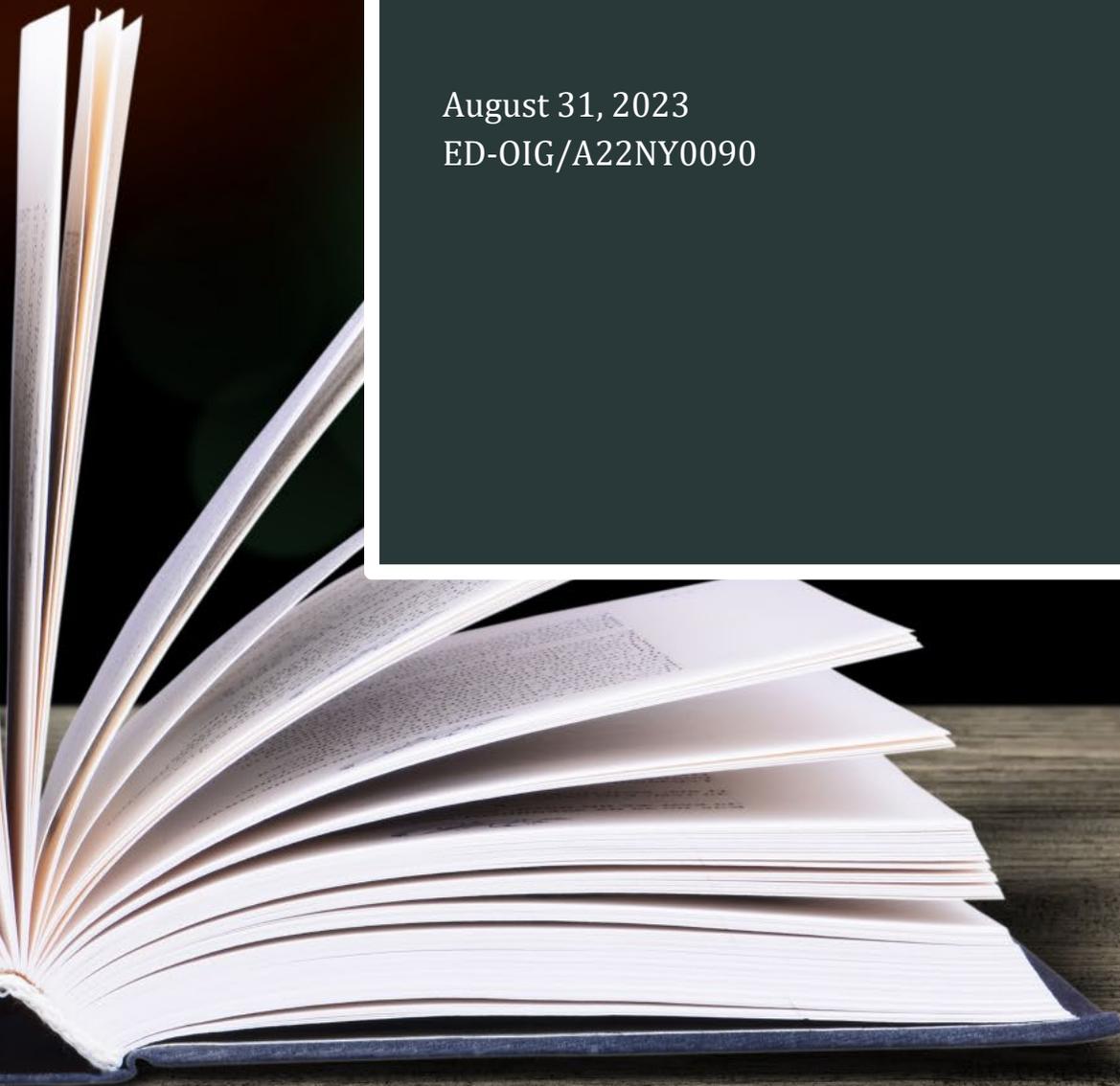




U.S. Department of Education  
Office of Inspector General

# U.S. Department of Education's Oversight and Reporting of Proprietary Institutions' 90/10 Revenue Information

August 31, 2023  
ED-OIG/A22NY0090



## NOTICE

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. The appropriate Department of Education officials will determine what corrective actions should be taken.

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UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF INSPECTOR GENERAL

Audit Services

August 31, 2023

TO: Richard Cordray,  
Chief Operating Officer  
Federal Student Aid

Dr. Nasser Paydar  
Assistant Secretary  
Office of Postsecondary Education

Mark Schneider  
Director  
Institute of Education Sciences

FROM: Bryon S. Gordon /s/  
Assistant Inspector General for Audit  
Office of Inspector General Audit

SUBJECT: Final Audit Report, "U.S. Department of Education's Oversight and Reporting of Proprietary Institutions' 90/10 Revenue Information", Control Number ED-OIG/A22NY0090

Attached is the subject final audit report that consolidates the results of our review of U.S. Department of Education's oversight and reporting of proprietary institutions' 90/10 revenue information. We have provided an electronic copy to your audit liaison officers. We received your comments agreeing with the findings and recommendations in our draft report.

U.S. Department of Education policy requires that you develop a final corrective action plan within 30 days of the issuance of this report. The corrective action plan should set forth the specific action items and targeted completion dates necessary to implement final corrective actions on the findings and recommendations contained in this final audit report. Corrective actions that your office proposes and implements will be monitored and tracked through the Department's Audit Accountability and Resolution Tracking System.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on the audits that remain unresolved after 6 months from the date of issuance.

