

BREAKOUT SESSION #19

Enforcement Actions: What Are They and What is Expected of Schools

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U.S. Department of Education

2024 FSA Training Conference for Financial Aid Professionals

AGENDA

1. Enforcement Office Overview
2. Resolution and Referral Management Group
3. Investigations Group
4. Administrative Actions and Appeals Service Group

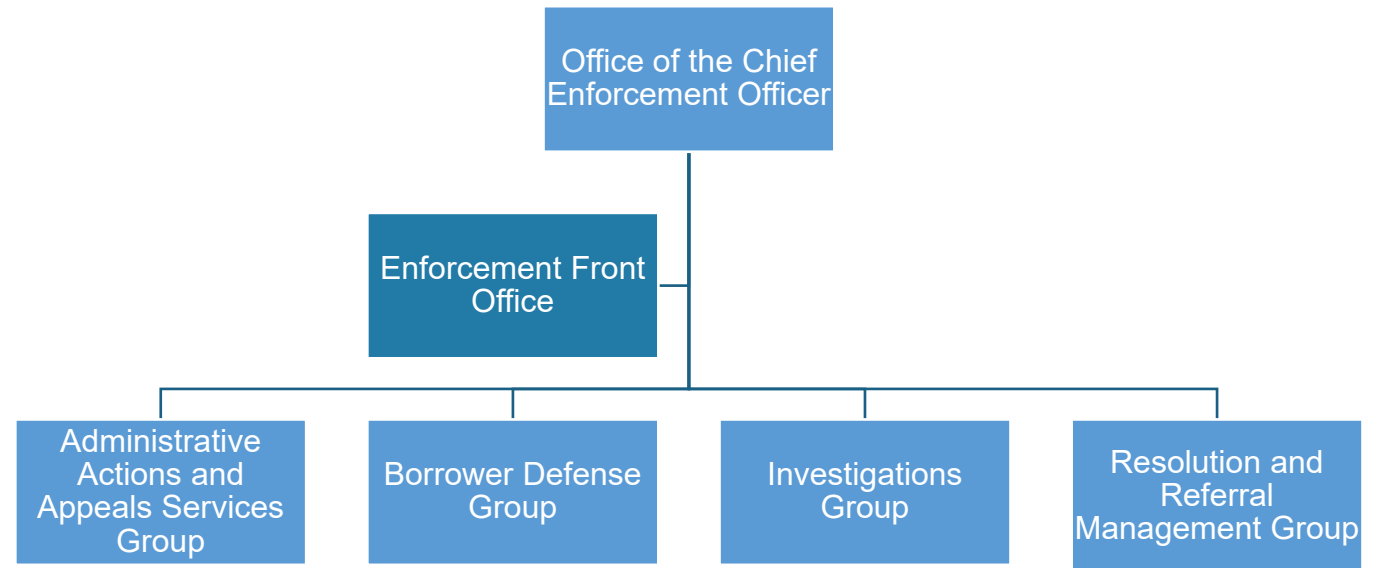
ENFORCEMENT OFFICE

Kristen Donoghue, Chief Enforcement Officer

WHAT IS OUR GOAL?

MISSION STATEMENT

To protect, empower, and seek justice for Title IV students and their families while safeguarding public investment in higher education



ENFORCEMENT: WHAT IS ENFORCEMENT?

We Are...

- Made up of 4 Groups that work with internal Department of Education (ED) partners to ensure participating institutions of higher education and related parties are compliant with Title IV of the Higher Education Act of 1965 (HEA) and associated regulations.
- Responsible for strengthening the oversight of and taking appropriate enforcement actions against postsecondary schools and related parties that participate in the federal student loan programs.
- Responsible for proactively identifying and addressing major problems across institutions that pose widespread risks to students and taxpayers, working closely with other Federal Student Aid (FSA) offices on a risk-based approach to oversight and compliance.
- Responsible for working with external partners, including state and federal regulators, to coordinate and collaborate on compliance and law enforcement issues related to institutions of higher education and related parties.

RESOLUTION AND REFERRAL MANAGEMENT GROUP (RRMG)

Audrey Sauer, Manager

RRMG: FSA FEEDBACK CENTER

- On July 1, 2016, FSA launched the FSA Feedback Center to give students and borrowers a simple and straightforward way to file complaints and provide feedback about federal student loan lenders, servicers, collection agencies, and institutions of higher education.
- Students and borrowers can access the FSA Feedback Center at StudentAid.gov/feedback.
- RRMG is responsible for the tracking, research and resolution of Title IV Compliance Complaints, Referrals, Suspicious Activity, and/or allegations concerning institutions that participate in the Title IV, Higher Education Act (HEA) Programs.
- Title IV Compliance Cases are primarily received through the FSA Feedback Center, however, they are also referred to RRMG by the Office of the Inspector General, the Office of Civil Rights, the Department of Defense, the Veteran's Administration and the Consumer Financial Protection Bureau, as well as other oversight partners.

