Responding to the Program Review

Preparing for the Inevitable—
and Living to Tell the Tale
Presenters

• **Moderator:**
  Jamey Palmieri, VP Ferrilli Information Group

• **Panelists:**
  • Bill Spiers, Director of Financial Aid for Tallahassee Community College
  • Dennis Cariello, DLA Piper; former Deputy GC for Postsecondary Education, USDOE
So, we’re having a Program Review . . .

• What should you be doing now?
• How were you selected?
• What should you do once you are selected?
• What should you do while the program review is going on?
• What happens after the Department leaves?
• How should I respond to the Program Review Report?
• Appeals
What should you be doing now?

Always be prepared. If you wait, it’s too late

- Create an atmosphere of compliance and accuracy
- Designate someone on your staff to be responsible for compliance
- Conduct your own internal program reviews
- Shop your school
- Train your staff
- Make sure records are well maintained and organized
- Have policies and procedures that are up-to-date and accurate
- Make sure information is shared among different offices

Establish a relationship with your Case Team!
How were you selected?

Boy, am I lucky . . .

The Department uses various risk assessment tools ~ some effective ~ some not ~ to select a school for review.

What we are hearing ~

Although FSA has promised an overall increase in program reviews, FSA is likely to focus institutions that have a higher risk of noncompliance:

– For-Profit schools
– Distance Education programs
– Hot Topics
Types of Reviews

- Compliance Initiative Reviews
- Risk Assessment Reviews
- General Assessment Reviews
- Focused Reviews

Compliance Initiative and Risk Assessment reviews can be either General Assessment or Focused
Types of Reviews

Compliance Initiative Reviews
Outliers in various areas are considered potentials for risk. Target areas for weaknesses ~ risk indicators.
Some examples
• Data from FAFSAs
  – Professional Judgment including Dependency Overrides
  – Percentage of students without a high school diploma
  – “Unchanged AGIs” from one year to the next
• Anomalies in your FISAP reporting
• A significant and inexplicable increase in Title IV funds

Some compliance initiatives are the same from one year to the next. Information is obtained through data mining ~ a lot of information about your school is available through internal Department data bases and external sources.
Types of Reviews

Risk Assessment Reviews

- Referrals or Complaints from various sources
  - An office within the Department ~ for example the OIG
  - External sources
    - Current or former students
    - Current or former employees
    - State or Accrediting Agencies
    - The media
- Audits with serious findings
- Failed or “zone” financials
- Simply because you’ve never had one
Types of Reviews

**General Assessment Reviews**
- Are all-inclusive
  - Will include all offices and all areas within your school
  - Will include reviews of student files, fiscal records, admissions, campus security
- Do not have a particular focus

**Focused Reviews**
- Are focused on a particular issue
- Driven by why the school was selected
- Will always include some basic student eligibility items
  - Exception could be a Campus Security Review
Preparing for the Review

Department Preparation

Once a school is selected, and assigned to a reviewer the reviewer will begin preparing for the review.

The reviewer will find out about your school

- The “type” ~ For-Profit, Private Non-Profit, Public
- Locations & OPEIDs
- Total Title IV received annually and growth year over year
- Size of the school/student body
- Academic programs offered and approved
- Default rates
Preparing for the Review

- Provisional or Full Certification
- Issues with other offices within the Department, State or Accreditor
- Prior program reviews
- Information from Audits and Financial Statements
- Letter of Credit on file
- Information on your website

Anticipate a lot of focus on what’s on your website in the near future as misrepresentation and new consumer disclosure requirements become an area of concern.
How Should You Prepare?

The easier you make it for the review team, the better

– Designate a contact person dedicated to be available to the review team
– Be prepared to provide prompt responses to items requested and in the format requested
– Be sure to include all the information requested
– Minimize distractions
– Provide access to a working copier
– Provide access to your staff and students
How Should You Prepare?

- Have electronic versions of documents available (“read only” versions)
- Preparing a secure work space for the review team – will your files will be secure (a room or cabinet that locks)
- Prepare your staff ~ let them know that the reviewers will want to interview them ~ and that they should be confident in their work
- It’s nice to have some restaurant recommendations handy for out-of-town reviewers

• Expect the unexpected
And so it begins . . .

Typically, the reviewer will notify you of the review anywhere from two to four weeks in advance by calling:

- The President’s office
- The Financial Aid office

This is your first opportunity to set a positive tone.

