10 COMMON QUESTIONS
SCHOOLS HAVE ABOUT FEDERAL PROGRAM REVIEWS

MANY SCHOOLS FEAR PROGRAM REVIEWS

The U.S. Department of Education (ED) performs program reviews to identify whether a school is abiding by the provisions governing Title IV aid programs, and if not, ED can impose hefty financial fines and liabilities against the school. This danger of financial ramifications may lead schools to fear program reviews.

Fear is often the product of the unknown, and program reviews are no different. This topic generates an abundance of questions from schools. We've gathered the frequent ones here to make sure you're in the know and help eliminate some fear.

1. WHAT IS A PROGRAM REVIEW?

A program review is an evaluation of a school's compliance with the laws, regulations, and published guidance governing the Title IV federal financial aid programs. Section 498A of the Higher Education Act of 1965, as amended (HEA), provides the authority for ED to conduct program reviews of institutions of higher education that participate in the Title IV federal financial aid programs.

2. WHAT ARE THE TYPES OF PROGRAM REVIEWS?

There are five types of program reviews, some of which focus on certain areas of compliance or have varying scope based on the risk of the school:[ii iii]

- **General assessment reviews** are the most common with reviewers conducting a comprehensive review of a school's compliance with all laws, regulations, and published guidance.
- **Focused reviews** address one or more specific issues, such as compliance with campus safety and security requirements.
- **Compliance assurance reviews** take place at schools determined low-risk by Federal Student Aid (FSA). These reviews also have a limited scope, but do not include fiscal testing.
- **Incentive compensation reviews** evaluate a school's adherence to regulations prohibiting commission, bonus, or other incentive payments to parties that recruit students, perform admissions activities, or make decisions regarding the awarding of student financial aid.
- **Joint program reviews** occur when ED anticipates adverse actions and significant liabilities as a result of the review.

ED will advise the school of the type of review when it provides notification about the school's upcoming review.

721

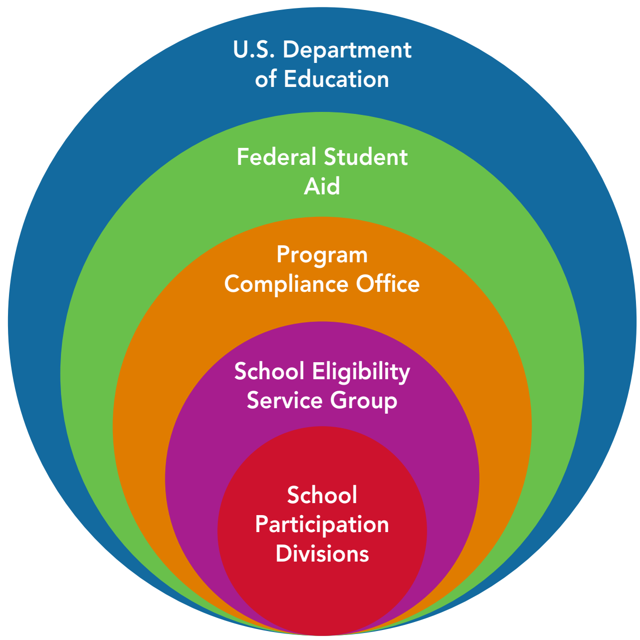
Program reviews conducted by ED during fiscal years 2015, 2016, and 2017 combined.[xv]

3. WHO PERFORMS PROGRAM REVIEWS?

ED performs program reviews, specifically, members of the School Participation Divisions (SPDs) within FSA.[i iv] There are eight SPD offices (also known as Regional Divisions) across the country that are responsible for certain oversight tasks, such as:

- Processing and maintaining applications to participate.
- Monitoring schools' report submissions, compliance requirements, and financial performance.
- Collaborating with other divisions within ED to enforce rules and regulations, such as the Office of Inspector General and the FSA Enforcement Office.