We appreciate your cooperation during this review. If you have any questions, please contact Myra Hamilton at (214) 661-9545 or [Myra.Hamilton@ed.gov](mailto:Myra.Hamilton@ed.gov).

Attachment

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## Results in Brief

### What We Did

Our objective was to determine the U.S. Department of Education’s (Department) processes for (1) overseeing proprietary institutions’ compliance with 90/10 revenue requirements and (2) reporting of 90/10 revenue information to Congress and the public. Our audit covered the Department’s oversight and monitoring processes for 90/10 revenue requirements as of December 31, 2022, and the Department’s reporting of 90/10 revenue information to Congress and the public for award years 2019–2020 and 2020–2021. We expanded our scope period for reporting 90/10 revenue information to Congress to cover award years 2016–2017 through 2020–2021, to conduct a trend analysis.

To achieve our objectives, we interviewed Department officials responsible for overseeing and monitoring proprietary institutions’ compliance with 90/10 revenue requirements and extracting and reporting 90/10 revenue information to Congress and the public. We reviewed the Office of Federal Student Aid’s (FSA) financial analysis procedures, the eZ-Audit manual, sanction activities, proprietary institution revenue percentage reports, the annual transmittal letters that the Department sent to Congress, and the publicly disclosed information of proprietary institutions that did not meet the 90/10 revenue requirements.

### What We Found

We found that FSA had several processes for overseeing proprietary institutions’ compliance with 90/10 revenue requirements. Specifically, the FSA system used by institutions to submit their financial statements (eZ-Audit system)<sup>1</sup> calculated 90/10 revenue percentages for proprietary institutions based on the audited financial statements submitted, acceptability reviews of financial statements, quality control reviews of financial statements, possible sanctions against proprietary institutions that do not meet 90/10 revenue requirements, and guidance issued on 90/10 revenue requirements. We also found that the Department was late to report proprietary institutions’ 90/10 revenue information to Congress for all 5 award years we reviewed (2016–2017 to 2020–2021). In addition, the Department’s 90/10 revenue report to Congress for award year 2019–2020 was incomplete.

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<sup>1</sup> The eZ-Audit system activities include automatic calculation of the 90/10 revenue percentage and automatic flagging of financial statements if the institution's revenue percentage is 89 percent or higher.

Finally, the Department did not publicly disclose the proprietary institutions that did not meet 90/10 revenue requirements on the College Navigator website as required by the Higher Education Act of 1965, as amended, section 487(d)(3). Instead, the Department identified the proprietary institutions that did not meet 90/10 revenue requirements on the Department's College Affordability and Transparency Center website.

### **What We Recommend**

We recommend the chief operating officer of FSA and the Assistant Secretary for Postsecondary Education update and implement processes for extracting 90/10 revenue information from the eZ-Audit system and for reviewing and reporting 90/10 proprietary institution revenue percentage reports to ensure that 90/10 revenue information is reported to Congress by July 1 each year. We also recommend they evaluate whether the recently updated timeframe for the acceptability review process of institutional proprietary financial statements is sufficient to ensure all proprietary institutions' 90/10 information is included in the report to Congress.

In addition, we recommend that the Assistant Secretary for Postsecondary Education works with the director of the Institute of Education Sciences and the commissioner of the National Center for Educational Statistics to ensure proprietary institutions that did not meet 90/10 revenue requirement are disclosed on the College Navigator website as required by the Higher Education Act of 1965, as amended, section 487(d)(3).

### **Department's Comments and Our Response**

We provided a draft of this report to the Department for comment. We summarized the Department's comments at the end of each finding and provide the full text of the comments at the end of this report.

#### **Department's Comments**

The Department agreed with the findings and recommendations.

#### **OIG Response**

For Finding 2, the Department's proposed actions, if implemented as described, are responsive to our recommendations. The Department's proposed actions for Finding 3 are not responsive to our recommendation. Specifically, the Department has not committed to modifying the College Navigator website to disclose proprietary institutions that did not meet the 90/10 revenue requirement.

# Introduction

## Background

Title IV of the Higher Education Act of 1965, as amended (HEA) authorizes the student financial assistance programs which provide grants, loans, and Federal work study funds to help students pay for the cost of postsecondary education. Institutions must meet a variety of requirements to participate in the programs, of which one, the 90/10 revenue requirement, applies only to proprietary institutions. Under the 90/10 revenue requirement, proprietary institutions must derive at least 10 percent of their revenue from non-Title IV sources (or, conversely, no more than 90 percent of their revenue from Title IV funds) to retain eligibility in Title IV programs during a fiscal year.<sup>2</sup> The HEA states that each year, the U.S. Department of Education (Department), must submit to Congress a report that contains each proprietary institution's percentage of revenues received from Title IV and other sources. In addition, the HEA requires the Department to publicly disclose on the College Navigator website the identity of any proprietary institution that did not meet the 90/10 revenue requirement and the extent to which the institution did not to meet such requirement.

The American Rescue Plan Act of 2021 (Public Law 117-2) revised the HEA's 90/10 revenue requirement. For fiscal years beginning on or after January 1, 2023, proprietary institutions must derive no more than 90 percent of their revenues from all Federal education assistance funds, not just Title IV funds.

