



Center for American Progress

Looking in All the Wrong Places

How the Monitoring of Colleges Misses What Matters Most

By Robert Shireman, Elizabeth Baylor, and Ben Miller April 2016

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Introduction and summary

On January 23, 2014, the U.S. Department of Education sent a sternly worded letter to Jack Massimino, the chairman and chief executive officer of Corinthian Colleges Inc.,¹ requesting documentation of certain student records. At the time, Corinthian had a small empire of schools under the brands Everest, Heald, and WyoTech, which—at their peak in 2009-10—enrolled 224,000 students² and collected \$1.7 billion in federal student aid funds.³ Fifteen months later, the college chain was bankrupt, with many of its campuses sold off or shuttered amid a series of department actions stemming from damning findings, among them that the company repeatedly misrepresented its educational offerings and the ability of its students to find jobs.

The steps the Department of Education took were sensible and appropriate. The department drew on external allegations to spur the need for greater investigation, collected information, and conducted a thorough review that built a strong case. And it repeatedly kept the pressure on, refusing to fold even against the company's aggressive pushback.

The result was a net that slowly tightened around Corinthian. It started with the January 2014 letter, in which the department asked the company to provide student-level information substantiating the job-placement rates provided to students, accreditation agencies, and others, as well as certain grade and attendance record changes; this request was driven by repeated findings in state and federal investigations. When Corinthian refused to send all the requested files, in June 2014 the department placed a 21-day hold on all federal aid funds flowing into the institution—instead of allowing the institution to delay the request indefinitely. This step exposed the fact that the company's investors and creditors lacked enough confidence in the company to give it a three-week cashflow lifeline, which in turn forced Corinthian to find a buyer for many of its campuses and close many others over the following several months.

Even still, the department continued its work. In April 2015, as Corinthian searched for ways to sell some of the campuses it had been unable to offload, the department announced a fine of nearly \$30 million against the chain's Heald College campuses after a review found that many graduates the company reported as successfully placed had, in fact, not found meaningful employment.⁴ Less than two weeks later and with less than 24 hours' notice, Corinthian Colleges closed its doors and declared bankruptcy.

The aftermath of Corinthian's misdeeds lingers to this day. The department is presently sorting out how to forgive loans of former Corinthian students who were misled by the company, a process that could result in tens of millions, if not billions, of dollars in cancelled debts. And Corinthian's accreditation agencies—the organizations that reviewed its educational programs and allowed it to access federal aid programs—have come under scrutiny from Congress and other government regulators.⁵

Bringing to justice Corinthian's aiders and abettors, and providing relief to its victims, are important next steps. But these efforts must also focus on prevention; specifically, what can be done in the Department of Education's existing oversight and monitoring structures to identify and stop future Corinthians as early as possible. This is a multi-pronged conversation: It raises questions about the responsibility of states and accreditation agencies in oversight, as well as the accountability metrics authorized by Congress that are supposed to hold colleges accountable for student outcomes. Those are discussions that can and should take place. They are particularly important for addressing issues of curriculum and pedagogy, which the department is prohibited by federal law from overseeing.⁶

But too often lost amid these conversations about improving accountability are what should be some of the strongest and most flexible tools available: the Department of Education's annual audits and program review processes. The former are a set of annual reviews of financial statements and compliance with the federal aid programs, conducted by third-party auditors. The latter are detailed inquiries run by Department of Education staff to take a close look at whether institutions are behaving in ways that are consistent with federal policy.

Audits and program reviews are, at least theoretically, the way the federal government verifies that colleges and universities actually follow the rules and regulations that qualify them to receive federal financial aid. Without them, colleges could flout requirements, knowing that their practices will not be reviewed. If

done properly, these oversight tools also represent an opportunity to look at federal requirements that are not easily captured by numeric calculations. For example, the agency's regulations:

- Prohibit an institution from making “any statement that has the likelihood or tendency to deceive” students “about the nature of its educational program, its financial charges, or the employability of its graduates.”⁷
- Require an institution to provide “adequate” counseling to students regarding students’ “rights and responsibilities ... with respect to enrollment at the institution.”⁸
- Require an institution to “act with the competency and integrity necessary to qualify as a fiduciary” on behalf of taxpayers, “in accordance with the highest standard of care and diligence.”⁹
- Require an institution to administer federal aid “with adequate checks and balances in its system of internal controls.”¹⁰
- Prohibit an institution from receiving federal aid if “any criminal, civil, or administrative proceeding” reveals “evidence of significant problems that affect ... the institution’s ability to administer” federal aid.¹¹

While program reviews can be routine, they can also serve as a starting point for the longer-term and detailed investigation work—similar to what happened with Corinthian.

This report and its accompanying online resources offer the first behind the scenes, public view of the audits being used to monitor colleges receiving taxpayer funding. It draws on thousands of pages of previously unreleased audit documents and dozens of program reviews, providing a close look at how these processes operate, what they tend to find, and how they might be improved. In particular, the report looks at these documents through the lens of what happened with Corinthian Colleges to determine what audits and program reviews did or did not catch.

The conclusion from this review is that audits and program review processes must be substantially restructured to become more meaningful federal oversight tools. Neither the Corinthian reviews, nor those of other schools, were designed in a way that would capture evidence that a school is lying to or misleading students, failing to counsel them about their aid, or otherwise behaving in ways that lack

integrity. Instead, the audits and program reviews focus almost exclusively on a narrow range of bookkeeping questions. As a result, this system is geared toward identifying a specific type of problem—the incorrect awarding of federal aid dollars to students—and fails to also capture concerns about the honesty and fairness of a college’s marketing, enrollment, and institutional lending practices.

Making audits and program reviews work better is crucial for the Department of Education to ensure the effectiveness of new efforts aimed at combating fraud. In February 2016, the Department of Education announced plans to create a Student Aid Enforcement Unit to more quickly respond to instances of predatory institutional activity, such as what happened at Corinthian Colleges.¹² The unit’s work will include a group that conducts detailed investigations of potential misconduct at colleges.¹³ Though the staff handling audits and program reviews are not part of the enforcement group, the findings identified through these processes are an important early warning system to identify the starting point for greater investigation, as well as ideally a check that discourages bad behavior in the first place.

Getting audits and program reviews to the point where they can better serve as a deterrent and early detection system warrants establishing new incentives and requirements for both auditors and reviewers that encourage them to scan and test for problems that do not necessarily show up through formulas and worksheets. Well-designed audit and program review processes can play a critically important role in protecting taxpayers and students from the next Corinthians. We hope that analysts, agency officials, and lawmakers will use this report—and the accompanying online documents—to chart a path toward that end.

Financial audits and compliance audits

Audits examine the reliability or accuracy of processes or information and are usually conducted by an outside, trained professional, often a certified public accountant, or CPA. The federal Higher Education Act requires most colleges that want federal funds to submit two types of audits: a financial audit—also known as an audited financial statement—and a compliance audit. Regardless of audit type, the purpose behind having licensed auditors conduct the work is to promote honesty in financial reporting: These auditors are trained to test the truth behind the numbers. For example, an auditor may randomly select paid invoices and seek confirmation from the customers that the nature of the transaction was as reported in the firm’s financial records.¹⁴ Auditors are supposed to be somewhat suspicious and inquisitive by nature, following up on unusual events or inconsistencies. They are required to explore any issue that is “material,” meaning that it could have a significant effect on the institution’s finances or ability to continue as a going concern.

A financial audit describes in detail an institution’s financial condition at a point in time, including its total assets and liabilities, its revenue and spending, and other financial data, along with explanations of various routine and unusual aspects of the entity’s finances. Colleges’ financial audits must be prepared by a CPA who follows generally accepted accounting principles, or GAAP,¹⁵ as well as government auditing standards, which incorporate professional standards that CPAs are expected to follow.¹⁶

The audited financial statements of nonpublic colleges are required to include a measure of the financial strength of the institution, known as a financial responsibility score. The financial audits of for-profit institutions must also include a calculation showing the amount of revenue the institution receives from federal aid compared to other sources. This calculation—used to enforce a 90 percent limit on the amount of revenue that comes from the Department of Education—was originally intended as a test of a school’s market viability.

While financial auditors are not investigators and do not routinely test for compliance with specific nonfinancial regulations, they are expected to be on the lookout for signs that significant regulations are not being followed, and to follow up when appropriate. In particular, auditing standards expect CPAs to be familiar with “the legal and regulatory framework applicable to the entity and the industry or sector in which the entity operates,” and to have some confidence in the processes the entity uses to ensure that it is complying with relevant regulations.¹⁷

The purpose of a compliance audit is to determine whether an entity is meeting specific rules or standards separate from what might appear in a financial statement. The compliance audits colleges must submit cover transactions involving federal financial aid funds for the previous year. Nonprofit and public colleges follow guidance from the Office of Management and Budget,¹⁸ while for-profit colleges arrange for “examination-level attestations”—reviews of specific transaction types—following an audit guide developed by the Office of Inspector General, an independent office within the Education Department.¹⁹

A closer look at compliance audits

To gain a better understanding of what the financial and compliance audits actually contain, the authors of this report filed a Freedom of Information Act, or FOIA, request with the department in May 2014, seeking the documents that institutions of higher education submit to maintain eligibility for financial aid, including the audits they submit each year. We asked for an electronic file of these documents for all institutions.

In response to the FOIA request, department staff informed us that the documents reside at regional offices and are not available in electronic form. Given the enormous volume, they asked whether we could narrow our request. We revised our request to documents from the 100 largest nonpublic institutions handled by three of the agency’s regional offices: San Francisco; Philadelphia; and Kansas City, Missouri. We eventually received 6,181 pages covering 130 institutions. This included 121 compliance audits, in some cases included as part of audited financial statements, as well as 37 audited financial statements. (Compliance audits cover each college of a chain. For example, we received individual compliance audits for the Art Institute of Philadelphia, Pittsburgh, and York-Pennsylvania, while the associated financial statements covered the enterprise that owns these

colleges, Education Management Corporation, and all of its institutions. This distinction partially explains the large differences in the number of different audit types.) In addition, we reviewed the federal government’s handbooks that guide auditors in their work.

Though not comprehensive, these documents provide a sufficient sample that—for the first time—allows the public to take a closer look at the actual audit work carried out at dozens of colleges and universities nationwide. This inquiry did not include audits of public colleges and universities because those institutions already disclose their financial records to the public and are subject to public review and report by state auditors and legislatures.