Regional Divisions also house training staff members that may present sessions at state, regional, and national conferences, but they are separate from the SPD employees that perform program reviews.



The School Participation Division can impose liabilities, but will refer the program review to other divisions within ED to impose fines (see question #8).[ii]

4. WHY DOES ED CONDUCT PROGRAM REVIEWS?

Schools are stewards of the federal funds they administer, and must prove they manage those funds effectively. The HEA requires program reviews "in order to strengthen the administrative capability and financial responsibility provisions" of schools participating in the Title IV aid programs.[v] To achieve this goal, FSA evaluates schools' compliance with established laws, regulations, and published guidance via program reviews. Program reviews may result in schools having to pay liabilities to ED as a result of the improper receipt or disbursement of Title IV funds, or may have monetary fines imposed as punishment for misconduct. (see question #8)

5. WHEN AND HOW OFTEN WILL MY SCHOOL HAVE A PROGRAM REVIEW?

Every school participating in Title IV aid programs will have a program review on a "systematic basis."[v] But, this does not necessarily mean FSA will review each school every five, 10, or 25 years. FSA does not publish a schedule of schools that are subject to upcoming program reviews, which means that schools should always be prepared for a review. Additionally, by law, ED must prioritize schools with certain characteristics for program reviews, which may supersede any "regular schedule."

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Quartile

The highest 25 percent of schools falling into an applicable category. In this case, the top 25 percent of schools with CDRs of 25 percent or higher, or the top 25 percent of schools with the highest default rate in dollar volume.[vi]

6. WHAT MIGHT TRIGGER A PROGRAM REVIEW AT MY SCHOOL?

Schools with any of the following attributes may be at a higher risk for a program review:

High Default Rate

Schools lose eligibility to participate in Title IV aid programs if a single cohort default rate (CDR) exceeds 40 percent, or the three most recent CDRs each are 30 percent or greater.[vii] To potentially address issues that may help prevent a school from losing eligibility, schools with CDRs in excess of 25 percent may be subject to program reviews. If numerous schools have CDRs placing them in this higher risk category, FSA may further prioritize those schools with CDRs in the highest quartile.[v]

FSA will also prioritize schools with high default rates based on dollar volume, rather than percentage of borrowers. When looking at the loan dollars in default, if the school's default rate by volume is in the highest quartile, it may be subject to a program review.[v]

Fluctuations in Federal Pell Grant and/or Direct Loan Volume

Schools may be at a higher risk for a program review when they have significant variations from one year to the next in Federal Pell Grant and/or Direct Loan volume without corresponding changes to those programs at the federal level. Schools may experience these fluctuations with differences in enrollment levels, which may result from a transient student population or changing educational program offerings. Student demographics may also play a role in Federal Pell Grant and Direct Loan volume if a school has an abrupt influx of students. Alterations to educational programs may also lead to volume changes, for example, if a school decides to discontinue all graduate or certificate programs at the institution.

The law does not specify it must be a volume increase; significant decreases in volume may also trigger a program review.

Issues Reported by Outside Agencies

State licensing, authorizing, and/or accrediting agencies may report deficiencies or financial aid problems to ED, which may trigger a program review. These issues may span a variety of areas, such as educational program eligibility, fiscal and administrative capability, or complaints from students. If FSA performs a program review, it may share the results of that review with outside agencies, which may prompt an examination from one of them as well.

Program reviews focusing on a school's Clery Act compliance may result from complaints from students directly, agencies representing students, media coverage, or other federal or state reviews.[viii] Failure to meet the crime awareness disclosure and reporting requirements is consistently among ED's Top 10 Audit and Program Review findings (see question #7).[ix]

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act requires postsecondary schools participating federal financial aid programs to maintain and disclose campus crime statistics and security information.[viii]