RRMG: OUTREACH TO SCHOOLS

- RRMG's requests to institutions for information to resolve Title IV compliance cases fall under the Secretary's authority pursuant to 34 C.F.R. § 668.14(b)(4)(i).
- Requests are sent when there is a need of information and/or records maintained by the school that are not otherwise available to the Department.
- Requests for information related to Title IV compliance cases are sent from the **Federal Student Aid Information Center** (customerservice@studentaid.gov) to the School Official listed on the Institution's E-APP.
- Institutions are required to provide:
 - A narrative response
 - All the pertinent documentation that supports their institution's response
- Failure to respond to requests for information and/or records related to the resolution of Title IV compliance cases may result in additional oversight activities.

RRMG: OUTCOMES OF COMPLAINT REVIEW

- When it is determined that Title IV, HEA Programs are administered properly, the complainant is notified, and the school's communications and/or financial aid processes are clarified or reinforced.
- In instances where an issue impacts an individual student, RRMG will work directly with the school to complete the necessary action required to resolve the student's issue.
- When additional training needs are identified, the school is referred to resources within FSA to gain additional knowledge and comprehension.
- In instances where an issue is uncovered that impacts the administration of federal aid for an entire student population, RRMG will alert the School Participation Division and/or the Investigations Group for possible oversight activities or further investigation.