Compliance audits include a cover letter from the auditor that indicates what the audit covered, the accounting standards followed, and an overall conclusion. In almost every case we reviewed, the auditor did not identify any major problems in this summary and instead noted that the institution complied with required rules for the given audit period. If the auditor found issues, then the letter included a qualifying statement. For example, PricewaterhouseCoopers conducted a compliance audit for DeVry Education Group in fiscal year 2013. The letter stated its opinion that DeVry “complied in all material respects” with the required compliance elements, but it added that “the results of our auditing procedures disclosed instances of non-compliance with those requirements.”²⁰ It went on to state that DeVry’s responses would be included in a corrective action plan to avoid repeat findings.

The compliance audits we reviewed contained a number of boilerplate elements across almost all submissions. The audit submitted by Corinthian Colleges for its Everest College campus in Reseda, California, was typical. The auditor selected a range of files—50 students who were enrolled, graduated, or on a leave of absence and 25 students who withdrew, dropped, or terminated their enrollment—and reviewed the files for errors in three areas: student eligibility, student disbursement, and refunds. The findings for each area are set forth in tables showing:

- Whether each student should have received the amount of aid they got, and whether the institution documented the student’s circumstances. (Figure 1A)
- Whether payments were made at the right time, and whether there is evidence that students were counseled about their aid. (Figure 1B)
- Whether refunds were properly calculated and paid when students withdrew. (Figure 1C)

FIGURE 1A

A student eligibility schedule

From an audit of Everest College in Reseda, California, that the school submitted to the U.S. Department of Education in 2013

Summary Schedule A STUDENT ELIGIBILITY

STU	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	Questioned Costs						
																		FOLP	PELL	FSEOG	FWS	FPL	TOTAL	
A1													X						-	-	-	-	-	
A2													X						5,474	2,775	200	-	-	8,449
B2													X						-	-	-	-	-	-
C1													X						-	750	-	-	-	750
C2													X						-	2,650	-	-	-	2,650
C3													X						-	4,687	-	-	-	4,687
TOTAL													X						5,474	10,862	200	-	-	16,536

Source: Corinthian Colleges Inc. audit submitted to the U.S. Department of Education and obtained through a 2014 Freedom of Information Act request, available at https://interactives.americanprogress.org/projects/2016/ed-oversight/Document_09_Corinthian_Colleges_Inc.pdf.

FIGURE 1B

A student disbursement schedule

From an audit of Everest College in Reseda, California, that the school submitted to the U.S. Department of Education in 2013

Summary Schedule B STUDENT DISBURSEMENTS

Student	Paid or credited student's acct. more than 10 days before class start										Untimely return of ineligible funds				Rel funds to students on LOA				Delvrd 1st install < 30 days after 1st day of class	Failed to conduct/untimely counseling					Untimely paid credit balance					Made 2nd payment prior to compl of 1st pay pd					Wrong OPE # on Ln app.	Miss signed Prom Note																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														
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Source: Corinthian Colleges Inc. audit submitted to the U.S. Department of Education and obtained through a 2014 Freedom of Information Act request, available at https://interactives.americanprogress.org/projects/2016/ed-oversight/Document_09_Corinthian_Colleges_Inc.pdf.

FIGURE 1C
A refund schedule

From an audit of Everest College in Reseda, California, that the school submitted to the U.S. Department of Education in 2013

Summary Schedule C
REFUNDS

STUDENT	WITHDRAW DATE	TOTAL SCHOOL REFUND	TOTAL IPA REFUND	REFUND OVER PD / DLE	FDLP						PELL/SEOG/PERKINS					
					REF AMT	REFUND CHECK DATE	REFUND CHECK CLR DATE	NR DAYS LATE	INT RATE	EXCESS INT PD BY ED	NOT RPT	REF AMT	REFUND CHECK DATE	REFUND CHECK CLR DATE	NR DAYS LATE	INT RATE
B1	10/24/12	2,970	2,970	-	2,970	12/08/12	12/10/12	2	6.8%	1.11						
B1	10/24/12	1,108	1,108	-	1,108	12/08/12	12/10/12	2	8.0%	0.36						
TOTAL		4,078	4,078	-	4,078					1.47						

Source: Corinthian Colleges Inc. audit submitted to the U.S. Department of Education and obtained through a 2014 Freedom of Information Act request, available at https://interactives.americanprogress.org/projects/2016/ed-oversight/Document_09_Corinthian_Colleges_Inc.pdf.

If an audit turns up any errors in the student files, then the audit document describes the error and why it occurred, and makes recommendations to avoid future errors. If applicable, the institution comments on the recommendation and notes any planned changes to procedures. For example, the Everest College-Reseda audit (shown in Figure 1) identified six instances where the school improperly verified students' eligibility for aid (Figure 1A), returned ineligible aid funds late for one student (Figure 1B), and returned refunds late twice (Figure 1C). The compliance audit then explains its findings in more detail. (see Figure 2) In each case, the auditor was satisfied with the college's response and determined that the error occurred because financial aid staff did not follow established procedures.²¹ Corinthian said it concurred with the finding and had implemented procedures to ensure it would not be repeated.

FIGURE 2

A finding and its resolution

From a compliance audit of Everest College in Reseda, California, that the school submitted to the U.S. Department of Education in 2013

Effect

For one of the 75 student files selected for testing, ineligible Title IV funds were not returned in a timely manner as follows:

<u>Student</u>	<u>Program</u>	<u>Amount</u>	<u>Date of Determination</u>	<u>Date Returned</u>	<u>Number of Days Late</u>
1	SFDLP	\$ 1,109	10/24/12	12/06/12	13
	UFDLP	\$ 2,970	10/24/12	12/06/12	13

Cause

In this isolated case, it appears that the Institution's procedures to ensure the timely return of ineligible Title IV funds were not properly followed.

Recommendation

The Institution should take steps to ensure that its procedures for returning ineligible Title IV funds in a timely manner are strictly followed.

Institution's Comments

The Institution concurs with this finding and has procedures in place as outlined in the Corrective Action Plan to ensure compliance with requirements.

Source: Corinthian Colleges Inc. audit submitted to the U.S. Department of Education and obtained through a 2014 Freedom of Information Act request, available at https://interactives.americanprogress.org/projects/2016/ed-oversight/Document_09_Corinthian_Colleges_Inc.pdf.

The frequency and extent of problems or errors identified by the auditor's review of student files matter a great deal for what happens next. The Department of Education's audit guide establishes a method to calculate an error rate based on the number of files in the sample; errors must stay below this threshold for the college to be in adequate compliance. In our review, when the auditors' findings exceeded the allowable error rate, the auditor conducted additional work to see if errors were widespread. For example, the Everest College-Reseda audit initially found 3 instances out of 18 files where the school had not properly verified

students' eligibility for aid. This rate of error exceeded the acceptable rate of 10 percent, so the auditor expanded their review to include 92 additional files. The expanded review found only 3 more errors for a total of 6 out of 110. The auditor considered this second rate acceptable and resolved the finding.

Overall, we found that the audits being performed on colleges are not designed in a way that is likely to provide the department with early detection of situations similar to that which occurred at Corinthian Colleges. Our concerns and observations, based on our review of the 158 audits, are described below.

Audits are narrowly focused on minor issues

Even though auditors must review samples of student files, they are still expected to be on the lookout for fraud or mismanagement. Yet our review of the audits turned up very few instances where auditors described work that went beyond the review of student sample files to investigate the broader practices at the college. Instead, the auditors appeared to devote most of their energy to reviewing student records for compliance with financial aid rules. In doing so, auditors set themselves up for a situation where, from the start, they would be able to find only certain types of problems—incorrect aid awarding rules—because it was what they chose to emphasize.

The Corinthian compliance audits we reviewed for 2013 demonstrate the flaws of taking such a narrow approach to oversight work. Across 20 compliance audits, there were 95 total findings. (see Table 1) Yet almost all of these findings had to do with issues related to the calculation and awarding of federal student aid—not larger questions of the company's recruitment and advertising practices or the adequacy of its counseling of students. For instance, Corinthian's most common audit finding was a discrepancy between the date that a loan disbursement was made to a student and the disbursement date that was reported to the department. This matters for aid awarding purposes because it helps track who receives what dollars, but it also appeared to be that Corinthian reported the date it anticipated issuing the disbursement and failed to update records with the actual date.

Corinthian also commonly had trouble calculating how much of a refund to send the department after a student dropped out in the middle of a semester or term. Institutions of all types frequently have trouble complying with this regulation—it is the third most common audit finding.²² This is because there are multiple

chances to make a mistake. When a student leaves a college in the middle of a term, the institution may retain student aid funds for the portion that was completed. In general, to properly calculate the refund, the school must determine and document the last day the student attended class—this establishes what portion of the enrollment period the student completed. Then the school calculates the refund based on the awarded aid and other factors. It is complicated.

TABLE 1
Findings from audits of 20 Corinthian Colleges, 2013

Problem	Number of findings
Loan funds were disbursed too early	22
Refund was late or improperly calculated	17
Records indicate an inaccurate disbursement date	16
Verification of loan counseling was incomplete	12
Student status was inaccurately reported	10
Pell Grant amount was inaccurate	8
Miscellaneous	10

Source: Authors' analysis of audits accessed through a May 21, 2014, Freedom of Information Act request to the U.S. Department of Education. See FOIA request from David Bergeron and Robert Shireman to U.S. Department of Education, May 21, 2014, available at https://cdn.americanprogress.org/wp-content/uploads/2016/03/15071517/BergeronShireman-FOIA-CAP_letters-SIGNED.pdf; Robert Shireman, Elizabeth Baylor, and Ben Miller, "Looking in All the Wrong Places: College Oversight Source Documents," Center for American Progress, March 16, 2016, available at <https://www.americanprogress.org/issues/higher-education/news/2016/03/14/133258/>.

Nowhere among the 20 audits was evidence that the auditors had reviewed the institution for rapid growth, staff turnover, improper recruitment tactics such as inadequate or misleading information, student withdrawals, or other high-risk areas of concern that the audit guide emphasizes for auditors.

While the findings in Corinthian's audits are an illustrative example, they are also consistent with what the department itself reports about the audit process. Every year, the Office of Federal Student Aid reports at its annual conference the top 10 findings from the nonfederal audit process. As the table below shows, many of these 10 findings are related to calculation issues, such as returning federal aid funds or awarding too little or too much aid. Moreover, several are among the common findings in the Corinthian audits we examined.