## 90/10 Revenue Requirement Calculations

The 90/10 revenue percentage of each proprietary institution is calculated by dividing the amount of Title IV funds used for tuition, fees, and other institutional charges by the amount of total revenue of the proprietary institution. The amount of Title IV funds used for tuition, fees, and other charges generally includes revenue derived from the Federal Pell Grant, William D. Ford Direct Loan, Federal Work-Study, and the Federal Supplemental Educational Opportunity Grant programs. The amount of total revenue included is generated from (1) tuition, fees, and other institutional charges for students enrolled in Title IV-eligible programs of education and qualified non-Title IV eligible programs of education plus (2) institutional activities necessary for the education or training of students. Qualified non-Title IV eligible programs (1) are approved or licensed by the appropriate State agency; (2) are accredited by a Department-recognized accrediting agency; (3) provide an industry-recognized credential, or prepare students to

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<sup>2</sup> Institutions are required to enter into a program participation agreement with the Department to be an eligible institution for the purposes of any student financial assistance program.

take an examination for an industry recognized credential; (4) provide training needed for students to maintain State licensing requirements, or (5) provide training needed for students to meet additional licensing requirements for specialized training for practitioners that already meet the general licensing requirements in a field.

### **Department's 90/10 Revenue Requirement Responsibilities**

There are three Department components responsible for the various 90/10 revenue requirements: the Office of Federal Student Aid (FSA), the Office of Postsecondary Education (OPE), and the Institute of Education Sciences (IES). FSA is responsible for overseeing proprietary institutions' compliance with 90/10 revenue requirements and extracting the proprietary institutions' 90/10 revenue information for OPE. OPE is responsible for reporting 90/10 revenue information to Congress and the public. The National Center for Education Statistics (NCES) within IES administers the College Navigator website.

## **Finding 1. The Department's Processes for Overseeing Proprietary Institutions' Compliance with the 90/10 Revenue Requirements**

FSA had several processes for overseeing proprietary institutions' compliance with 90/10 revenue requirements. Specifically, the FSA system used by institutions to submit their financial statements (the eZ-Audit system) calculated 90/10 revenue percentages, acceptability reviews of financial statements, quality control reviews of financial statements, possible sanctions against proprietary institutions that did not meet 90/10 revenue requirements, and guidance issued on 90/10 revenue requirements.

### **The eZ-Audit System and Acceptability Review for 90/10 Revenue Requirements**

Institutions of higher education submit their annual financial statements to the Department using the web-based eZ-Audit system. Specific to proprietary institutions' 90/10 revenue requirements, the eZ-Audit system calculates 90/10 revenue percentages based on financial data<sup>3</sup> that is manually entered by the institutions in the eZ-Audit system. If a proprietary institution's 90/10 revenue percentage is 89 percent or greater, the eZ-Audit system will automatically flag the institution's financial statement.

Once the financial statements are entered into eZ-Audit system, they go through an acceptability review performed by FSA's contractor. The acceptability review process includes the review of public, nonprofit, and proprietary institutions' financial statements. During the acceptability review process, FSA's contractor screens the financial statements for completeness and acceptability and sends notification letters to institutions that have incomplete or unacceptable submissions. Using financial data from proprietary institution's financial statements, FSA's contractor verifies the 90/10 revenue information entered by a proprietary institution in the eZ-Audit system and recalculates the proprietary institution's 90/10 revenue percentage. FSA's contractor manually flags the financial statements if a proprietary institution has a 90/10 revenue percentage greater than or equal to 89 percent or if the proprietary institution did not meet 90/10 revenue requirement during the prior fiscal year. The contractor-flagged financial statements are sent to FSA's School Participation Division (SPD) financial

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<sup>3</sup> Proprietary institutions enter eight financial data components required for the 90/10 revenue percentage calculation. Prior to the eZ-Audit system enhancement in August 2020, proprietary institutions entered their 90/10 revenue percentage in the eZ-Audit System.

analysts for their detailed review.<sup>4</sup> For those financial statements that received the automatic 90/10 revenue flag (89 percent or higher revenue percentage), the acceptability reviewer either determines that the institution's 90/10 revenue percentage is less than 89 percent and removes the flag or routes it to the SPD financial analyst if the flag is maintained.

FSA's contractor performed the acceptability review of financial statements for 1,730 proprietary institutions out of 5,837 total institutions for award year 2019–2020 and 1,725 proprietary institutions out of 5,750 institutions for award year 2020–2021.<sup>5</sup>

### **Quality Control Review**

FSA's eZ-Audit team performs a quality control review of every seventeenth non-flagged submission of the financial statements of all institutions (including public and nonprofit) that have been previously screened as complete by the contractor's acceptability review team. The eZ-Audit team recalculates 90/10 revenue percentages for the proprietary institutions using the financial information included in the financial statements. Further, the eZ-Audit team compares the 90/10 revenue percentage that FSA's contractor acceptability review team entered with the 90/10 revenue percentage calculated by the eZ-Audit team during a quality control review. If the 90/10 percentage differs from what was entered by the acceptability review team, the eZ-Audit team would mark the submission as an error and have the submission moved back to the acceptability review team's queue for corrections. FSA's eZ-Audit team performed 63 quality control reviews of proprietary institutions' financial statements in fiscal year 2020 and 13 in fiscal year 2021.<sup>6</sup>

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<sup>4</sup> FSA's contractor can flag a financial statement for SPD financial analysts review for various reasons other than the 90/10 revenue requirement, such as if the financial statement had untimely return of Title IV program funds disclosure, change in independent auditor, debt agreement violation disclosure, or a change in ownership.