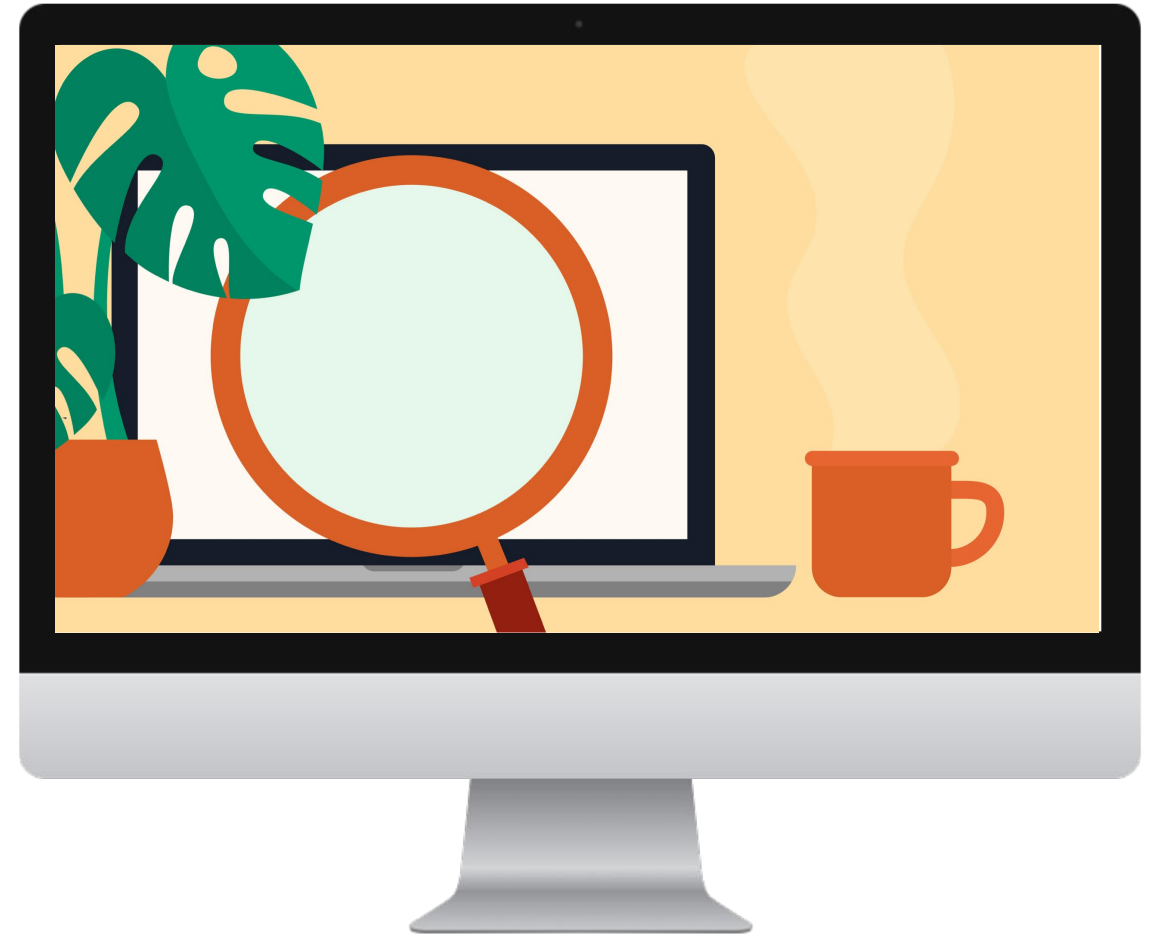
INVESTIGATIONS GROUP

Laura Tucker, Attorney Advisor

INVESTIGATIONS: WHAT IS THE INVESTIGATIONS GROUP?



The Investigations Group's job is to evaluate indicators of potential misconduct or high-risk conduct by postsecondary institutions and third-party servicers, and investigate institutions' compliance with federal laws, regulations, and the terms of their program participation agreements.



INVESTIGATIONS: PRE-INVESTIGATION: FACTORS TO CONSIDER



Whether there is a need for immediate action to protect students or borrowers



The risk posed to students and taxpayers



Whether the conduct involves a possibly widespread and/or emerging industry practice



The egregiousness of the potential violation



The magnitude of potential harm to current students, prospective students, former students, and/or borrowers



Whether the conduct is ongoing

INVESTIGATIONS: 2023-2024 BULLETINS

- December 2023: Compliance Management Bulletin
 - Reminded institutions of their ongoing obligation to maintain robust compliance management systems and policies to prevent violations of Title IV and minimize harm to students
 - The bulletin outlined some hallmarks of effective compliance management, including:
 - An adequate number of capable staff responsible for administering and overseeing the administration of Title IV and the provision of educational services, including marketing and recruiting activities;
 - Adequate checks and balances in the system of internal controls;
 - Appropriate records retention;
 - A process to address any identified shortcomings.





INVESTIGATIONS: 2023-2024 BULLETINS

September 2024: Risk of Misrepresentations Bulletin

Informs Title IV-eligible institutions and third-party servicers of examples of conduct that creates a risk of engaging in substantial misrepresentation. The purpose of the bulletin was to aid institutions in their compliance efforts.

These examples included misrepresentations about:

- Salary
- Job placement rates
- Whether a degree is needed for a license or whether a license is needed for a certain job
- Ranking compared to other schools
- Marketing certain characteristics of their faculty that are inaccurate or pertain only to a minority of faculty members
- Misleading prospective students into thinking a school is public or non-profit when it is not
- Cost of attendance

INVESTIGATIONS: PUBLIC ACTIONS



Culinary Institute LeNotre

- Announced July 2024
- Small culinary school located in Texas
- Related to misrepresentations from its website about job placement rates.



Violations

- The Department identified three representations on LeNotre's website referencing the employability of its graduates that constitute substantial misrepresentations because the statements were either unsubstantiated or false.



Settlement Terms

- LeNotre corrected the violations by removing the representations and changed its marketing policies.
- The settlement also required that the institution agree to reporting conditions and pay a \$275,000 fine.

INVESTIGATIONS: PUBLIC ACTIONS



Florida Career College and United Education Institute

- Announced February 2024
- International Education Corporation (IEC) and its subsidiaries, Florida Career College (FCC) and United Education Institute (UEI)
- Related to violations of the Ability-to-Benefit test regulations



Violations

- The Department found that, among other wrongdoings, FCC and senior leaders of IEC pressured proctors to pass students and inappropriately influenced test outcomes to boost enrollment of students who receive federal aid to attend IEC schools.
- The Department also found that FCC test proctors and employees filled in or changed answers after students finished their tests, helped students during testing or took tests for them, and allowed students to use calculators in violation of testing rules.



Settlement Terms

- The settlement agreement terminated FCC's participation in the federal student aid program, limited UEI's continued participation in the federal student aid program;
- Required UEI to separate from IEC's CEO and CFO; and
- Required that IEC provide the Department with a letter of credit that the Department can use to pay for any liabilities or loan discharges related to the conduct at issue.

INVESTIGATIONS: PUBLIC ACTIONS



Grand Canyon University

- Announced October 2023
- Has dispersed the most federal student aid of all participating institutions
- Related to the Department's finding that GCU lied to more than 7,500 former and current students about the cost of its doctoral programs over several years



Violations

- FSA's investigation determined that as far back as 2017, GCU was not fully informing students about the cost of its doctoral programs
- GCU made these false claims about the cost on the school's website and net price calculators, as well as in its enrollment agreements, catalogs, policy handbooks, and other marketing materials



Status

- Initiated \$37.7 million fine action
- GCU is appealing the fine and it is currently in front of the Office of Hearings and Appeals.