TABLE 2
Most common domestic school audit findings by number of findings,
December 2015

Finding code description
Repeat finding—failure to take corrective action
Student status—inaccurate or untimely reporting
Return of Title IV, or R2T4, calculation errors
Return of Title IV, or R2T4, funds made late
Verification violations
Pell Grants—overpayment/underpayment
Student credit balance deficiencies
Entrance/exit counseling deficiencies
Qualified auditor's opinion cited in audit
G5* expenditures untimely/incorrectly reported

Source: Office of Federal Student Aid, "2015 FSA Training Conference for Financial Aid Professionals: Program Review Essentials and the Top 10 Compliance Findings," available at <http://fsaconferences.ed.gov/2015sessions.html> (last accessed January 2016).

*G5 is the U.S. Department of Education's grants management system.

The issue is not that these types of problems do not matter at all—it is important that the federal aid programs are implemented with fidelity. Rather, they represent only one specific type of problem: a college’s inability to properly follow all the rules in awarding and disbursing federal student aid. Schools should award aid dollars correctly and send federal funds back to the department in a timely fashion. But bookkeeping should not be the only item that auditors review. The recent past is full of lawsuits, investigations, and findings across multiple levels of government documenting serious concerns—not about how aid dollars are awarded, but what colleges actually offer to students and what colleges do to get students in the door. There are also several lawsuits showing that private loan products created or offered by institutions may be used by colleges to bolster their finances while leaving students with toxic debt. Focusing efforts on one narrow set of problems without thinking about these other issues represents a set of lost opportunities for what should be a robust part of the accountability system.

Compliance audits of for-profit institutions are different

While all colleges are required to submit annual financial and compliance audits, the standards for these documents vary depending on whether the institution is a public or other nonprofit entity, or a for-profit entity. Nonprofit institutions, which frequently receive funds from numerous federal agencies, must submit a compliance audit that follows guidance set by the Office of Management and Budget, or OMB, through what is known as Circular A-133.²³ This guidance is applicable to entities that receive federal funds from agencies across the government and sets uniform standards to ensure that funds are spent properly.²⁴ With respect to the Department of Education, this guidance requires that the firm issues a broad opinion about the workings of the college, going beyond the examination of specific financial aid numbers. It includes an expectation that auditors were alert for anything that might have seemed irregular or problematic, and followed up if it would have a direct and material effect on the federal programs in question.²⁵ For example, the A-133 guidance says that auditors must “determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs.”²⁶

While the A-133 audit has the advantage of asking the auditor to give an opinion on the overall integrity of the entity, it often does not provide as detailed a review of transactions that involve the Department of Education, because the college has research or other major funding from other agencies that is reviewed instead.

The “attestation” type of audit that is required of for-profit colleges, in contrast, includes a review that must include everything on a specific list of topics, but it does not ask an auditor to attest to anything other than those items.²⁷ The advantage of an attestation audit is that it can give a very strong statement about compliance with specific areas tested. But if it is too narrowly scoped, any topic not on the list—such as whether students understand documents they are signing, or whether advertisements are truthful—can fall through the cracks, leaving both taxpayers and students vulnerable.

The audit guide lacks specifics on the most important topics

The compliance audit guide prepared by the independent inspector general encourages auditors to “be aware of fraud or high risk areas and recognize basic weaknesses in internal controls.” It provides a list of risk indicators an auditor should watch out for, including:

- Rapid growth in a short period of time.
- Use of high-pressure recruitment tactics.
- High turnover of management, faculty, and other staff.
- Large number of students dropping or withdrawing after the last date when funds would have to be returned to the Education Department.
- High student enrollment but low student attendance.
- High rate of withdrawals or defaults.
- Signs of inadequate or overworked faculty.²⁸

The guide also instructs auditors to use their “professional skepticism to achieve reasonable assurance” that improper activity is detected. However, it does not describe any specific tests for any of the high-risk items, nor does it indicate what an auditor should do if a school exhibits one or more of the problems. As a result, we saw no evidence in any audit that an auditor looked for evidence of any of the high-risk items. The problem with being so specific in one set of areas and vague in another is that it encourages auditors to spend more time on the detailed areas.

Furthermore, even when auditors do find problems worthy of attention, they do not always follow up. For example, the 2013 compliance audit for the Art Institute of Phoenix found that the institution had a default rate on its federal Perkins loans of nearly 44 percent—well above the 15 percent threshold that it was not to exceed. Despite a rate nearly three times above the acceptable level, the auditor simply observed that the institution’s plan for reducing defaults “has not resulted in a sufficient number of students repaying their loans,” and suggested that the Art Institute “should examine additional pro-

cesses designed to impact student repayment.” Similarly, a 2013 finding by the auditor for Corinthian’s campus in Cross Lanes, West Virginia, noted that the college received more than 90 percent of its revenue from the Department of Education—a situation that, if repeated, would result in the termination of the school’s eligibility for aid. (see Figure 3) But again, there is no indication that the auditor considered the violation to be symptomatic of other problems.

FIGURE 3

A finding that the Everest Institute in Cross Lanes, West Virginia, exceeded its 90-10 ratio in 2013

From a compliance audit of Everest College in Reseda, California, that the school submitted to the U.S. Department of Education in 2013

FINDING No. 13-8

Statement of Condition

The Institution’s 90/10 percentage for the fiscal year ended June 30, 2013 exceeded 90%.

Criteria

U.S. Department of Education regulations restrict the proportion of cash receipts for tuition and fees from eligible programs to not more than 90 percent from the Title IV programs. The failure of an institution to meet the 90 percent limitation for two consecutive years will result in a loss of the institution’s ability to participate in the SFA programs.

Effect

The Institution’s 90/10 percentage for the fiscal year ended June 30, 2013 was 93.13%.

Cause

It appears that the Institution’s 90/10 monitoring procedures were not properly followed.

Recommendation

The Institution should take steps to ensure that its 90/10 percentage for the fiscal year ended June 30, 2014 does not exceed 90%.

Institution’s Comments

The Institution concurs with this finding and has procedures in place as outlined in the Corrective Action Plan to ensure compliance with requirements.

Source: Corinthian Colleges Inc. audit submitted to the U.S. Department of Education and obtained through a 2014 Freedom of Information Act request, available at https://interactives.americanprogress.org/projects/2016/ed-oversight/Document_09_Corinthian_Colleges_Inc.pdf.

The audit guide is outdated

Providing up-to-date instructions is also important for helping auditors do their jobs properly. This is especially important for compliance audits, as the statute and regulations may change. Yet the Office of Inspector General, or OIG, has not provided a major update of the audit guide since January 2000.²⁹ It has also not published any additional guidance for auditors since September 2007.³⁰ Since that time, Congress has reauthorized the Higher Education Act and established several new regulations related to things such as credit hours, incentive compensation, and other issues that auditors should consider. Recently, Secretary of Education John B. King Jr. has indicated that the OIG will issue a new manual for auditors by the end of April 2016.³¹

The higher education world has also changed dramatically since 2000. Back then, colleges could not provide federal aid for entirely online programs—a change that came into place only in 2006.³² In 2014, more than 40 percent of for-profit enrollments were entirely online. The private for-profit sector enrolled less than 5 percent of students in higher education versus 12 percent today, and had 2.2 million fewer students.³³ And Corinthian was not yet a publicly traded company, enrolling one-tenth of the students it had at its peak.³⁴ While an outdated guide does not prevent auditors from taking the critical look that their role warrants, an out-of-date document that does not account for the rise of online learning and large national education companies creates significant oversight vulnerabilities.

Auditors submit insufficient documentation to fully vet the quality of their work

As noted above, the audit guide expects that compliance and financial audits will address issues beyond student aid awarding rules. But the way that auditors present their findings makes it difficult to differentiate between auditors who conducted a rigorous review and found nothing from those who conducted incomplete reviews and also found nothing. This is because audit documents summarize information and do not disclose the details of the work that went into them. For instance, the documents provide an overall opinion on the institution's compliance with regulations and lists any findings of noncompliance from the sample of files that were checked. But they do not detail every single thing that was checked, nor do they provide any backup documentation that makes it possible to see exactly what was considered during the review.

Consider, for example, the federal prohibition on colleges paying bounties to recruiters for enrollments—a rule intended to prevent recruiters from hard-sell tactics. Because of this ban on incentive compensation, the federal department’s guidance requires auditors to “test payroll and other disbursement records to determine whether the institution paid to any persons or entities any commission, bonus, or other incentive payment based directly or indirectly on success in: securing enrollments, financial aid to student or student retention.”³⁵ Compliance audits submitted to the Department of Education do not document what steps the auditors took to satisfy the required tests on incentive compensation. In fact, none of the compliance audits that were reviewed for this paper mentioned any tests that were done of incentive compensation. In discussing the finding with OIG staff, we were told that auditors who checked and found no violations would not necessarily include documentation in the submitted audit report. If this is the case, then an incomplete audit may look the same as an audit that conducted all the required checks and found nothing. This lack of distinction between audits of different quality seriously undermines the usefulness of the audit process.

Audits receive limited follow-up by the Department of Education

It is also important to consider what happens with audit reports once colleges submit them to the Education Department. The audits are reviewed at monthly meetings by staff from Federal Student Aid, the Office of General Counsel, and the OIG. Department staff conduct an acceptability review of each audit to see if it appeared to follow the required standards. If an audit meets that test, then the department looks at the findings. For audits that identified no issues, there often is no follow up.³⁶ Most audits, however, include findings that are similar to those errors that were identified in the sample files above. In those cases, the school’s response to the audit—correcting records or updating refund amounts—is reviewed for adequacy and documented in a letter from the Education Department to the school. (see Figure 4) The extent and type of findings affect the department’s next steps. Importantly, the department has the ability to view the severity of certain findings as more—or less—urgent than others. For instance, some findings, such as Return to Title IV calculation errors, will result in follow-up in each instance because of the potential harm to students, even if an auditor did not note concerns about it. In some cases, findings may impact enough students or identify enough issues that the auditor conducts a deeper review. That situation may result in larger corrected payments to or from the Education Department, or corrected refunds to students.

Despite the importance of the high-risk indicators and the incentive compensation rule, we found no evidence that the department questioned the adequacy of audits that paid no attention to those issues.

FIGURE 4

An excerpt from a letter sent to Carrington College in Boise, Idaho, in 2013

The U.S. Department of Education accepting a school's audit plan to resolve audit findings



MAR 11 2013

Mr. Rob Paul, President
Carrington College
1122 North Liberty Street
Boise, ID 83704-0000

RE: Audit Control Number (ACN): 10-2012-32621
OPE ID: 02218000

Dear Mr. Paul:

This letter advises Carrington College (Carrington) of the U.S. Department of Education's (Department's) final audit determination concerning the audit report of Carrington's administration of the programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* (Title IV, HEA programs). This report, prepared by PricewaterhouseCoopers, LLP, Certified Public Accountants, in accordance with the Department's Audit Guide-Audits of Federal Student Financial Assistance Programs at Participating Institutions and Institution Servicers-January 2000 covers the period July 1, 2011 through June 30, 2012.