<sup>5</sup> The proprietary institution count here does not reconcile to the 90/10 revenue report to Congress for various reasons including because the acceptability review counts include proprietary institutions that submitted financial statements after the report to Congress.

<sup>6</sup> In fiscal year 2020 there were 165 public, nonprofit, and proprietary institutions' financial statements selected for quality control review and in fiscal year 2021 there were 32.

## **School Participation Division's Financial Analyst Review**

SPD financial analyst<sup>7</sup> reviews flagged financial statements. The financial analyst review process is a more in-depth review process of the institution's financial statements in comparison to the acceptability review process. The financial analyst performs a second level check for acceptability and completeness of the proprietary institution's financial statements, checks the timeliness of the financial statement submission, reviews the independent auditor's report, and researches and resolves any flagged issues of the financial statement including a flag for 90/10 revenue percentage greater than or equal to 89 percent. As an oversight for 90/10 revenue requirements, the financial analysts review the proprietary institution auditor's workpapers along with the Department's G5 Grants Management System funding reports to verify the proprietary institution's 90/10 revenue percentage. According to an FSA official, the financial analysts also assess the reasonableness and validity of the reported revenue by various means, such as comparing the amount reported in the denominator (total revenue) of the 90/10 disclosure with the amount of cash flow from operating activities reported in the Statement of Cash Flows.

## **Sanctions**

FSA can sanction proprietary institutions if they do not meet the 90/10 revenue requirements for any fiscal year or for 2 consecutive fiscal years. Out of 1,651 proprietary institutions that submitted financial statements to FSA in award year 2019–2020, FSA identified 11 proprietary institutions that did not meet 90/10 revenue requirement. Out of 1,654 proprietary institutions that submitted financial statements to FSA in award year 2020–2021, FSA identified 21 proprietary institutions that did not meet 90/10 revenue requirement. If an institution does not meet 90/10 revenue requirements for any fiscal year, as specified in the HEA section 487(d)(2)(B), FSA's SPD places the institution on provisional certification for the 2 fiscal years after the fiscal year it failed to satisfy the revenue requirement and may require the institution to provide a letter of credit and may also place it on heightened cash monitoring. If the institution does not meet the 90/10 revenue requirement for the second consecutive fiscal year, as specified in the HEA section 487(d)(2)(A), FSA's Administrative Actions and Appeals Service Group revokes the institution's Program Participation Agreement, and the institution loses its eligibility to participate in Title IV HEA programs for at least 2 fiscal years after the fiscal year it became ineligible. For an institution to regain

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<sup>7</sup> Financial Analysts determine an institution's eligibility for participation, certification, or reinstatement in Title IV programs by analyzing the financial condition through a review of audited financial statements and other documents. They also determine the necessity for and management of letters of credit and heightened cash monitoring.

eligibility, the proprietary institution must demonstrate compliance with all eligibility and certification requirements for a minimum of 2 fiscal years after the institutional fiscal year in which the institution became deemed ineligible. Our review of 5 award years (2016–2017 through 2020–2021) of proprietary institution revenue percentage reports shows that two proprietary institutions did not meet 90/10 revenue requirements for 2 consecutive fiscal years; FSA revoked Title IV eligibility for both institutions.

### **Guidance Issued on the 90/10 Revenue Requirements**

The Department issues written guidance on 90/10 revenue requirements to proprietary institutions as part of its oversight responsibilities. The FSA Handbook provides guidance to institutions that participate in FSA programs, including the 90/10 revenue requirements. Every year the Department issues the FSA Handbook, which includes an explanation of how proprietary institutions calculate the 90/10 revenue percentage to be compliant with 34 Code of Federal Regulations section 668.28 and the audit requirements for testing institutions' compliance with the 90/10 revenue requirement.

### **Department's Comments**

The Department agreed with the finding.

## **Finding 2. The Department’s Reports to Congress of Proprietary Institutions’ Revenue Information Were Not Always Timely and Complete**

The Department was late submitting proprietary institutions’ 90/10 revenue information reports to Congress for all 5 award years we reviewed (2016–2017 through 2020–2021). In addition, the Department did not report a complete 90/10 revenue report to Congress for the award year 2019–2020. Further, the 90/10 revenue report to Congress was also used to report 90/10 information to the public. Therefore, the Department’s untimely or incomplete reporting to Congress can also result in untimely or incomplete 90/10 information to be reported to the public.

### **Description of the Process for Reporting to Congress**

OPE uses 90/10 revenue information provided by FSA to report 90/10 revenue percentages to Congress. FSA extracts 90/10 revenue percentages for proprietary institutions from the eZ-Audit System through a contractor-written query. The SPD financial analysts reviewed and verified the outliers, such as an institution with a revenue percentage that was equal to or greater than 90 percent, a revenue percentage that was equal to 0, or a missing 90/10 revenue percentage. After verification, FSA sends the extracted proprietary institution revenue percentage reports to OPE. OPE creates a transmittal letter and sends both documents to the Deputy Assistant Secretary for Postsecondary Education for approval. After approval, OPE sends the transmittal letter and the 90/10 revenue information report to the Department’s Office of Legislative and Congressional Affairs, which sends the 90/10 revenue information report and transmittal letter to Congress.