INVESTIGATIONS: PUBLIC ACTIONS



Five LLM Programs

- Announced August 2023
- Settled with five law schools after the Investigations Group uncovered that the schools improperly disbursed Title IV funds to students enrolled in unaccredited Master of Laws programs



Violations

- The schools included in the settlement were all freestanding law schools that were not part of a broader university system that offers other non-legal education
- Freestanding law schools must secure institutional accreditation that has within its recognized scope all the programs the school offers for Title IV aid



Settlement Terms and Update

- Reimburse the expected loss to the Department from the improperly disbursed funds;
- Stop disbursing federal student aid funds to students in ineligible programs; and
- Agree not to seek reimbursement or to recoup the amounts paid as a settlement from any students or former students
- Each school that disbursed Title IV funds within the last five years paid a fine

ADMINISTRATIVE ACTIONS AND APPEALS SERVICE GROUP (AAASG)

Susan Crim, Director

AAASG: WHAT DOES AAASG DO?

Takes actions and processes appeals from matters received by referral from our partners.

-
- School Participation Divisions (SPDs) and the *Clery* Group within FSA's Program Participation and Oversight
 - Offices within Enforcement
 - Office of Inspector General
 - Accrediting Agencies and State Authorizing Agencies
 - Other Law Enforcement Partners



AAASG: DUE PPROCESS

All Actions Provide Process for Requesting a Hearing or Seeking Reconsideration of the Decision



- Office of Hearings and Appeals
- Submission of Written Materials to AAASG Director
- Reconsideration of recert denials or revocations reviewed by FSA rather than OHA



AAASG: FINES

34 C.F.R. §§ 668.84, 668.93



Purpose

Punish and deter from committing future violations

Maximum fine amount currently \$69,733 per violation

Based on gravity of violation or misrepresentation and size of institution



Basis

Any Title IV legal violation, including:

Institutional Postsecondary Education Data Surveys (IPEDS)

Clery Act

Drug-Free Schools and Communities Act Amendments of 1989 (*DFSCA*)

Substantial Misrepresentations



Notice

Intent to fine

Fine Amount

Alleged violations forming basis of the action

Proposed Effective Date – at least 20 days from mail date



Consequence

Imposed on effective date unless institution requests hearing or review of written material

AAASG: FINE ACTION EXAMPLE



Fines Imposed Since 10/1/21*

52 Imposed

\$24,093,330 Imposed

Link to Annual Fine report (through
FY23) – Annual Updates
[studentaid.gov/data-center/school/fines-
and-findings](https://studentaid.gov/data-center/school/fines-and-findings)

Liberty University

- \$14M settlement
- Lack of Administrative Capability
- Inaccurate and Incomplete Disclosures
- Failure to Comply with Sexual Violence Prevention and Response Requirements
- Failure to Issue Timely Warnings and Emergency Notifications
- Inaccurate Crime Statistics Disclosures

*As of September 9, 2024

LOSS OF ELIGIBILITY ACTIONS

ACTIONS DISCUSSED

1. Recertification Denial Action
2. Revocation Action
3. Termination Action
4. Emergency Action, usually used with Termination

AAASG: RECERTIFICATION DENIAL ACTION

34 C.F.R. § 668.13(b)



Purpose

Denies application for continued certification to participate in Title IV



Notice

States the basis for denial



Effect

Title IV participation ends on last day of the month in which the denial notice is issued



Consequence

Cannot be reinstated until the problems corrected

AAASG: RECERTIFICATION DENIAL EXAMPLES



Recert Denials Imposed Since

10/1/21*

20 Imposed

McDougle Technical Institute

- Disbursements to Students at an Ineligible Location and Concealing Misconduct
- Falsified and Invalid Attendance
- Disbursements to Students Who Did Not Meet Definition of Regular Student
- Failure to Pay Credit Balances
- Failure to Independently Administer ATB Tests

Prospect College

- Manipulation of 90:10 Calculation
- Invalid Basis for Admission

AAASG: REVOCATION ACTION

34 C.F.R. §668.13(d)

Context

Terms of a provisional PPA requiring revocation to end Title IV participation

Notice

States the basis for revocation

Effect

Participation ends on the date of the notice

Consequence

Institution may not apply for reinstatement for at least 18 months

AAASG: TERMINATION ACTION

Ends an institution's participation or servicer's ability to contract with an institution to administer Title IV.