The Department has reviewed Carrington's corrective action plan provided with the audit report. Carrington's response satisfactorily addressed the auditor's findings as noted below. Enclosed is Carrington's response to this audit. Any supporting documentation submitted with Carrington's written response is not included with this final audit determination. However, it will be retained and available for inspection by Carrington upon request. Copies of the final audit determination, Carrington's response, and any supporting documentation may be subject to release under the Freedom of Information Act (FOIA) and can be provided to other oversight entities after the final audit determination is issued.

Source: DeVry Inc. audit submitted to the U.S. Department of Education and obtained through a 2014 Freedom of Information Act request, available at https://interactives.americanprogress.org/projects/2016/ed-oversight/Document_13_Devry_Inc.pdf.

Resources are insufficient for quality review of audits

One of the values of an audit is supposed to be that it is an independent review of an institution, but there is a very real risk that an auditor will do a poor job or not catch things they should. As mentioned above, the Education Department conducts an acceptability check of each audit it receives. This should spot audits that fail to meet basic standards or requirements. For audits that appear to be acceptable, but in fact failed to catch things they should have, the department relies on subsequent program reviews. While program reviews can act as a good backstop for catching bad reviews, the limited number that the department can conduct each year makes it possible for bad audits to slip through. If, however, the department finds an audit or auditor to be of insufficient quality, it can refer them to the OIG for review. Ultimately, auditing firms can be barred from conducting future audits for the department, and auditors can face professional sanctions.

The OIG quality reviews of audits are the most in-depth check of an auditor's actual work. The OIG looks at an auditor's underlying documentation to see what they reviewed and how they came to particular conclusions and findings. However, the OIG conducts only about 40 quality control reviews each year across the entire agency, including school districts, colleges, and other grantees that file audits.³⁷ It tends to select audits not at random, but based on whether the auditor appears to be new or has demonstrated problems in the past.

The insufficient resources to conduct numerous quality control reviews is particularly troubling, because when the OIG does take a closer look at audits, it is often not satisfied with the findings. According to data provided by the OIG from the 2012 to 2015 federal fiscal years, nearly 15 percent of the audits reviewed at proprietary colleges were deemed unacceptable. The OIG also found that 59 percent of the proprietary school audits were technically deficient, meaning it did not have sufficient documentation for its work or other problems.³⁸ By contrast, just 3 percent of the audits at public and private nonprofit colleges were unacceptable, and 23 percent were technically deficient. Though some of the differences in results between proprietary colleges and other institutions is likely the result of the nonrandom selection of audits for review, the high rate of problems identified is still concerning.

Unlike nonprofit colleges, for-profit colleges typically employ different auditors for financial and compliance work

Finally, almost every audit we reviewed showed a surprising difference in the selection of audit firms between nonprofit and for-profit colleges: In every nonprofit college, the same well-known accounting firms, such as KPMG or Ernst & Young, performed both the financial and compliance audits;³⁹ most for-profit institutions, however, hired a separate boutique firm to handle the compliance work. (see Table 3) Only one large for-profit college, DeVry University, hired a name-brand accounting firm—PricewaterhouseCoopers—for both its compliance and financial audits. That particular audit issued the opinion that DeVry was in compliance with required regulations, but it also was the only audit of its kind that noted instances of noncompliance.

TABLE 3
Colleges and their financial and compliance auditors in 2012

Institution	Financial auditor	Compliance auditor	College's internal accountability
American Public University System	McGladrey LLP	Weworski & Associates	For-profit
American University	PricewaterhouseCoopers	Same as financial auditor	Nonprofit
Azusa Pacific University	CapinCrouse LLP	Same as financial auditor	Nonprofit
Columbia College	BKD LLP	Same as financial auditor	Nonprofit
Concorde Career Colleges	BKD LLP	Salmon Sims Thomas & Associates PLLC	For-profit
Creighton University	KPMG	Same as financial auditor	Nonprofit
Crimson Aero Corporation	Weworski & Associates Co.	Same as financial auditor	For-profit
Delta Career Education Corporation	Dixon Hughes Goodman LLP	Knutte & Associates PC	For-profit
DeVry University	PricewaterhouseCoopers	Same as financial auditor	For-profit
Drexel University	PricewaterhouseCoopers	Same as financial auditor	Nonprofit
Education Management Corporation, or EDMC	Ernst & Young	Almich & Associates Fogle & Associates LLC	For-profit
Education Training Corporation	Ernst & Young	Deemer Dana & Froehle LLP	For-profit
Empire Education Group	ParenteBeard LLC	West & Company LLC	For-profit
The George Washington University	PricewaterhouseCoopers	Same as financial auditor	Nonprofit
Georgetown University	PricewaterhouseCoopers	Same as financial auditor	Nonprofit
Howard University	BDO USA LLP	Same as financial auditor	Nonprofit
Johns Hopkins University	KPMG	Same as financial auditor	Nonprofit
Kaplan Higher Education Corporation	PricewaterhouseCoopers	Fogle & Associates LLC	For-profit
Liberty University	Dixon Hughes Goodman LLP	Same as financial auditor	Nonprofit

Institution	Financial auditor	Compliance auditor	College's internal accountability
Loma Linda University	Moss Adams LLP	Same as financial auditor	Nonprofit
Loyola Marymount University	PricewaterhouseCoopers	Same as financial auditor	Nonprofit
National University	PricewaterhouseCoopers	Same as financial auditor	Nonprofit
Pepperdine University	PricewaterhouseCoopers	Same as financial auditor	Nonprofit
Saint Louis University	KPMG	Same as financial auditor	Nonprofit
Strayer University	PricewaterhouseCoopers	Knutte & Associates PC	For-profit
Temple University	Deloitte & Touche LLP	Same as financial auditor	Nonprofit
Universal Technical Institute	PricewaterhouseCoopers	Almich & Associates	For-profit
University of Pennsylvania	PricewaterhouseCoopers	Same as financial auditor	Nonprofit
University of San Francisco	Deloitte & Touche LLP	Same as financial auditor	Nonprofit
University of Southern California	PricewaterhouseCoopers	Same as financial auditor	Nonprofit
Vatterott Educational Centers Inc.	Ernst & Young	Almich & Associates	For-profit
Webster University	BKD LLP	Same as financial auditor	Nonprofit
West Coast University	Almich & Associates	Same as financial auditor	For-profit
Western University of Health Sciences	Grant Thornton LLP	Same as financial auditor	Nonprofit

Source: Letter from U.S. Department of Education to Corinthian Colleges Inc., "Re: Pending Applications and Requests for Documentation and Information," January 23, 2014. See Robert Shireman, Elizabeth Baylor, and Ben Miller, "Looking in All the Wrong Places: College Oversight Source Documents," Center for American Progress, March 16, 2016, available at <https://www.americanprogress.org/issues/higher-education/news/2016/03/14/133258/>.

It is not clear from our review whether the use of different auditors for financial and compliance work is important. Some individuals interviewed for this report expressed concern about the practice, while others were less worried. For instance, one former college owner told us that the small firms are more specialized and able to tackle the compliance audit's tasks better than the major firms.⁴⁰ However, separate firms also means that auditors are not seeing the entire financial and compliance picture for an institution, creating the risk that issues may not be properly investigated. This practice also creates complexity over the auditor's responsibility when problems are missed. For example, in a lawsuit against Corinthian and Ernst & Young, the auditing firm has asserted that it should not be held accountable for possible violations of the incentive compensation rules because the responsibility for examining compliance rested with a different auditor. (Ernst & Young argues, "That dismissal is warranted because [Ernst & Young] did not, as a matter of fact, perform the Compliance Reports certifying Corinthian's compliance with [the Higher Education Act].")⁴¹ The dispute over Ernst & Young's potential responsibility for compliance would not exist if the audits had not been conducted separately in the first place.

Overall, this analysis of audits demonstrates a story of squandered potential. Theoretically, this annual reporting should be an important external check to identify potential problems and keep colleges honest. And in a world of limited federal resources, audits present an opportunity to look more carefully at every college each year in a way that the Department of Education cannot. However, the current process falls far short of these aims. Auditors do not appear to be asking the right questions, and the federal guidance from the Office of Inspector General does an insufficient job of holding them accountable to do so. The audit process must be overhauled so that the department can have confidence that auditors are on the lookout for misleading and fraudulent practices that harm students and the public.

Department of Education

program reviews

Audits are not the only tool used for judging how colleges operate the federal financial aid programs. The Department of Education also has its own process, known as program reviews. In theory, these should be even more robust oversight mechanisms—a chance for the federal government to tailor reviews to focus on pressing issues and assign fines and other penalties when serious issues or problems arise. Unfortunately, program reviews suffer from many of the same flaws as audits—a narrow focus that often fails to capture crucial issues in particular—that hold them back from being the tool desperately needed to protect student and taxpayer investments. To be clear, the problem is not that these exercises are overly burdensome or should be eliminated. They simply must be stronger and smarter.

The basic goal of program reviews is to ensure that student aid funds are awarded correctly and in compliance with federal rules and regulations. This work can also consider other issues, such as compliance with regulations related to campus safety or the dissemination of consumer information. Program reviews are conducted by staff in the department's Federal Student Aid office. Notably, they are separate from the newly created Student Aid Enforcement Unit. However, the two will collaborate to make sure that information is shared across the divisions. Done well, program reviews that identify problematic practices should serve as the foundation for more in-depth oversight actions conducted by the department's new enforcement unit.

Our examination of recent program reviews show that they, like the audits, focus mainly on financial aid calculations, such as awarding incorrect amounts or giving funds to ineligible students. Similarly, they appear to place less emphasis on the broader questions of consumer protection that frequently prompt legal action and were a contributing factor to the downfall of Corinthian Colleges. In addition, program reviews are hampered by a process that was imposed by Congress and allows institutions to resolve findings privately, keeping the final determinations limited and minor.