A review could also be unannounced ~ a frequent occurrence in the past

- A review team shows up at your door, hands you a letter announcing the start of the review, and they get to work
And so it begins . . .

The reviewer will want information from your Financial Aid office concerning

- How financial aid is processed ~
  • Centrally
  • Each location operating autonomously
- How and where student files are maintained ~
  • Centrally
  • At each location
- How much is maintained electronically, how much in paper
Reviewer Requests

The reviewer will request items verbally with a follow-up letter listing the requested items

• Some to be forwarded to the reviewer in advance of the on-site ~ either electronically or in paper
• Some to be waiting for the review team when they arrive

If your school has several locations, or a corporate office, discuss with the reviewer where student files and other documents are maintained and where it would be most convenient for the reviewer to examine those files.
Reviewer Requests

Items requested in advance could include a request for Title IV recipients' data spreadsheet for each award year under review to include

- Student’s name
- Social Security Number
- Address
- Funding received by Title IV program
- Student’s academic status (current, withdrawn, graduated)
- Student’s academic program
- Any other information the reviewer deems necessary
Reviewer Requests

– The requested format will typically be sent to you electronically with very specific instructions for providing the information

– It will include detailed instructions on how to protect students’ Personally Identifiable Information (“PII”)

Using statistical sampling software, the reviewer will extract a “statistically valid sample” from the universe of students in the recipient data spreadsheet. From that sample, the program will extract an additional random sample. Those will be the files selected to review.
Reviewer Requests

If it is a focused review . . .

– The reviewer might ask that the list only include a specific demographic (PJ for example) or
– The reviewer might prepare a list of students from sources available through the Department data bases

Items requested prior to arrival and upon arrival

– Will depend on the focus of the review
– Could relate to information the reviewer identified through research

A program review usually includes a review of student files but it is possible that a review may not ~ for example, if the focus is campus security.
The Eagle has Landed . . .

The Entrance Interview

• Conducted upon the review team’s arrival
• Should include people from different offices
  – Financial Aid Director
  – Registrar
  – Bursar
  – Admissions Director
  – Work Study Coordinator
  – Anyone else you deem necessary or requested by the review team
The Eagle has Landed

The Entrance Interview (cont’d)

Sometimes the reviewer will leave it up to you ~ or request certain departments be represented. Corporate Office people may be there of course.

The review team will

• Provide an overview of the review process ~ what you can expect
  – Give you an estimate of the length of the review ~ could be a few days or several weeks
  – Provide a general idea of what they’ll be requesting
  – Sometimes tell you why the school was selected for review ~ if not, you can always ask
What to Expect on the First Day

The review team might ask

- Various department folks how aid is processed ~ what’s electronic, how systems are integrated
- About your procedures, starting with a potential student’s start, through the receipt of aid, and finally graduation
- How you identify students who unofficially stop attending
- How different offices interact ~ for example, how information that the academic department has, is communicated to the financial aid department
What to Expect on the First Day

The review team will usually ask for

• Your policies and procedures manuals
• Procedures for determining the validity of a student’s high school diploma
• Your Campus Security report
• Student files – usually selected from two award years
• Specific fiscal records
• Other records depending on the focus of the review
Items that might be reviewed

General assessment/focused review.

• Programs and locations eligibility
• Overview of your fiscal operations
• FISAP back-up documentation
• Corrected findings from past audits or program reviews
• Campus Security overview

Student file review

• Basic student eligibility ~ enrolled in an eligible program, unresolved issues from the ISIR, High School grad or ATB
• Adequate method to determine status (current, full/part time, drop, grad)
• Accurate verification
• PJ decisions documented
• Title IV calculations done correctly
• R2T4 calculated and paid timely
• Credit balances paid timely
Meeting with Reviewers

• Reviewer will likely want to interview various staff who actually do the work without their supervisor or corporate office personnel present.
• Reviewer should keep you apprised as the review progresses.
• Reviewer should ask questions and give you an opportunity to resolve or explain potential issues.
• Reviewer may also interview students.

If you aren’t getting any feedback, ask for it!

• If you need to, don’t be afraid to politely educate the reviewer:
  • the regulations are extensive and complicated, and no one - reviewers included - can know everything.
  • also, reviewers may legitimately misunderstand how you do things – be sure to tell them why you think your policies and procedures comply with the law.
• Try to resolve issues while everyone is on site.
Exit Interviews

Usually provided, but not always.