High Annual Dropout Rates

FSA also has an increased interest in schools with high annual dropout rates. The statute neither defines what constitutes "high" in law, regulation, or published guidance, nor does it indicate if a single year's dropout rate could trigger a review or whether a sustained high rate would put the school at risk. While there are numerous ways to calculate dropout rate, FSA compares the number of students who withdrew to the total number of those who graduated, as reported by schools to NSLDS.[x]

ED has cited SAP policies not adequately developed or monitored as a top 10 program review finding in recent years (see question #7).[ix]

Risk of Failing to Comply with Administrative Capability Provisions

Schools participating in the Title IV aid programs must demonstrate to ED that they can adequately administer those funds. ED requires schools to:[xi]

- Follow all the laws, regulations, and guidance related to Title IV aid programs.
- Designate an appropriate number of capable individuals to administer the Title IV aid programs. ED looks at the following factors when determining the right number:
  - Number and types of financial aid programs.
  - Number of aid applicants and recipients.
  - Financial aid delivery system.
  - Degree of automation.
  - Number of financial aid staff.
  - Use of third-party servicers.
- Administer Title IV programs with adequate checks and balances, including the division of authorizing payments and disbursing/delivering funds.
- Maintain required school and student records.
- Establish, publish, and apply reasonable standards to determine whether students meet Satisfactory Academic Progress (SAP).
- Develop and apply adequate systems to identify and resolve conflicting information.
- Make appropriate referrals to the Office of the Inspector General (OIG) for ED.
- Provide adequate financial aid counseling to students who apply, such as:
  - Sources and amounts of aid offered.
  - Methods for determining eligibility and disbursing funds.
  - Rights and responsibilities of the student regarding enrollment, refunds, return of Title IV funds, and SAP.
- Not otherwise appear to lack the ability to administer Title IV programs.
- Develop and follow procedures to evaluate the validity of the student's high school diploma if the school or ED has reason to question its validity.

ED may select a school for a program review if it determines the school may be at risk for failing to comply with any financial aid provisions.

Even though ED specifically mentions certain regulations, such as SAP, recordkeeping, and conflicting information, the first bullet in this list is a catch-all for every provision related to Title IV aid administration.

Risk of Failing to Comply With Financial Responsibility Provisions

Schools also must demonstrate to ED that they remain financially responsible. Generally, this includes providing the services described to the public, providing the administrative resources necessary to comply with regulation, and meeting financial obligations, including being current on debt payments.[xii] Required audit reports and financial statements provided to ED may include statements of concern regarding the financial stability of an institution, which may trigger a program review.

7. WHAT ARE THE MOST COMMON FINDINGS IN FEDERAL PROGRAM REVIEWS?

From 2007 to 2018, the most common findings dealt with schools:[ix]

- Not meeting crime awareness requirements.
- Having verification violations.
- Being deficient in processing Title IV credit balances.
- Making Return of Title IV Funds (R2T4) calculation errors.
- Not adequately developing SAP policies or monitoring students for SAP.
- Having loan entrance and/or exit counseling deficiencies.
- Not fulfilling other consumer information requirements.
- Having a lack of administrative capability.

The Final Program Review Determination (FPRD) is the closing documentation for the program review. It includes findings, appeal and liability payment instructions, and closes the review, when applicable.[ii]

8. WHAT FINANCIAL CONSEQUENCES MAY RESULT FROM A PROGRAM REVIEW?

Schools that erroneously administer federal financial aid may be subject to liabilities to restore those funds to ED. There is no limit on the amount of liabilities resulting from a program review that ED may impose upon a school, but schools have the right to appeal liabilities. A school may opt to pay liabilities prior to receiving its Final Program Review Determination (FPRD), but loses its option to appeal by doing so.

ED classifies liabilities into three levels:[iii]

- Moderate: Between $1 and $500,000.
- Serious: Between $500,000 and $1 million.
- Very Serious: More than $1 million.

