
Chapter VII. Review Reports/Final Determinations/Appeals

A. The Program Review Report

1. GENERAL FORMAT

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

Details on program review report format are included in IRB procedures memo 91-28.

The report writing process can be enhanced if begun while on-site at the school or in the field, and findings are fresh in the mind. Because laptop computers have been only intermittently available to reviewers, writing in the field was problematic. However, notebook computers will be provided to each reviewer in 1994 to make this process easier.

Program review reports generally should be issued **no later than 30 days** after conclusion of the review visit. Guidelines will be developed specifying time frames for report issuance when the level of the review is more serious or when the case has been referred to CED for adverse administrative action. Similar guidelines will also be developed to structure the process of reviewing institutional responses and issuing FPRDs.

The tone and style of writing in the program review report should be professional, concise and factual.

Level of review seriousness: IRB procedures memorandum 91-21, "Guidelines on the Clearance Process," includes an attachment on "Classifying Review Reports: From Taxonomy to Level." Although submission of certain draft reports to central office for review (clearance) is no longer required, the procedures memo attachment on classification remains an accurate description of program review categories of seriousness. Categories range from Level 0 -- No Violations to Level 4 -- Fraud and Abuse; guidelines are provided to assess and categorize review seriousness.

Note on tracking: To facilitate program review tracking, reviewers should enter the review level into IDS/PEPS at the time the report is being issued.

Report preparation: IRB procedures memorandum 91-28 provides guidance on preparation of the program review report, including models of the cover letter, cover sheet, introduction and student appendix lists. Reviewers should continue to be guided by the procedures in that memorandum. However, based on recent OIG recommendations on additional items to be included in the report and in supporting documentation, please note the following:

- a. Provide information on the **type of file sample used** and how the sample was derived. This is an expansion of the brief sampling information currently listed

under Scope of Review in the procedures memo model (Introduction, second paragraph). The recommended language is as follows:

Example: A sample of XX student files was selected for the review, X each for the 19XX-XX and 19XX-XX 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.

- b. The reviewer should also document in the workpapers the **reasons a school was selected for review.**

The structure for reporting findings is described below. Reviewers should use the generic paragraphs as the base for describing findings, and build upon them by adding detail. See Section 2 (Generic Paragraphs/Deficiency Codes) later in this chapter.

Finding: Describe the statutory or regulatory violation; provide sufficient detail in order to build a prima facie 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.

Include in the finding a concise statement identifying the harm to ED or to students that results from the specific violation.

Example of harm statement: "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." (Note: The harm statement should also be included in the final program review determination letter.)

Reference: List the statutes, regulations, and policy issuances supporting the finding. However, do not cite a policy issuance alone without a supporting regulation or statute.

Requirement: Describe the corrective action to be taken by the institution to return it to compliance.

Additional details and models for Finding, Reference, and Requirement can be found in the generic paragraphs, in IRB 91-28, and in Appendix N.

2. GENERIC PARAGRAPHS/DEFICIENCY CODES

Generic paragraphs. To save time in report preparation, ensure consistency in descriptions of findings and corrective actions, and provide clarity and a concise format, the reviewer should use the generic paragraphs as the base for each program review report. Complete with regulatory references, these examples of standard language assist in structuring descriptions of findings.

Generic paragraphs should be considered only a **starting point** for the reviewer, with adjustments made by the writer to reflect the details of the particular noncompliance identified in the review. The updating of existing generic paragraphs, plus the continuing addition of new paragraphs, will ensure that the recommended standard language will be current. Feedback from all reviewers on the usefulness of these paragraphs will help IRB-HQ keep the paragraphs complete and up to date.

Deficiency codes. Currently, IRB has approximately 170 codes for classifying regulatory violations. The numbering systems for the deficiency codes and the corresponding generic paragraphs are identical. Entering deficiency code into IDS/PEPS is vital for tracking and analysis. Codes may be entered into IDS as soon as possible after a review, but no later than issuance of the program review report. Reviewers are encouraged to provide feedback through their supervisors on the need for new codes or revisions to existing codes.

NOTE: The Generic Paragraph Team is currently (7/1/94) updating the deficiency codes and generic paragraphs. See Appendix L for the draft list of the deficiency codes and corresponding generic paragraph titles. The new list will be distributed when it is complete.

B. Final Determinations

IRB procedures memorandum 91-5 provides guidance on preparation of the final program review determination letter (FPRD). This memorandum provides FPRD procedures and models. Again, as with the program review report, a guiding principle for FPRD preparation is to describe a prima facie case.

Time frame for issuance: As noted above for review reports, new guidelines will be developed to provide for orderly management of the closure process and appropriate time frames for FPRD issuance.

Resolved findings. Reviewers should be certain to document fully in the workpapers, 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).

Note on the Expedited Determination Letter (EDL). To save time for the reviewer 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 reports and spares the school the necessity of a formal response to review report requirements. Paperwork is reduced; elapsed time to closure is shortened. **A model EDL is included as Appendix J.** As indicated in Chapter 1, more information on the EDL process, plus EDL models, will be available in a separate procedures memorandum.

Time frame for EDL issuance: The Expedited Determination Letter should be issued no later than 10 working days after conclusion of the review visit.

C. Appeals

Under Subpart H, General Provisions Regulations, an institution may file a formal appeal if it disagrees with the 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, IMD. The request must state the basis for the appeal, and include any documents that the institution may wish to present to support its case.

IMD must transmit the administrative record of the appeal including the request for review and supporting documents to the Office of Hearings and Appeals (OHA) within 30 days of receipt of the appeal. Under new procedures being developed, upon receipt of the appeal, IRB-HQ will promptly notify the appropriate regional director and forward a copy of the appeal and supporting documentation. The regional director can then review the objections and materials submitted to support the institution's case, and can reconsider the findings challenged in the appeal. This informal process supplements the formal appeal procedure described in the regulations, and may resolve some appeals before they are forwarded to OHA.

IRB-HQ will coordinate the two processes so that critical deadlines in the formal appeal process are met. IRB-HQ will forward the appeal to OHA and notify that office that the regional office is simultaneously pursuing an informal resolution of the appeal.

Generally, IRB-HQ must forward the appeal to OHA about 20 days after receipt of the institution's appeal. Under the regulations, OHA must establish a hearing schedule within 30 days of the date the institution appeals, and the hearing must be conducted within 120 days of the date it is scheduled. To avoid the complications of withdrawing or modifying the FPRD after OHA assigns the case to a hearing official, the regional office should try to conclude its review of the appeal within 30 days of the date the institution appeals.

Working closely with OGC, IRB/IMD will develop detailed procedures on the new appeal process and issue an IRB procedures memorandum to regional offices.