While independent financial and compliance audits are required of almost all colleges every year, the Department of Education is more limited in its program reviews. As of December 2015, between 134 and 175 finalized program reviews have been made available to the public for each of the last three fiscal years. The number of reviews completed each year reflects the capacity at the Department of Education. In 2014, it had 232 staff members who handled all compliance work; a subset of these were program review specialists.⁴²

With so few people to conduct reviews of the nearly 7,500 colleges that receive federal aid each year,⁴³ the department ultimately relies on identifying risk factors to prioritize schools and topics to investigate.⁴⁴ The high-risk indicators that by law the department must prioritize in choosing colleges for a program review include:

- High student loan default rates or a large volume of defaulted loans.
- Significant year-over-year changes in the volume of student aid funds flowing into the institution.
- Deficiencies identified by state licensing or authorizing agencies or accreditation associations.
- High annual dropout rates.⁴⁵

While audits of a given type of college must cover the same issues, the department has the ability to choose the scope of what it will investigate. The most common type of review is a general assessment of the institution's overall "performance in meeting its administrative and financial obligations."⁴⁶ For example, a program review at Corinthian's WyoTech campus in Wyoming was a general review of the institution's administration of student aid funds. (see Figure 5) But program reviews can be more narrowly focused to address specific issues, such as financial responsibility. The department may opt to conduct a narrower program review to focus on an area in which the institution has previously documented problems or to review compliance with important issues that are not related to federal aid, such as reporting campus crime statistics. In light of findings during the review, the department may also adjust the review's scope.⁴⁷

FIGURE 5

Excerpt from a 2013 U.S. Department of Education program review of WyoTech in Laramie, Wyoming, describing the scope of the work

B. Scope of Review

The U.S. Department of Education (the Department) conducted a program review at WyoTech from February 13, 2012 to February 16, 2012. The review was conducted by Clare Barger and Susan Frost-Alvarez.

The focus of the review was to determine WyoTech's compliance with the statutes and regulations as they pertain to the institution's administration of the Title IV, HEA programs. The review consisted of, but was not limited to, an examination of WyoTech's policies and procedures regarding institutional and student eligibility, individual student financial aid and academic files, attendance records, student account ledgers, and fiscal records.

A sample of 30 files was identified for review from the 2010-2011(15 files) and 2011-2012 (15 files) (year to date) award years. The files were selected randomly from a statistical sample of the total population receiving Title IV, HEA program funds for each award year. Appendix A lists the names and social security numbers of the students whose files were examined during the program review. A program review report was issued on July 27, 2012.

Source: Federal Student Aid, *WyoTech: Final Program Review Determination* (U.S. Department of Education, 2013), available at https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/FPRD/WyoTech_WY_009157_03_12_2013_FPRD.pdf.

Weeks before conducting a review, the Department of Education notifies the institution that it has been selected for review and sets the review scope.⁴⁸ The program review is typically conducted onsite at the institution so department staff can access files, databases, staff, and other information to conduct the work.⁴⁹ Program reviewers spend about one week on this phase.⁵⁰ Then the department issues a program review report, or PRR, listing identified findings, typically within 75 days.⁵¹

Just like compliance audits, program reviews include individual student records. Reviewers examine a sample of student files—usually about 30—to make sure that all rules and regulations are met: that students had enough class credits for the amount of aid they received, that students were properly categorized as an

independent or dependent, and whether the correct amount of federal dollars was returned to the government if the student dropped out. Program reviewers may also conduct interviews with institution staff to discuss the materials and practices of the institution.

Depending on the review's findings, an institution may face monetary liabilities or other penalties. The Department of Education notifies colleges of its final findings and associated liability amounts in a report called a final program review determination, or FPRD. For example, a letter sent to Jack Massimino, the chairman and CEO of Corinthian Colleges, detailed the final status of a program review in Everest Institute in Cross Lanes, West Virginia, and lists liabilities of \$6,013. (see Figure 6)

FIGURE 6

An excerpt from a 2013 final program review determination of Everest Institute in Santa Ana, California

The U.S. Department of Education communicating its final program review determination and monetary liability

May 16, 2013

Mr. Jack Massimino
Chief Executive Officer
Everest Institute
6 Hutton Centre Drive
Santa Ana, CA 92707-5467

Sent by overnight mail
1Z A54 67Y 01 9736 8774

RE: **Final Program Review Determination**
OPE ID: 01035600
PRCN: 201220327869

Dear Mr. Massimino:

The U.S. Department of Education's (Department's) School Participation Team Philadelphia issued a program review report on August 29, 2012 covering Everest's administration of programs authorized by Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs), for the 2010-2011 and 2011-2012 award years. Everest's final response was received on September 13, 2012. A copy of the program review report (and related attachments) and Everest's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by Everest upon request. Additionally, this Final Program Review Determination (FPRD), related attachments, and any supporting documentation may be subject to release under the Freedom of Information Act (FOIA) and can be provided to other oversight entities after this FPRD is issued.

Purpose:

Final determinations have been made concerning all of the outstanding findings of the program review report. The purpose of this letter is to: identify liabilities resulting from the findings of this program review report, provide instructions for payment of liabilities to the Department and notify the institution of its right to appeal,

The total liabilities due from the institution from this program review are \$ 6,012.97.

This final program review determination contains detailed information about the liability determination for all findings.

Source: DeVry Inc. audit submitted to the U.S. Department of Education and obtained through a 2014 Freedom of Information Act request, available at https://interactives.americanprogress.org/projects/2016/ed-oversight/Document_13_Devry_Inc.pdf.

In general, a college will owe money to the federal government if the review shows that the college awarded incorrect amounts of federal financial aid or awarded to students who were ineligible. In addition, the actual amount of the fine depends on the department's estimate of how many student files had problems. In 2013, for example, Georgetown University owed \$15,000 in liabilities because it improperly awarded aid to students enrolled in a post-baccalaureate program with limited eligibility for aid. The review also found some students who received aid despite the fact that they were not enrolled in enough credit hours to qualify.⁵² This finding did not result in a monetary finding because the loans did not result in additional cost to the government.⁵³

In addition to uncovering results that end in monetary fines, program reviews can identify deficient underlying policies or practices at institutions. In those cases, institutions can resolve a finding by promising to improve or submitting a new policy that meets the department's standards. For example, a program review found that Laurel University in North Carolina did not have an adequate policy to monitor students' academic progress. Satisfactory academic progress, or SAP, is a requirement for enrolled students to earn good enough grades in their courses and accumulate enough credits toward program completion in order to remain eligible for student aid funds.⁵⁴ Colleges can set their own thresholds, such as establishing a minimum grade point average, and must monitor and document that students have satisfied them.⁵⁵ Laurel University updated its policy on the topic, promised to retrain its staff, and updated faculty and advisors about the new policy. The department accepted this proposal and resolved the finding.

To assist schools in preparing for a program review, the Department of Education has a public guide that outlines typical practices and procedures. It indicates that agency staff may pursue virtually any relevant topic in a program review; however, the guide clearly focuses on what is described as the institution's "administration" of federal financial aid. This tends to be about systems and procedures, addressing whether the recordkeeping and calculations are correct. To further clarify the work of program reviews, the guide contains a list of "critical elements" of a student file that must be ready for review. This includes things such as eligibility for and verification of the amount of aid a student will receive, as well as attendance and enrollment status. The full list is below.

TABLE 4
Critical elements of program reviews

Critical institutional elements	Explanation
Eligible institution	Is the institution eligible to participate in programs—including student aid programs—authorized by the Higher Education Act, or HEA?
Administrative capacity	Is the institution capable of adequately administering HEA programs?
Program eligibility	Do programs that are offered by the institution satisfy all requirements?
Campus security	Does the institution satisfy all of the required security policies and report crime statistics?
Financial responsibility	Does the institution administer HEA programs properly and meet its financial obligations?
Fiscal review	Does the institution follow the rules and procedures when managing HEA program funds?
Fiscal operations report and application to participate	Did the institution file a timely application to participate in federal financial aid programs?
Lender/guarantee agency inducement	Did the institution avoid prohibited transactions with financial aid lenders?
Borrower choice	If the institution provides a list of recommended or suggested financial aid lenders to students and families, does it comply with required disclosures?
Critical student elements	Explanation
Student eligibility	Are students eligible for federal financial aid? Did the institution establish whether students are eligible for federal financial aid?
Ability to benefit	If a student does not have a high school diploma, has the institution made sure the student is eligible for financial through testing or other documentation?
Attendance	Did the institution properly calculate students' financial aid awards based on their attendance at or withdrawal from the school?
Cost of attendance	Did the institution charge appropriate fees to the student?
Credit balances	Did the institution pay credit balances on time to the student?
Dependency override	Did the institution appropriately determine students' tax dependency status and document their decisions?
Enrollment status	Did the institution properly award financial aid for students' enrollment status?
Professional judgment	Did the institution properly execute and document its use of discretion to adjust student eligibility based on unique circumstances?
Return of Title IV	Did the institution properly calculate and refund any unused financial aid to the U.S. Department of Education?
Satisfactory academic progress	Did the institution employ reasonable standards to measure whether students are making satisfactory academic progress toward completion?
Verification	Did the institution properly verify and document students' eligibility for financial aid?
Calculations/disbursements	Did the institution properly calculate and disburse the correct amount of financial aid to eligible students?

Source: Office of Federal Student Aid, Program Review Guide for Institutions 2009 (U.S. Department of Education, 2009), available at <https://www.ifap.ed.gov/program-revguide/attachments/2009ProgramReviewGuide.pdf>.

A closer look at program reviews

As part of the Obama administration's effort to provide the public with more transparency about the performance of American colleges and universities,⁵⁶ the Office of Federal Student Aid started posting the results of program reviews on its website in FY 2014.⁵⁷ Disclosing these reviews provides clarity about which institutions are being surveyed and the types of violations that have been identified.

To understand what is in these reviews, we looked at a sample of 45 to 50 final program reviews released in fiscal years 2013, 2014, and 2015. We chose a mixture of public, nonprofit, and for-profit institutions. We also examined each of the four program reviews conducted at campuses operated by Corinthian Colleges during this time period.⁵⁸ Though not exhaustive, our review of these documents provided a sufficient understanding of the issues raised in program reviews and the process used to conduct this oversight work.

In our review, we found that about 20 percent of program reviews were completed without the department issuing an FPRD. This level was similar to an analysis conducted by National Association of Student Financial Aid Administrators, which looked at all of the program reviews for fiscal years 2014 and 2015.⁵⁹ This means that either the program review identified no issues or it disclosed issues that were minor and resolved immediately by the institution.