During fiscal year 2015-17, FSA imposed over $143 million in liabilities on 298 schools, ranging from $26 to over $19 million. While the vast majority of the liabilities fell into the “moderate” range, 167 schools were on the very low end of that spectrum (less than $50,000) and 49 schools were on the high end (at least $50,000 but less than $500,000).[xv]

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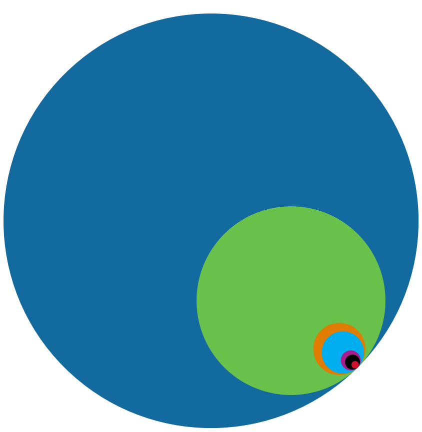
Liability

Monetary amount a school must repay to ED due to improper receipt or disbursement of Title IV funds.[vi]

Program Review Liabilities during FY 2015-2018



Liability Ranges		
$1-49,999	167	56.0%
$50,000-99,999	21	7.0%
$100,000-499,999	76	25.5%
$500,000-999,999	8	2.7%
$1 million - $1,499,999	6	2.0%
$1.5 million - $1,999,999	3	1.0%
$2 million or more	17	5.7%

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Fine

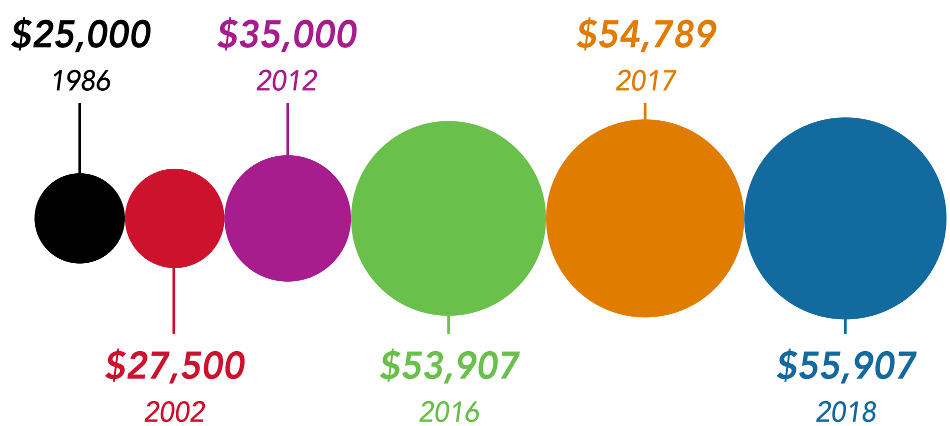
Monetary amount imposed to punish a school for misconduct that serves to deter that school, and others, from committing similar violations.[vi]

Based on the severity of compliance issues identified, FSA may refer the school to the Administrative Actions and Appeals Service Group (AAASG), which "administers the Secretary's authority to fine an institution that participates in the Title IV, HEA programs."[ii] Generally, schools have the right to appeal fines.[xiii] Even focused program reviews, such as those concentrating on campus safety, can result in a referral to AAASG and potential fines.

Civil monetary penalties for Title IV aid violations, such as consumer information deficiencies, began in 1986 with a maximum fine of $25,000. As of January 2018, the maximum is $55,907 *per violation*, and will increase every year by law. Examples of a single violation may include failing to provide required disclosures, not maintaining required documents (e.g. crime or fire log), or missing required policy statements.

For example, between 2010 and 2017, FSA assessed nearly $8 million for Clery Act violations across 86 schools. The lowest reported fine for a single school was $5,000, and the highest was nearly $2.4 million.[xv]

Clery Act Maximum Violations



NASFAA continues to advocate for defined timeframes in which ED must respond to and resolve program reviews.[xviii]

9. HOW LONG CAN MY SCHOOL BE HELD RESPONSIBLE FOR COMPLIANCE VIOLATIONS?

How far back ED will look varies based on numerous factors. The initial program review notification from ED will contain the award year(s) included in the review, but that may change and/or expand during the review itself based on discussions with the school and upon evaluating information the school submits.[ii] There is no published guidance regarding the criteria ED uses to select the initial award year(s) under review and the triggers for expanding that timeframe.