### **The Department Did Not Timely Submit Proprietary Institutions’ Revenue Information to Congress**

The Department did not timely report proprietary institutions’ revenue percentages to Congress. OPE is responsible for reporting the proprietary institutions’ 90/10 revenue percentages to Congress. We reviewed 5 award years (2016–2017 through 2020–2021) of proprietary institution revenue percentage reports and transmittal letters that OPE submitted to Congress. According to the HEA section 487(d)(4), the Department is required to submit a 90/10 proprietary institution revenue percentages report by July 1 of each year. However, the Department reported the 90/10 revenue information to Congress after the July 1 deadline for all 5 award years we reviewed. Table 1 presents the specific number of days that the Department was late submitting 90/10 proprietary institution revenue percentage reports to Congress.

**Table 1. Number of Days the Department was Late in Submitting 90/10 Proprietary Institution Revenue Percentage Reports to Congress**

Financial Statements with Fiscal Year Ending Dates Between <sup>8</sup>	Date Extracted from the eZ-Audit System	Date Reported to Congress	Deadline to Report to Congress	Number of Days Late
07/01/2016–06/30/2017	06/14/2018	12/10/2018	07/01/2018	162
07/01/2017–06/30/2018	08/14/2019	10/29/2019	07/01/2019	120
07/01/2018–06/30/2019	09/03/2020	02/23/2021	07/01/2020	237
07/01/2019–06/30/2020	09/02/2021	02/25/2022	07/01/2021	239
07/01/2020–06/30/2021	06/14/2022	08/08/2022	07/01/2022	38

FSA and OPE’s processes did not include a specific timeline for extracting, reviewing, and reporting 90/10 revenue information, to ensure 90/10 revenue information was reported timely to Congress as required. There was extensive processing time from the date FSA extracted the 90/10 revenue information from the eZ-Audit system to the date the Department submitted the 90/10 information to Congress. For the 5 award years we reviewed, FSA extracted proprietary institution revenue reports shortly before or after the July 1 deadline and OPE sent the report to Congress 55 to 179 days after extraction. FSA’s delays in extracting 90/10 revenue information contributed to OPE’s delays in submitting proprietary institution revenue percentage reports to Congress. For 3 award years, FSA extracted the 90/10 revenue information between 44 to 64 days after the July 1 deadline and 17 days prior to the deadline for the remaining 2 award years we reviewed. See Table 2 for specific details.

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<sup>8</sup> While the reports to Congress are based on award years, the 90/10 revenue requirements are based on the institutions’ fiscal year therefore the reports to Congress contain the 90/10 revenue from the financial statements with fiscal years ending during the award year of the report.

**Table 2. Number of Days to Process and Submit a 90/10 Proprietary Institution Revenue Percentage Reports to Congress from the Date Extracted from the eZ-Audit System**

Financial Statements with Fiscal Year Ending Dates Between	Date Extracted from the eZ-Audit System	Number of days to the July 1 <sup>st</sup> Deadline before (or after) extraction	Date Reported to Congress	Number of days from the extraction date to submission of report to Congress
07/01/2016–06/30/2017	06/14/2018	17	12/10/2018	179
07/01/2017–06/30/2018	08/14/2019	(44)	10/29/2019	76
07/01/2018–06/30/2019	09/03/2020	(64)	02/23/2021	173
07/01/2019–06/30/2020	09/02/2021	(63)	02/25/2022	176
07/01/2020–06/30/2021	06/14/2022	17	08/08/2022	55

According to FSA officials the Department was late in extracting the award year 2019–2020 90/10 revenue report due to the COVID-19 extension<sup>9</sup> that the proprietary institutions were allowed when submitting their financial statements. However, we found that the Department had been late submitting reports for 3 years prior to the March 2020 declaration of the national emergency based on the COVID-19 pandemic.

Further, according to an FSA official there was a lag period between the time FSA submitted proprietary institution revenue percentage reports to OPE and OPE sending the proprietary institution revenue percentage reports to Congress. Table 3 shows that for 4 of the 5 award years reviewed, OPE took between 18 to 161 days after receiving 90/10 revenue reports from FSA to send 90/10 revenue reports to Congress. OPE’s process did not include a specific timeline for processing and reporting 90/10 revenue reports to Congress.

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<sup>9</sup> For proprietary institution audits due to be submitted no later than March 1, 2020, through December 31, 2020, the Department allowed up to an additional 6 months beyond that due date for submission of the audited financial statements.