For colleges that had monetary liabilities, the amount owed varied a great deal. Our review showed fines as little as \$1,100 at Laurel University in North Carolina for improperly calculating two students' Pell Grant awards;⁶⁰ the Institute of Medical Education in California owed \$8.4 million for failing to properly administer aid funds at almost every step, including accounting for aid funds, verifying eligibility, monitoring student progress, and calculating refunds to the department.⁶¹ The school acknowledged the deficiencies and said it was unable to recruit skilled student aid staff. Typically, the liabilities owed ranged from a few thousand dollars to tens of thousands of dollars. Liabilities of more than \$1 million were rare. In general, department program reviews appear to catch more monetary liabilities than audits. In response to a 2015 OIG report, the department noted that the 315 program reviews conducted in FY 2011 turned up \$65 million in liabilities, versus just \$34 million from the 1,377 audits submitted.⁶²

Colleges with monetary liabilities may not always have to pay these amounts to fix their problems. They might instead be asked to update their policies and procedures. For example, the 2013 program review of Coffeyville Community College in Kansas assessed \$20,852 in monetary findings for improper aid calculations and late returns of funds. In response, the institution implemented a new system for documenting the reconciliation of files, which the department deemed acceptable to resolve the findings.

Below is a summary table detailing the monetary liability observed in our examination of the program reviews followed by greater details and discussion of our other findings.

TABLE 5
Monetary liabilities owed from selected U.S. Department of Education program reviews, fiscal years 2013–2015

Amount of liability	Number of program reviews		
	FY 2013	FY 2014	FY 2015
No liability owed	15	25	23
Liability less than \$10,000	10	10	6
Liability between \$10,001 and \$100,000	12	6	10
Liability between \$100,001 and \$1 million	11	6	9
Liability more than \$1 million	2	2	1
Total program reviews examined	50	49	49

Source: Authors’ review of Office of Federal Student Aid, “Program Reviews,” available at <https://studentaid.ed.gov/sa/about/data-center/school/program-reviews> (last accessed February 2016).

Program reviews are focused on financial aid awarding at the expense of other issues

As with nonfederal audits, program reviews tend to focus on issues relating to compliance with federal student aid rules. For example, calculating and verifying eligibility for student aid and then disbursing the proper amount was a common finding in our review. These outcomes are not surprising because much of the program review work focuses on confirming whether the handling of individual student accounts complied with these rules. Many of these most common findings are also critical elements in the program review guide, as outlined in the table

below. This approach does not make the best use of federal oversight authority because it sends a strong message that bigger-picture questions—the ethics of admissions and recruitment practices, misrepresentation of programs, and other issues that are repeatedly identified in lawsuits against institutions that lead to unaffordable debt—are not a priority.

TABLE 6
Most common domestic school program review findings by number of findings, December 2015

Finding code description	Critical element?
Verification violations	✓
Return of Title IV, or R2T4, calculation errors	✓
Student credit balance deficiencies	✓
Entrance/exit counseling deficiencies	
Crime awareness requirements not met	✓
Satisfactory academic progress policy not adequately developed and/or monitored	✓
Student status—inaccurate or untimely reporting	✓
Inaccurate recordkeeping	
Drug abuse prevention program requirements not met	✓
Consumer information requirements not met	
Return of Title IV, or R2T4, funds made late	✓

Sources: Office of Federal Student Aid, “2015 FSA Training Conference for Financial Aid Professionals: Program Review Essentials and the Top 10 Compliance Findings,” available at <http://fsaconferences.ed.gov/2015sessions.html> (last accessed January 2016); Office of Federal Student Aid, Program Review Guide for Institutions 2009 (U.S. Department of Education, 2009), available at <https://www.ifap.ed.gov/program-revguide/attachments/2009ProgramReviewGuide.pdf>.

In fact, the recordkeeping emphasis of program reviews makes the process better suited for identifying problems at smaller colleges, which might not have staff trained to follow the aid rules. An institution with only a few employees is far more likely to lack the capability to properly track all these things and end up in trouble. By contrast, colleges that are well organized and have sufficient resources can prepare for a program review and satisfy its requirements by keeping their records in order. Larger institutions can likely hire staff capable of dealing with these bookkeeping issues.

The other challenge with spending so many resources on just aid awarding compliance is that improper behavior related to program substance or nonfinancial aid processes may be missed. For instance, a review of student records will not reflect

what promises the students may have received during admissions, the quality of institutional facilities, or other issues that may constitute the fraud or misrepresentation that some schools have been accused of committing. While program reviews may not be of sufficient time and depth to concretely build the case around all of these issues, they need to be looking in the right places so they can trigger the bigger investigations seen at places like Corinthian. A program review cannot be the jumping-off point for future investigative work if it does not first build the platform from which to leap.

Our examination of program reviews at institutions owned by Corinthian Colleges illustrates how the recordkeeping approach can miss bigger-picture issues. For the three years of program reviews available on the Department of Education website, there are three Everest campuses and one WyoTech campus with final program reviews published. In one case, all findings were resolved; in two others, there were narrow findings on the timing of aid disbursements. There is no evidence that these reviews included an in-depth examination of any of the issues for which Corinthian was subsequently investigated: misrepresenting its programs to students, overstating graduation and placement rates, and using deceptive marketing and high-pressure sales tactics to enroll students.

TABLE 7
Resolution of four Corinthian Colleges program reviews

Institution	Number of findings	Finding description	Amount owed
Everest College, Phoenix, Arizona	2	Improper tuition overcharges Failure to resolve discrepancies in student's file establishing eligibility for aid	\$9,727
Everest Institute, Rochester, New York	0	None	\$0
Everest Institute, Cross Lanes, West Virginia	1	Failure to resolve question about student's eligibility for aid	\$6,012
WyoTech, Laramie, Wyoming	1	Failure to verify and document students' eligibility for aid	\$152,094

Source: Authors' review of Office of Federal Student Aid, "Program Reviews," available at <https://studentaid.ed.gov/sa/about/data-center/school/program-reviews> (last accessed February 2016).

The review of Everest College in Phoenix had the closest instance of a bigger-picture finding. That school's program review identified two students who were charged thousands of dollars more in tuition than they had agreed to pay. However, nowhere in the public documents is there evidence that the department explored whether the overcharges were part of a broader practice or pointed to other prob-

lems. Concerns about Corinthian's pricing practices have turned up in other investigations of the company. A congressional investigation that examined Corinthian Colleges during the same period as this program review found the company to be unusually opaque about the cost of its programs. Its final report stated, "Committee staff struggled to accurately determine the cost of most Corinthian programs."⁶³

Even when the program review does encourage looking at bigger-picture issues, it is not clear how often they are considered. For example, the program review guide lists recruiter compensation and incentive programs among policies and procedures to be reviewed. However, in our examination of publicly available program reviews, we did not see evidence that this issue was an area of focus.

The OIG has also raised questions of how program reviews deal with the issue of incentive compensation. A 2015 OIG report found the procedures for detecting incentive compensation compliance in program reviews insufficient.⁶⁴ It also found that the Office of Federal Student Aid did not consider the issue a "high-risk area," that it lacked strong procedures for testing incentive compensation compliance, and that supervisors did not direct staff to prioritize this work.⁶⁵ In addition, the OIG found that when college employees told program review specialists that their school did not have incentive compensation policies or that employees were paid only a salary without the opportunity for a bonus, the review specialist conducted no further work.⁶⁶ Looking at larger issues will not serve its intended purposes if those investigations are not rigorous and with a healthy dose of skepticism of what colleges report.

The scope of few program reviews appear connected to trigger factors

As noted above, program reviewers have the ability to determine the scope of their work. In addition, the department has certain key issues that trigger a closer look. Among program reviews we looked at, the majority of those that had a specific focus looked at compliance with campus crime reporting. In the vast majority of cases, it appears the department conducts a general program review with a standard scope regardless of the reason for selection.

Program reviews rarely indicate if a specific factor triggered the review and, more importantly, rarely tie the scope of the work to the trigger. In just seven program reviews examined during FY 2015, the department listed either a reason for selection or a focus of the review. Sometimes this was prompted by the college or

an outside entity like the OIG's reporting an issue that triggered the review. For example, in 2015, the Department of Education conducted program reviews for ITT Technical Institute and Ivy Tech Community College—both in Indiana—as a follow-up to an OIG audit finding concerning credit balances. In both cases, the program review sampled five student files and looked at the institution's treatment of credit balances. Both program reviews were resolved with the institution's promise to improve its procedures related to credit balance disbursement.

In cases that listed a trigger for the program review, staff typically conducted a standard investigation that did not specifically focus on the factors that led to the review's instigation. For example, Lane Community College in Oregon underwent a program review that was released in 2015; that review focused on its high default rate and fluctuations in Title IV funds.⁶⁷ The program review report detailed that the institution failed to document its exit counseling in sample files and had failed to fulfill consumer information requirements. However, the consumer information finding was wholly unconnected to issues that would help students manage their debt and avoid default. Instead, it was focused on whether the college held a required educational program commemorating the signing of the U.S. Constitution—a statutory requirement added by Congress in a 2004 spending bill.⁶⁸ Ultimately, Lane Community College resolved all findings, promising to improve its procedures and take corrective action to avoid future problems. In another example, the International Academy of Design and Technology in Illinois was subject to a program review because of its high default rate of 17.6 percent and status on heightened cash management—a form of additional oversight for colleges that exhibit warning signs.⁶⁹ After examining 30 sample files, the department closed the review and issued an expedited final program review determination letter because no significant findings were identified.⁷⁰

Returning to the Corinthian example, Everest Institute in Cross Lanes, West Virginia, had a 24 percent default rate when the Department of Education conducted its program review in 2012. Yet the scope of that review was a standard evaluation of the school's administration of student aid funds. The review cited the school \$6,000 for failing to establish a student's eligibility for aid and resolved findings for errors in calculating return of Title IV funds and issuing student credit balances late.

In some instances, it appeared that the program review process would benefit from stronger connections between issues found in the student records review and broader problems. For instance, the most common finding of program reviews

is an improper calculation of the funds to be returned to the department when a student withdraws from a program, also called Return to Title IV funds. Yet the guide does not suggest that reviewers look at what institutional practices might be causing so many students to withdraw, ignoring a potential warning sign of a low-quality college.

The emphasis on error rate encourages litigating individual records to avoid problems

In general, the most important factor in determining the size of liabilities owed by a college is how many instances of a problem the reviewers find when they look at the 30 student files. If a problem turns up several times, the reviewer may decide to investigate a larger set of files, sometimes all files for a given year. Based on our review of publicly available program reviews, a finding of giving aid to ineligible students or awarding improper amounts of aid will likely lead to more errors and higher monetary findings if more files are included in the review. Ultimately, if the error rate in the sample files leads to a broader file review, the outcome for the school will almost inevitably lead to larger penalties.