- Variety of reasons for not providing an Exit Interview, including that the reviewers are simply not done reviewing everything.

Who attends is generally up to the school, but the review team could request certain departments be represented.

The review team will

- Discuss any findings identified during the course of the review
- Discuss the what happens next
- Provide details of what the report will include
- Give an estimate of when you can expect to receive a report
The Program Review Report

• You should receive a program review report within a reasonable time frame - usually two or three months.
• If you don’t receive the report after three months you may call the reviewer for an update.
• It often happens that other work gets in the way and delays the timing of the report. It isn’t necessarily a cause for concern.

Keep in mind that the report is a draft document and will not be released under a FOIA request.
  – But see Clery Act Website:
    http://studentaid.ed.gov/about/data-center/school/clery-act
Format of the PRR

The report will

- Identify each finding
- Provide the regulatory citation that supports the finding
- Detail how the institution was not in compliance
- Identify what action the school must take to be in compliance

~ or ~

You could receive an Expedited Determination Letter ("EDL") that means the review is closed, no further action needed.
Format of the PRR

What to expect

• In the case of several instances of a violation you might be required to review the files of all students related to that violation.

• A file review could also be required if there is an indication of a systemic error that could affect many students.

• You might be required to resolve issues for an individual student.

• Some findings can be resolved retroactively ~ with no liability ~ for example, verification.
Format of the PRR

- A report could also include a recommendation. This might be the case where there is something in your procedures or systems that can leave you open to errors in that area.
- If the program review report requires a response from you, you will be given a time frame in which to respond:
  - If you need extra time, ask for it.
Responding to the PRR

- If something in the report is unclear, call the reviewer and ask for clarification
- Communicate with the Department to try and satisfy all findings
- Lawyers
  - Why you should involve your lawyer
  - Inside Counsel v. Outside Counsel
- Put it all out there –
- Ask for extensions when necessary
Final Program Review Determination Letter

When all findings are satisfied you will receive a Final Program Review Determination Letter ("FPRD")

- FPRD completed 75 days from the PRR response (or after)
- The FPRD will include all of the specifics of any identified liabilities
- Fines are generally only imposed in the most egregious situations ~ and are often part of an administrative action
  - Generally ~ BUT there are exceptions
- The FPRD will provide payment instructions of any liabilities
- The FPRD will include information on how to appeal any of the liabilities
The FPRD will

- Indicate what findings have been satisfactorily closed
- Provide details of each finding and any resultant liability or fine
- Provide information on how to appeal process any finding
- Detail instructions for the payment of any fines or liabilities

Unlike the PRR, the FPRD is a final document and subject to release under FOIA.

Note, if the FPRD is for more than $100,000, the Office of General Counsel has reviewed and approved
After the FPRD - Appeals

• Within 45 days from receipt of FPRD, submit appeal to the Director of Administrative Actions and Appeals (“AAAD”)
• Indicate the “findings, issues and facts” in dispute
  – Be clear what you are appealing – issues not appealed are deemed settled (must satisfy any liabilities)
• State the institution’s position
  – Don’t be shy – you can submit new evidence (i.e., verifications that were not available when responding to the PRR)
  – Privacy Protections for Data
• Burden of proof on the Institution
After the FPRD - Appeals

• AAAD will review the mater – including a case team’s assessment of the institution’s arguments.
  – transmit the administrative record to the Office of Hearing and Appeals (OHA) within 30 days of receipt of the appeal.
  – AAAD can resolve the appeal during this time or allow the case to go to OHA

• OHA
  – Department’s lawyers are involved
  – Preliminary Conference
  – Oral argument may be requested by the Administrative Law Judge (ALJ) or by the parties (not always granted)

• Appeal to the Secretary
  – Within 30 days of receipt of OHA’s decision.

• Appeal to the District Court
  – Limited to administrative record
Questions?

- Bill Spiers, Tallahassee Community College
  - SPIERSB@tcc.fl.edu

- Dennis Cariello, DLA Piper
  - Dennis.cariello@dlapiper.com
    - www.educationindustryreporter.com

- Jamey Palmieri, Ferrilli Information Group
  - jpalmieri@figsolutions.com
Responding to the Program Review
Evaluation System APP or Web

Enter Poll ID   102728
Enter Password  sasfaa

https://answerqwik.com/login.html