**Table 3. Number of Days to Submit 90/10 Proprietary Institution Revenue Percentage Report to Congress from the Date FSA Sent the Report to OPE**

Financial Statements with Fiscal Year Ending Dates Between <sup>10</sup>	Date FSA Sent the 90/10 report to OPE	Date OPE sent the 90/10 report to Congress	Number of days to submit 90/10 report to Congress from the date OPE receives report from FSA
07/1/2017–06/30/2018	09/09/2019	10/29/2019	50
07/01/2018–06/30/2019	09/15/2020	02/23/2021	161
07/01/2019–06/30/2020	11/15/2021	02/25/2022	102
07/01/2020–06/30/2021	07/21/2022	08/08/2022	18

The Department was late submitting 90/10 revenue reports to Congress for award years 2016–2017, 2017–2018, and 2018–2019 because, according to an FSA official’s understanding, the report to Congress was due by September 30, rather than July 1. The 90/10 revenue report was late for the award year 2019–2020 due to the 6-month COVID-19 extension that allowed institutions to submit financial statements later, which also resulted in FSA and the Department being late in reporting 90/10 information for the award year 2019–2020. Further, according to OPE, the delay in reporting the 90/10 revenue percentage to Congress can also be attributed to the extensive review and approval of the report from senior executives within OPE.

Delays in reporting 90/10 revenue information, may result in Congress not having timely information to make decisions on policies for the proprietary higher education sector. Further, the 90/10 revenue report to Congress was also used to report 90/10 information for institutions that did not meet the 90/10 revenue requirement to the public via the Department’s College navigator website (see [Finding 3](#) for additional details). Therefore, a delay in reporting 90/10 information to Congress causes delays in informing the public of institutions that did not meet the 90/10 revenue requirements.

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<sup>10</sup> For the award year 2016–2017, FSA and OPE staff and management who worked on the 90/10 revenue report have retired or no longer with the Department therefore the needed information was not available.

## **The Department’s 2019–2020 Reports to Congress of Proprietary Institutions’ Revenue Information Were Incomplete**

The 90/10 proprietary institution revenue percentage report submitted to Congress for award year 2019–2020 was not complete. Specifically, the report did not include 22 proprietary institutions<sup>11</sup> because the Department did not complete the acceptability review of 18 institutions’ financial statements timely, 3 institutions were pending assignment to SPD financial analyst, and 1 institution was not pulled by the query during the 90/10 report extraction process. For the award year 2019–2020, 18 institutions had acceptability reviews pending for over 30 days (33 to 64 days) at the time of 90/10 report extraction from the eZ-Audit system. For these institutions the acceptability reviews were completed over 45 days (47 to 67 days) from the submission date. Therefore, these 22 proprietary institutions were not included in the 1,651 proprietary institutions that were reported to Congress for the award year 2019–2020.

According to FSA’s financial analysis procedures, FSA contractors are required to perform the acceptability review of the financial statement within 25 calendar days during the high peak submission period.<sup>12</sup> FSA acknowledged that its deadlines for acceptability reviews were outdated and recently implemented revised timelines that should be sufficient to perform acceptability reviews timelier. FSA revised the acceptability review timeline for the high-peak submission period from 25 days to 30 days. However, that does not resolve the issue identified with 18 proprietary institutions as stated above. If the list of proprietary institutions in the 90/10 report is incomplete, it could result in Congress not having complete information of the proprietary institutions’ compliance with 90/10 revenue requirement and could eventually result in an incomplete list of proprietary institutions’ information to the public.

## **Recommendations**

We recommend the chief operating officer of FSA and the Assistant Secretary for Postsecondary Education—

- 2.1 Ensure that 90/10 revenue information is reported to Congress by July 1 each year by updating and implementing processes for extracting 90/10 revenue information

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<sup>11</sup> These 22 proprietary institutions met the 90/10 revenue requirements for award year 2019–2020.

<sup>12</sup> The high peak submission months are January, March, April, June, July, September, and December.

from the eZ-Audit system, including establishing specific timeframes for extracting, reviewing, and reporting proprietary institutions' 90/10 revenue percentages.

- 2.2 Evaluate whether the recently updated timeframes for the Acceptability Review process of institutional proprietary financial statements is sufficient to ensure all proprietary institutions' 90/10 information is included in the report to Congress.

### **Department's Comments**

The Department agreed with the finding and recommendations. The Department stated that it will review and evaluate the current processes for extracting, reviewing, and reporting 90/10 revenue information; as necessary, update and implement processes and timeframes to ensure the 90/10 revenue information is reported to Congress by July 1 each year; and evaluate the updated timeframes for the Acceptability Review process of proprietary institutions' financial statements to make sure they are sufficient to ensure all proprietary institutions' 90/10 information is included in the report to Congress.

### **OIG Response**

The Department's proposed actions, if implemented as described, are responsive to our recommendations.

### **Finding 3. The Department Did Not Publish 90/10 Revenue Information as Required to Best Reach the Public**

We found the Department did not publicly disclose the proprietary institutions that did not meet 90/10 revenue requirements on the College Navigator website even though section 487(d)(3) of the HEA requires both the disclosure and the extent to which the institution did not meet such requirements. Instead, the Department identified proprietary institutions that did not meet 90/10 revenue requirements on the Department's College Affordability and Transparency Center (CATC) website.

To identify the proprietary institutions that did not meet 90/10 revenue requirements, OPE's contractor retrieved the 90/10 report that was sent to Congress from the Department's Federal Student Aid Data Center public website<sup>13</sup> and filtered the list to identify proprietary institutions whose revenue percentage were above 90 percent of Title IV funds. The contractor then forwarded this list to OPE for verification. Once OPE confirmed the list of proprietary institutions that did not meet 90/10 revenue requirements was accurate and complete, OPE's contractor posted it on the CATC website.