The 2013 program review at WyoTech, another Corinthian school, shows just how much the error rate matters. That review revealed inconsistencies in the verification of student eligibility for financial aid. This violation included failure to document whether an individual was eligible to receive student loans or grants or verify a student's income and assets to determine the amount he or she should receive. The reviewers looked at 30 files over two school years; after finding errors, the review expanded to include more than 1,000 files. The expanded review resulted in WyoTech's owing \$152,094 in Pell and Supplemental Educational Opportunity Grant funds and loan liabilities to the Department of Education.⁷¹

As Table 7 above details, the violations found at the WyoTech campus are similar to documentation violations found at two other Corinthian-owned campuses during this period. The major difference was simply how many times the violations occurred in the initial sample.

The problem with such an error-rate approach is that it encourages colleges to litigate individual student results to avoid bigger-picture penalties. This approach occurred in the Everest College-Phoenix review that disclosed that students were being overcharged (discussed above on page 34). In that instance, only two stu-

dents in the sample were overcharged, and Corinthian successfully argued away one of them. After that, the program reviewer decided not to look at a larger sample. However, if only a few more students had the same problem, that institution may well have been subject to a larger file review and possibly a more damaging fine.

Institutions can alter program review findings in private

Before 2008, the Department of Education would complete its program review, send the results to the college, and then discuss how to address any findings or concerns.⁷² Ultimately, the Department of Education's original findings, any clarifications or corrections, and any resolution became a matter of public record. In 2008, Congress amended the Higher Education Act to make the investigators' original findings secret. More specifically, it allowed that a college's lawyers may demand "adequate opportunity to review and respond" to the program review before final findings are published. This allows institutions to compromise with the department and litigate findings, with only the resulting compromise being made public.⁷³

Reviews at the University of Phoenix before and after the 2008 change illustrate how conducting negotiations with colleges privately can affect the department's oversight process and the public's knowledge of review findings.

Before Congress's amendment, in 2004, the public record shows that an examiner found a number of problems at the University of Phoenix, as indicated by the table of contents from the review, which had been obtained by a journalist under a Freedom of Information Act request. (see Figure 7)⁷⁴ After reviewing the government's report, *The Arizona Republic* described "a school so hungry to enroll new students that it has threatened and intimidated its recruitment staff in meetings and e-mail, pressured them to enroll unqualified students and covered up its practices to deceive regulators."⁷⁵ In December 2009, the Department of Education announced a settlement that required the University of Phoenix to pay \$78.5 million for alleged violations of consumer protection regulations that occurred before 2004.⁷⁶ The university denied the allegations and avoided any adverse findings in exchange for the settlement.

FIGURE 7

Congress gave colleges the right to edit program reviews prior to their becoming public

An excerpt from the table of contents of the 2003 program review report of the University of Phoenix, before the Congressional ruling took place

5 FINDINGS AND REQUIREMENTS	7
5.1 Recruiter Compensation System	7
5.1.1 When Hiring Recruiters, UOP Promises Substantial Compensation	7
5.1.2 UOP Student Recruiting System – Focus on the Numbers	8
5.1.2.1 Sales Training – “Smoke & Mirrors”	8
5.1.2.2 Tracking Commissionable Sales and Sales Performance	11
5.1.2.3 UOP’s Aggressive Sales Motivation System	12
5.1.2.4 Intimidation Techniques	15
5.1.3 Recruiter Evaluation System Reinforces & Ranks the Quantitative	17
5.1.4 Salaries Actually Based on Quantity of Recruiting Activities	20
5.2 Bonus Incentives Awarded on Basis of Success in Securing Enrollments and Quantity of Recruiting Activities	22
5.2.1 Sporting Club Trip Awards	22
5.2.2 Prizes, Gifts and Bonuses	23
5.3 Ramifications / Results of System in Practice	24
5.3.1 Pressure to Enroll Unqualified Students	24
5.3.2 Focus on Obtaining Credit for Enrollment, Not Completing Education	24
5.3.3 Intense use of TitleIV Funds as Sales Tool / Culture of Duplicity	25
5.4 Conclusion: UOP Violated Incentive Compensation Prohibitions and Breached its Fiduciary Duty	25
5.4.1 Deceptive Practices to Mislead Department	25
5.4.2 Cover Up During Review	26

Source: U.S. Department of Education, *Program Review Report for University of Phoenix in Phoenix, Arizona* (2003).

In June 2010—after the amendment—another program review of the University of Phoenix was finalized and made public. The documents indicate that the examiners had conducted their review a full 16 months before the date on the final program review, yet the public document showed that there were only relatively minor issues of aid calculation, timing, and recordkeeping, resulting in only a small amount for the university to repay.⁷⁷ The minimal findings in the publicly released document suggest that the Department of Education found little to worry about at the University of Phoenix. But during the same period, a Senate investigation documented the University of Phoenix’s “aggressive approach” to recruiting students and signing them up for federal aid.⁷⁸

However, there was likely more to the examiners’ findings, as hinted at in the University of Phoenix’s response to the program review report and its parent company’s U.S. Securities and Exchange Commission, or SEC, filings.⁷⁹ In the public document, a vague comment by the company in the response to the program review stated, “Any additional concerns that were discussed during the program

review process have been addressed separate from the response.”⁸⁰ In the original program review report that was not released, examiners had included a section of their report labeled “Consumer Protection Concerns.” While not accusing the university of violating any law, the examiners expressed their concern that prospective students were being rushed through the admissions process before they had adequate information about total program costs and the transferability of credits and that the university was making it difficult for students to withdraw when they had decided that the program was not right for them. University of Phoenix officials declined a request for comment.

The consumer protection concerns would have been important information for consumers, policymakers, and law enforcement to have in 2009, or even 16 months later in 2010. But that original version of the program review has never been made public. In responding to recent Office of Inspector General criticism of the department’s handling of program reviews of incentive compensation, the Office of Federal Student Aid said that efforts to strengthen enforcement have been hampered by court challenges.⁸¹ The 2008 change by Congress has only added to the department’s burden by requiring it to “take into consideration” a college’s response to language in a program review. The easiest way to avoid a court fight over whether the college was given an “adequate opportunity to review and respond” is to agree to delete whatever the college does not want to be public, which is not a good solution for the public.

Department resources for program reviews may be insufficient

As noted earlier, only a subset of the department’s 232 compliance staff members were assigned to carry out program reviews at the department in 2014.⁸² With so few personnel, the department is only able to start about 300 program reviews a year—about 5 percent of those in higher education.⁸³ That means even a college with problematic results may still have good odds of avoiding a program review in a given year.

Moreover, even if a school is selected for a program review, department staff may not have enough time for a meaningful investigation. Program reviewers are allotted only about a week at a campus to do their work, and the initial program review report is anticipated to be completed and issued within 75 days.⁸⁴ For a large campus with tens of thousands of students, this is not nearly enough time to take a deep dive into practices and policies; this paradigm further encourages the culture of box-

checking reviews. Department staff also have identified this as a problem: A recent OIG report on the program review process found that department inspectors are pressed for time when completing their reviews. Reviewers stated they had insufficient time to conduct the onsite work and to complete the program review report.⁸⁵

Much like audits, program reviews should be the strong foundation of a good oversight system. But to meet this goal they cannot be a task that looks solely at the flow of student aid funds between colleges, students, and the Department of Education to identify calculation errors. Program reviews must also be used to improve accountability and provide an early warning of fraud and a deterrent for bad behavior in the first place. To do so requires making them stronger and smarter.

Recommendations for the audit and program review processes

Audits and program reviews should be crucial tools for bolstering honest and ethical treatment of students and good use of federal tax dollars. They should form the foundation for additional investigative work, including through the new enforcement unit within the Federal Student Aid office—while providing a serious deterrent for colleges to engage in bad behavior in the first place. In current practice, however, they are not structured to identify the actual predatory practices that some colleges have used to maintain and increase the flow of federal funds into their institutions. The list of the 10 most common audit and program review findings (shown on pages 13 and 33) only emphasize how much of the oversight process has been designed to catch one set of issues—incorrect calculations of federal financial aid awards—without considering larger questions about a college’s integrity.

This is a lost opportunity. Federal oversight tools should be employed to catch and end misleading and deceptive consumer practices that have been the subject of law enforcement settlements in recent years. In November 2015, for example, the Education Management Corporation, or EDMC, settled a \$100 million false claims lawsuit for misleading the government about its compliance with federal student aid rules.⁸⁶ The company was found to have been engaged in aggressive recruiting practices and offering recruiters gifts and incentives to get students to enroll. These settlements often recover far less money than institutions collected when the improper practices were occurring. Students should be insulated from predatory student loan debt that is the result of bad institutional practices, and oversight tools should be reoriented to catch this systematic predatory behavior.

Overhauling the program review and nonfederal audit processes requires a shift in approach and tactics. Colleges should not be assured ahead of time that entire categories of activities will not be subject to review, or that any problems found will be delivered to management for repair before—or instead of—reporting it to the public. To keep colleges on their toes, those institutions must know that

anything can be examined; that every recruiting call, any advertisement, all enrollment, attendance, and course records, and every employee training session could be reviewed; and that any findings of note—whether it has clearly stepped over a line or the practice simply reflects poorly on the institution—will be reported.

The Education Department should make identifying issues of misrepresentation a core part of the audit and program review processes. Campuses will behave more appropriately if they know that every advertisement and interaction with potential customers may come to light in an audit or program review. The agency must adopt an orientation that emphasizes positive treatment of potential, current, and former students rather than the pursuit of penny-ante penalties. Making the audit and program review processes work better will also strengthen the new Student Aid Enforcement Unit. More rigorous upfront work will both better deter bad behavior in the first place and also establish a strong foundation for future investigations and actions.

Undertaking such a shift is at least partially a cultural adjustment, but specific changes can help this process along, too. What follows are some steps the department and nonfederal auditors can take to improve the quality and usefulness of their work.

Recommendations for program reviews

Make program reviews about performance, not compliance

Program reviews currently duplicate the narrow issues covered in financial audits and compliance audits. Instead, the reports should be treated more like what the U.S. Government Accountability Office calls “performance audits.”⁸⁷ The objective of a performance audit is to focus on the overall effectiveness of a program by looking at the results.⁸⁸ It may also focus on the efficiency of the program by assessing how funds are used. In the case of federal student aid, a performance audit might look at marketing and enrollment practices; financial aid—including nonfederal loans—such as debt in relation to graduate earnings; or other measures to zero in on particular issues that require greater scrutiny. To be clear, this would not mean the department would be investigating details that it is statutorily prohibited from investigating, such as curriculum and pedagogy, but it would take a bigger-picture approach: judging what it means for an institution to be administratively capable of participating in the federal student aid programs, and enforcing the rules around misrepresentation and other statutory and regulatory requirements.