Not only is it unknown how far back ED may look, but also ED may impose fines or assess liabilities for several years after the program review concludes. NASFAA continues to hear anecdotal evidence of ED taking months, or even years, to respond to schools' appeals or impose monetary charges.[xvi] In fact, the Senate identified cases in which ED did not respond to appeals for 17 years or assess fines for between four and 12 years.[xvii]

10. HOW CAN MY SCHOOL PREPARE FOR A PROGRAM REVIEW?

Schools can equip themselves for a program by engaging in the following activities:

- **Compile policies and procedures.** One of the first things FSA will request in a program review is copies of various policies and procedures. Assembling all the various documents explaining why you do things a certain way and the steps you take to accomplish required tasks will not only prepare for a program review, but also serve as a helpful reference and training tool for the office.
- **Attend training.** A well-trained staff helps ensure that policies and procedures remain updated to meet ever-changing rules and regulations. Numerous training opportunities exist from FSA and outside agencies, including webinars, conferences, and online courses. Schools may also consider conducting internal cross-training to help staff members understand how others' roles within the office dovetail with their own.
- **Conduct self-assessments.** Schools may identify areas of non-compliance through a thorough self-evaluation of their operations. Finding issues before a program review may reduce the risk of costly fines and liabilities. FSA and other outside agencies provide tools to help schools perform self-assessments.
- **Engage a third-party peer review service.** A comprehensive, confidential review of your operations by currently practicing financial aid administrators from outside your school can provide piece of mind that your school's operations can withstand the rigors of a federal program review.
- **Ask questions.** If you still have unanswered questions about program reviews, ask them. Talk with schools that have gone through a review, communicate with your School Participation Team members, or contact us to get the answers you need.

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OUR MISSION

The National Association of Student Financial Aid Administrators (NASFAA) provides professional development and services for financial aid administrators; advocates for public policies that increase student access and success; serves as a forum on student financial aid issues, and is committed to diversity throughout all activities.

ENDNOTES

[i] 2015 Administrative Burden Survey, NASFAA

[ii] Program Review Guide for Institutions, 2017

[iii] Federal Student Aid's Oversight of Schools Participating in the Title IV Programs

[iv] U.S. Department of Education Principal Office Functional Statements

[v] HEA Sec. 498A(a)

[vi] School Fine Report, Definitions

[vii] 34 CFR 668.206(a)

[viii] Clery Act Reports

[ix] FSA Conference Sessions, 2007-2018

[x] Federal Student Aid's Oversight of Schools Participating in the Title IV Programs

[xi] 34 CFR 668.16

[xii] 34 CFR 668.15

[xiii] 34 CFR 668, Subpart G

[xiv] Federal Register, April 20, 2017

[xv] NASFAA analysis of FY15, FY16, and FY17 FPRD letters released as of November, 2018, and Clery Act Reports for 2010 to 2017

[xvi] NASFAA Written Testimony for U.S. House of Representatives, November 18, 2015

[xvii] Report of the Task Force on Federal Regulation of Higher Education, 2015

[xviii] Improving Oversight and Transparency at the U.S. Department of Education's Office of Federal Student Aid: NASFAA Recommendations

About the author: Mandy Sponholtz is the Standards of Excellence Review (SOE) program administrator for the National Association of Student Financial Aid Administrators, and has over 20 years of experience in financial aid administration, training, and compliance. NASFAA's SOE program offers objective, confidential, peer reviews that assess your institution's delivery of student financial aid. Customized reviews are designed to highlight strengths, identify compliance exceptions, and recommend improvements.

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