The Policy, Planning, and Innovation office staff within OPE believed they were meeting requirements of disclosing 90/10 revenue information to the public by publishing it on the CATC website. According to a NCES official, to meet the regulations related to the Transparency in College for Consumers requirements in the Higher Education Opportunity Act of 2008, it was decided to use the CATC to report various information, including information related to college affordability and transparency with a link from the CATC to the College Navigator website.

The CATC website contains a link to the College Navigator website as does the College Navigator to the CATC website. However, the link to the CATC website is only on the homepage of the College Navigator website; the institution profile pages on the College Navigator website do not contain 90/10 revenue information or a link to such information on the CATC website.

As a result, the public would not be aware of which proprietary institutions are not meeting 90/10 revenue requirements or what institutions could be at risk of losing eligibility for Federal student aid funding. Because this information is not disclosed on the College Navigator website, students and families looking only on that website for a

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<sup>13</sup><https://studentaid.gov/data-center/school/proprietary>.

specific school would not have complete information. This may lead to prospective students eligible to receive Federal financial aid enrolling in an institution that lost its eligibility to participate in the Federal financial aid programs.

### **Recommendation**

We recommend that the Assistant Secretary for Postsecondary Education works with the Director of IES and the Commissioner of NCES—

- 3.1 To ensure proprietary institutions that did not meet the 90/10 revenue requirement are disclosed on the College Navigator website as required by the HEA Section 487(d)(3).

### **Department's Comments**

The Department agreed with the finding and recommendation. The Department stated that it could improve the presentation of information concerning which institutions did not meet the 90/10 revenue requirement on the College Navigator website. The Department stated that it will evaluate how information on proprietary institutions that did not meet the 90/10 revenue requirement is currently disclosed on the College Navigator website to identify any modifications that may be needed to ensure the requirements of HEA Section 487(d)(3) are met.

### **OIG Response**

The Department's proposed actions are not responsive to our recommendation. Specifically, the Department has not committed to modifying the College Navigator website to disclose proprietary institutions that did not meet the 90/10 revenue requirement as required by the HEA Section 487(d)(3).

## Appendix A. Scope and Methodology

This audit covered FSA's processes for overseeing proprietary institutions' compliance with 90/10 revenue requirements as of December 31, 2022. Our review covered award years 2019–2020 (July 1, 2019–June 30, 2020) and 2020–2021 (July 1, 2020–June 30, 2021) for the Department's reporting of 90/10 revenue information to Congress and the public. We expanded our scope period for reporting 90/10 revenue information to Congress to cover award years 2016–2017 to 2020–2021, to conduct a trend analysis.

We revised the audit objective to include the Department's reporting of proprietary institutions' 90/10 revenue information to the public.

To achieve our objective, we first gained an understanding of laws, regulations, and guidance relevant to the 90/10 revenue requirements, including

- the Higher Education Act of 1965, as amended, section 487 (a) and (d);
- the United States Government Accountability Office's *Standards for Internal Control in the Federal Government* (September 2014); and
- 34 Code of Federal Regulations part 668.28

To gain an understanding of FSA's processes for overseeing the institutions' compliance with 90/10 revenue requirements, we interviewed the responsible FSA staff and officials. In addition, we interviewed the eZ-Audit contractor responsible for the acceptability review of the 90/10 revenue report.

We also interviewed OPE officials to gain an understanding of the Department's processes for obtaining and reporting 90/10 revenue information to Congress. Finally, we interviewed NCES officials to gain an understanding of the Department's processes for obtaining and reporting 90/10 revenue information to the public.

We also gained an understanding of FSA's policies, procedures, and internal documents for overseeing proprietary institutions' compliance with 90/10 revenue requirements and OPE's documentation for reporting to Congress, which included

- queries FSA used to extract the 90/10 revenue information from the eZ-Audit system for the award years 2019–2020 and 2020–2021,
- FSA's financial analysis procedures,
- FSA's eZ-Audit guide for proprietary institutions,
- FSA's procedures for 90/10 revenue attestation acceptability review,

- FSA’s compliance audit and financial statements quality control review procedures,
- proprietary institutions’ revenue percentages reports and annual transmittal letters for 5 award years (2016–2017 to 2020–2021), and
- the 90/10 rule failures list for the award years 2019–2020 and 2020–2021.

We verified the completeness of the list of proprietary institutions that the Department reported to the Congress. To verify the completeness of the list of proprietary institutions that the Department reported to Congress, we compared lists of proprietary institutions from FSA’s Postsecondary Education Participants System, FSA’s eZ-Audit system, and the Department’s 90/10 revenue information report to Congress for award years 2019–2020 (July 1, 2019, to June 30, 2020) and 2020-2021 (July 1, 2020, to June 30, 2021).

### **Internal Controls**

We obtained an understanding of internal control relevant to the Department’s processes for overseeing proprietary institutions’ compliance with 90/10 revenue requirements and reporting 90/10 revenue information to Congress and the public. We determined that the control activities related to these processes were significant to our audit objective. As discussed in Finding 1, FSA had control activities for overseeing proprietary institution’s compliance with the 90/10 revenue requirements. We identified weaknesses in the Department’s control activities with respect to reporting 90/10 revenue information to Congress and the public (see [Finding 2](#) and [Finding 3](#)).

