information.

Note on tape-recording: If the institution insists on taping the exit (or entrance) interview, the reviewer may agree, but only on condition that he or she be given a copy of the tape at the end of the interview.