Basis

Violates any statutory or regulatory provisions applicable to Title IV or any special arrangement, agreement, or limitation agreed to under the authority of Title IV



Notice

Consequences of the intended action

Alleged violations forming basis of the action

Proposed effective date at least 20 days from mail date



Outcome

Imposed on effective date unless requests hearing or review of written material



Consequence

May not apply for reinstatement for at least 18 months from the effective date the termination is imposed

AAASG: EMERGENCY ACTION

34 C.F.R. § 668.83

Immediately suspends an institution's or servicer's authority to award, receive, disburse or administer Title IV



Basis

Violates any statutory or regulatory provisions applicable to Title IV or any special arrangement, agreement or limitation agreed to under the authority of Title IV

Immediate Action necessary to prevent misuse of Title IV funds

Likelihood that loss from misuse outweighs importance of awaiting completion of Termination Action or other proceeding.



Notice

States the basis of the action

Consequences of Emergency Action

Opportunity to show cause why the Emergency Action is Unwarranted



Consequence

Action takes effect on date notice is mailed to the institution

AAASG: REVOCATION AND EA/TA EXAMPLES



Revocations Imposed Since 10/1/21*

11 Imposed

Emergency/Termination Actions Imposed Since 10/1/21*

4 Imposed

Mason Anthony School of Cosmetology (Revocation)

- Moved Campus to New Location Without Notifying and Obtaining Approval from the Department, Violated PPA Condition Restricting Growth
- Failed to Disclose the Existence of New Location When Applying for Recertification

Union Institute and University (EA/TA)

- Failed to Pay Credit Balances of ~ \$750,000 for over 150 Students
- Illegally Drew Down over \$40,000 in Unsubstantiated Direct Loan Funds
- Failed the Standards of Financial Responsibility
- Also Imposed a Fine of \$4.2M for Unpaid Credit Balances and Improperly Drawn Direct Loan Funds

SUSPENSION AND DEBARMENT ACTIONS

AAASG: SUSPENSION

2 C.F.R. §§ 180.1015, 180.700(a), 180.760



Imposed when “immediate action is necessary to protect the public interest” and prohibit a person from conducting business with the federal government for a temporary period.

May be imposed based on an indictment for, or other adequate evidence to suspect and offense that would warrant debarment. 2 C.F.R. § 180.700(a).

May remain suspended until completion of an agency investigation and related judicial or administrative proceedings. 2 C.F.R. §180.1015



Effective the date of the letter to the individual or entity and continues for the duration of any pending legal proceeding or, if there are no legal proceedings, for 12 months.

Often the first step toward a debarment. If a proposed debarment notice issued during the suspension, the suspension will stay in effect until the conclusion of the debarment proceedings. 2 C.F.R. § 180.760

AAASG: DEBARMENT

2 C.F.R. §§ 180.800, 180.845-180.860, 180.865



Serves as a final decision to disqualify a person from conducting business with the federal government for a limited period.

Based on conviction or civil judgment for a variety of offenses concerning financial crimes, fraud, or offenses showing a lack of business integrity or honesty.

2 C.F.R. §§ 180.800(a), (b)-(d)



AAASG issues a proposed debarment notice to the individual or entity.

Authority: 2 C.F.R. §180.615

The Department's Deciding Official in OHA determines, through proceedings, whether debarment is warranted and, if it is, the duration of the debarment.

2 C.F.R. §§ 180.845-180.860



Length based on Deciding Official's determination of the seriousness of the cause.

Regulations state debarments generally will not exceed three years but may be imposed for longer if Debarment Official believes it is warranted.

2 C.F.R. § 180.865

AAASG: SUSPENSION AND DEBARMENT EXAMPLES



Suspensions/Debarments Imposed Since 10/1/21*

14 suspensions and 19 debarments
Imposed

Link to Suspension and Debarments
Quarterly updates

studentaid.gov/data-center/school/suspensions-debarments

Example #1

- For nearly three years recruited individuals to apply for and enroll in post-graduate programs for at least eight institutions
- Students received aid and provided a portion of credit balance funds to individual to pay others to falsely submit assignments on behalf of students.
- Improper disbursement of at least \$5.8M, Debarred for 4 years

Example #2

- Owner of non-Title IV institution agreement with participating institution to receive Title IV on behalf of students.
- Prep sports academy enrolled students with no intention of graduating from educational program offered by participating institution.
- Credit balances that should have been paid to students were instead paid to non-Title IV institution
- Pleaded guilty to 17 counts of forgery, Debarred for 46 months.

AAASG: TRANSPARENCY EFFORTS



Actions taken since 10/1/21 are now available at

StudentAid.gov/enforcement

Quarterly Updates



**THANK YOU FOR YOUR TIME AND
ATTENTION!**