### **Use of Computer-Processed Data**

We relied, in part, on computer-processed data from FSA’s eZ-Audit system, which consisted of institutions’ financial statements relating to 90/10 revenue requirements. We assessed the completeness of the data by comparing a list of proprietary institutions found in FSA’s eZ-Audit system to the Postsecondary Education Participants System. We determined the computer processed data was sufficiently reliable for our use.

We conducted our audit virtually from September 2022 through May 2023. We held an exit conference and discussed the results of our audit with FSA, OPE, and IES officials on May 18, 2023.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence

obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## Appendix B. Acronyms and Abbreviations

CATC	College Affordability and Transparency Center
Department	U.S. Department of Education
FSA	Federal Student Aid
HEA	Higher Education Act of 1965, as amended
IES	Institute of Education Sciences
NCES	National Center for Educational Statistics
OPE	Office of Postsecondary Education
SPD	School Participation Division

# Department Comments



August 10, 2023

TO: Ms. Myra Hamilton  
Regional Inspector General for Audit  
Office of Inspector General  
Department of Education

Mr. Jeffrey Nekrasz, Director Student Financial Assistance Advisory and Assistance  
Office of Inspector General  
U.S. Department of Education

FROM: Richard Cordray   
Chief Operating Officer  
Federal Student Aid

**SUBJECT: Draft Audit Report, “U.S. Department of Education’s Oversight and Reporting of Proprietary Institutions’ 90/10 Revenue Information,” Control Number ED-OIG/A22NY0090**

Dear Ms. Hamilton:

Thank you for the opportunity to review and comment on the draft audit report, “U.S. Department of Education’s Oversight and Reporting of Proprietary Institutions’ 90/10 Revenue Information,” Control Number ED-OIG/A22NY0090, dated July 14, 2023. The objectives of the audit were to determine the Department’s processes for (1) overseeing proprietary institutions’ compliance with 90/10 revenue requirements; and (2) reporting of 90/10 revenue information to Congress and the public. The draft audit report presents three findings; two have recommendations for improvement by the Department. We are committed to ensuring compliance with the 90/10 requirement by proprietary institutions and ensuring that Congress and the public receive timely and accurate information on the 90/10 requirement. The agency’s responses, as coordinated with the Office of Postsecondary Education (OPE) and the Institute of Education Sciences (IES), are as follows:

**Finding 1. The Department’s Processes for Overseeing Proprietary Institutions’ Compliance with the 90/10 Revenue Requirements.**

The Department agrees with this finding. Our commitment to ensuring that proprietary institutions are in compliance with the 90/10 revenue requirement is demonstrated through the Office of Inspector General’s (OIG) reporting on this finding, which provides a narrative of FSA’s oversight processes without drawing any conclusions or making any recommendations for improvement.

**Finding 2. The Department’s Reports to Congress of Proprietary Institutions’ Revenue Information Were Not Always Timely and Complete.**

The Department agrees with this finding that the Department’s reports to Congress of proprietary institutions’ revenue information were not always timely and complete.

**Recommendation 2.1:** OIG recommends that the chief operating officer of FSA and the Assistant Secretary for OPE ensure that 90/10 revenue information is reported to Congress by July 1 each year by updating and implementing processes for extracting 90/10 revenue information from the eZ-Audit system, including establishing specific timeframes for extracting, reviewing, and reporting proprietary institutions’ 90/10 revenue percentages.

FSA and OPE agree with this recommendation. We will review and evaluate the current processes for extracting, reviewing, and reporting 90/10 revenue information and as necessary we will update and implement processes and timeframes to ensure the 90/10 revenue information is reported to Congress by July 1 each year. Measures taken to streamline OPE’s clearance process have already significantly reduced the amount of time needed to prepare the transmittal letter that accompanies the 90/10 revenue information. We would respectfully note that the award year 2022 Report to Congress was transmitted to Congress on June 28, 2023, ahead of the July 1, 2023, deadline.

**Recommendation 2.2:** OIG recommends that the chief operating officer for FSA evaluate whether the recently updated timeframes for the Acceptability Review process of institutional proprietary financial statements is sufficient to ensure all proprietary institutions’ 90/10 information is included in the report to Congress.

FSA agrees with this recommendation and will evaluate the updated timeframes for the Acceptability Review process of proprietary institutions’ financial statements to make sure they are sufficient to ensure all proprietary institutions’ 90/10 information is included in the report to Congress.

**Finding 3. The Department Did Not Publish 90/10 Revenue Information as Required to Best Reach the Public.**

The Department agrees that it could improve the presentation of information concerning which institutions did not meet the 90/10 revenue requirement on the College Navigator website.

**Recommendation 3.1:** OIG recommends that the Assistant Secretary for Postsecondary Education works with the Director of IES and the Commissioner of NCES to ensure proprietary institutions that did not meet the 90/10 revenue requirement are disclosed on the College Navigator website as required by the HEA Section 487(d)(3).

OPE and IES agree with this recommendation and will evaluate how information on proprietary institutions that did not meet the 90/10 revenue requirement is currently disclosed on the College

Navigator website to identify any modifications that may be needed to ensure the requirements of HEA Section 487(d)(3) are met.

In developing this response to the draft audit findings and recommendations, FSA consulted with OPE and IES. Thank you for the opportunity to respond to this OIG draft report. We appreciate the time and the effort auditing this issue, as well as the opportunity to comment.

cc:  
AS for OPE  
Director for IES