Consider where oversight fits relative to other FSA functions

The Office of Federal Student Aid, or FSA, is responsible for a broad swath of activity. On the operational side, it must deliver aid dollars quickly and efficiently to millions of students at thousands of colleges. But it is also the chief oversight authority for these programs. In this role, it is expected to guard against waste, fraud, and abuse, and to take a closer look at how institutions use aid dollars. These two roles represent an inherent tension—being more cautious around aid awarding could hurt other performance metrics related to the timeliness of delivery. How FSA resolves these tensions is a matter of the incentives it faces and which areas its leadership views as more necessary to improve.

Fixing the program review process requires a resolution to the tension between emphasizing aid delivery versus student and consumer protection. Several options exist for tackling this problem. At the very least, the secretary of education should rewrite the annual performance contract for the head of FSA to include metrics related to oversight. Similar goals should also be added to FSA and the department's strategic plans and performance measures. Doing this adds greater accountability to oversight work and sends a strong message that it must be a core part of what FSA does with oversight from department leadership to accomplish this goal. A greater emphasis on oversight in agency goals will also increase the authority and importance of the new enforcement unit, hopefully giving staff the leeway they need to root out serious problems.

If this approach is not enough, then the Department of Education could move the program review process outside of FSA. There is precedent for making such a decision: In October 2015, the Department of Education released a report proposing to move the ombudsman out of FSA as a way to increase its independence.⁸⁹ Making a similar move with oversight functions would allow the operations and oversight functions to operate without creating tension between them.

Finally, the administration could consider the Consumer Financial Protection Bureau's, or CFPB's, role in addressing oversight. As an independent agency, the CFPB may better handle certain complex issues—such as financing agreements between institutions and banks or financial oversight—than Department of Education staff. As an enforcement agency, it has unique expertise at identifying and eliminating unfair practices that harm consumers.

Establish special teams that monitor advertising and recruiting

Asking a college for its promotional materials is not a good way to understand what it is telling prospective students. A special federal team should be devoted to identifying the methods that schools are using to recruit potential students and sampling those communications for accuracy and appropriateness. The team should arrange for shoppers to respond to advertisements, talk to recruiters, and—when the situation calls for it—go through the enrollment and financial aid processes. It also could ask simple questions of recently enrolled students—using the email addresses they used when signing up for federal aid—to gauge their enrollment experience.

Reward staff for identifying misrepresentation and other non-dollar-based findings

The emphasis within program reviews to find as many federal student aid liabilities as possible encourages staff to identify problems—such as verifying a student’s eligibility or the return of federal aid funds—that quickly and automatically result in monetary liabilities owed to the department. In contrast, discovering misrepresentation or lack of proper consumer disclosures may take a lot more work to generate a monetary liability, including interviewing students and institutional staff, conducting site visits, and handling other activities that require time. To the extent that promotions, bonuses, or other reviews of employee performance consider dollars identified by program reviews, these structures should be adjusted to give greater credit for finding the more difficult issues. This can change the incentives for reviewers to look at the bigger picture.

Devote greater staff time and training to reviews

After adding about 58 staff in the past year, the Department of Education now has about 232 people in its oversight division, though only a subset of these individuals manage program reviews. This number, however, is still too small, given that nearly 7,500 colleges operate in the federal aid programs. The result is that program reviewers are given only about one week per institution—not nearly enough time for this kind of work. It is therefore necessary for the department to expand its staff even more. It should also invest in training reviewers so they are better prepared to identify misrepresentation and other predatory practices.

Align the scope of the review with the problems that trigger them

Department rules and regulations lay out clear warning signs that trigger a program review. But the current process appears to use those indicators—such as a high default rate—simply as a way to undertake a generic review. For instance, our investigation of program reviews turned up very few instances where colleges with high default rates received any special scrutiny around why their borrowers may not be repaying their loans. Failing to tailor the scope of reviews to the very problems that caused them makes it easier for colleges to avoid substantive problems, because they will simply be held to the same bookkeeping standards as others.

Going forward, the department should place a greater emphasis on tailoring program reviews to the issues that triggered them. It should also consider tasking special staff with focusing on specific big-picture issues—recruitment practices or default management—and have them perform portions of program reviews. Doing so would ensure that qualified individuals look at these more important problems.

Make permanent information sharing between program reviewers and other investigative entities

Institutions that have serious big-picture problems often face a litany of challenges from multiple levels of government. But when these activities are uncoordinated, they may not catch important issues. The Obama administration recently took three important steps to fix this: It established an interagency task force to share information across the government about for-profit colleges; issued an executive order to ensure that institutions of higher education are not taking advantage of veterans and service members; and promised more information sharing between the department, accreditors, and states.⁹⁰ These efforts are important for ensuring that if one part of the oversight structure identifies a problem, it can immediately notify others about what is happening. This should lead to faster action that deals with problematic institutions sooner in the hopes of better protecting students. The administration should ensure that these processes are established so they can continue under a new administration.

Restore the independence of the program review process

Federal law and regulations provide colleges with many opportunities to review and respond to allegations of improprieties. The 2008 amendment that gave colleges an additional layer of review—denying the public information about what examiners found at a college—should be repealed. To prevent colleges from evading review, the department should also be cautious about publicly declaring how it intends to select colleges for review and what items will be checked.

Recommendations for improving nonfederal audits

The nonfederal audit process has inherent risks within it. For one, the auditors are private companies looking to secure business. This discourages auditors from doing a good job if they know that auditing firms that do a poor job will not face sanctions or penalties for missing things they should have caught. Fixing this process requires changing the incentive structure for auditors, setting clearer requirements for audits, increasing transparency, and doing a better job reviewing and challenging audits.

Require auditors to certify that there are no problems with bigger-picture issues

An auditor is only as good as his or her word. If they are not seen as independent and authoritative voices, then their work will not be acceptable. The major problem with the current audit process, however, is it requires auditors to stand behind their work only on a narrow range of issues that are often unrelated to the places where the greatest problems occur. For instance, the report on compliance does not require the auditor to stand behind their assessment of things such as incentive compensation or misrepresentation.

To fix this problem, the documents submitted by auditors should require more detailed summaries and an explicit acknowledgment that auditors looked at the high-risk issues identified in the audit guide. Requiring the auditor to affix his or her name to a statement—essentially affirming that they found no evidence of problems with program integrity—will prompt the auditors to be more watchful and skeptical, because the veracity of their opinion is on the line. It also creates a mechanism for the Department of Education to hold auditors accountable or prevent them from conducting future work in the federal aid programs if the department separately identifies problems at institutions with supposedly clean audits.

Require backup documentation for key elements

Because auditors submit only their final summary report, it is impossible to distinguish between a well-done audit and a poorly done one. While asking for all the backup documentation for every item on an audit would produce an unmanageable amount of documentation, the department should at least require the backup information that was tested by the auditor for the purposes of the incentive compensation rule, misrepresentation, and the 90-10 formula that limits the amount of revenue the school may collect from the Department of Education. This will make it much easier to confirm that important elements were satisfied. The department should also consider randomly testing other backup documentation, including audit working papers, so that auditors do not become complacent about failing to conduct a thorough audit. These random checks could be implemented using risk-based criteria such as today's program reviews, and would be part of the department's compliance and oversight work, utilizing the skills and competencies of existing staff.

Increase OIG capacity to review audits

The Department of Education's Office of Inspector General has only a few staff members to review audits across the department. This means that a given college has high confidence that its audit is unlikely to get an in-depth review in a given year. Fixing this problem is a resources issue. The OIG should review a meaningful sample of audits each year—at least 5 percent—and should get additional staff to make this workable.

Require online publication of all audits

Obtaining the audits for this report took a Freedom of Information Act request and many months of work to review because of the attention required to evaluate previously undisclosed information. Given the significant amount of taxpayer dollars flowing to colleges, the public should be able to see the audits for these companies. The department should post publicly all audit information, including soft copies that allow for easy downloading and parsing of the information.

Update the nonfederal audit guide

The federal student aid programs have changed dramatically over the past 15 years. There are several new details in place: requirements related to the return of federal aid funds, restrictions on how long students may receive subsidized loans, conditions for career-training programs, and rules for paying bounties to recruiters. Relying on an outdated audit guide creates the risk for taxpayers that auditors are not considering the relevant details. And, as it is currently written, the audit guide encourages the narrow thinking that plagues the system. The guide should make clear that:

- Compensation practices should be reviewed, through records and staff interviews, on a regular basis for violations of incentive compensation rules.
- If the auditor of the financial audits is a different auditor than the one engaged for the compliance review, then the financial audit may not rely on the compliance auditor on issues that are material to the financial audit.
- Auditors who routinely exclude major topics from their reviews—such as incentive compensation and misrepresentation—will not be allowed to serve as auditors.
- Audits should include more robust review of possible issues surrounding 90-10, such as ties between the college and outside scholarship programs.
- Auditors should review the pattern of students who drop out by characteristics and program attended to identify trends that might indicate misrepresentation.
- Auditors should look at training materials for recruiters and admissions staff, review recorded interactions between these individuals and potential students, and investigate the quality of disclosures to students.
- Auditors should consider the additional risks for fraud or abuse that could be present in distance-based programs and create special procedures and approaches for addressing this issue.

It is long past time to update the audit guide. Secretary of Education King has indicated that the Office of Inspector General plans to issue a new manual for auditors by the end of April.⁹¹ Not only should that document cover any changes to the aid programs that have come into existence since 2000, but it should also encourage auditors to take a bigger-picture view. In particular, it should provide auditors with instructions about how to examine issues related to online learning. A plan for regularly updating the guide must also be put in place.

Conclusion

Each year, students and their families borrow about \$100 billion dollars from the federal government to attend American colleges.⁹² When they sign on the bottom line, they have faith that the school they are attending is one that will treat them fairly, and that the federal government is keeping a watchful eye to make sure. Sadly, what we have learned over that past few years is that unscrupulous colleges, such as Corinthian, are all too willing to break the law while signing students up for debt and an education that is worth nothing close to the cost.

The Department of Education invests time and resources overseeing the thousands of colleges in the aid system. In fact, it proactively intervened in the Corinthian case to investigate allegations of predatory practices and put a stop to them. However, an in-depth review of the department's oversight tools—annual college audits and intermittent program reviews—reveals a narrow system oriented toward identifying errors in calculating and delivering aid. Because a college education is the type of endeavor that is hard to change midstream, it is important that students know at the beginning that they are signing up for an experience that will foster success. In order to eliminate the devastating fraud associated with aggressive and misleading dealings by some institutions, the Department of Education should improve its oversight tools to catch problems early.

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