
Review of the Effectiveness of Provisional Certification
Administered by the U.S. Department of Education

FINAL AUDIT REPORT



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U.S. Department of Education
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NOTICE

Statements that management practices need improvement, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determination of corrective action to be taken will be made by appropriate Department of Education officials. This report may be released to members of the press and general public under the Freedom of Information Act.

Review of the Effectiveness of Provisional Certification

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Executive Summary

The Department has placed approximately 1,400 at-risk schools on provisional certification during the nearly six years that it has been in use. Provisional certification appears to have been used in accordance with current statute and regulations. Furthermore, our review of a judgmental sample of institutional files disclosed that the Institutional Participation and Oversight Service (IPOS) decision to provisionally certify the schools was appropriate considering the available information. However, because the Department has not revoked the eligibility of any provisionally certified schools to participate in the student financial assistance (SFA) programs, we were unable to determine its overall effectiveness as a tool to manage those at-risk schools who may fail to take corrective action or whose compliance with Federal regulations deteriorated. We believe the Department could take other action to improve its use of provisional certification and to ascertain whether provisional certification is an effective tool to manage certain at-risk schools.

- **We recommend that the Department extend the period of provisional certification for new schools until it receives the financial and compliance audits covering the schools' first full award year.**

About 6 percent of the schools on provisional certification as of March 1998, were institutions granted initial eligibility to participate in the student financial assistance programs. New institutions are considered for full certification after only one award year on provisional certification. Financial and compliance audits are not always available within this short time period.

- **We recommend that the Department avail itself of the rules related to revoking provisional certification for schools when the opportunity presents itself.**

In our opinion, provisional certification is a potentially useful tool to control those schools that fail to comply with the rules governing participation in the SFA programs. While we did not conduct specific tests to determine that the Department should have revoked the eligibility of any provisionally certified school, we believe the Department should use the termination procedures permitted for provisionally certified schools to take action against those schools that fail to correct deficiencies to ascertain whether the revocation procedures are useful to manage certain at-risk schools.

The Department concurred with our recommendation that it should use the rules set out in the provisional Program Participation Agreement related to revoking provisional certification for schools when the opportunity presents itself. However, it did not concur with our recommendation to extend the period of provisional certification for new schools until it receives the financial and compliance audits covering the schools' first full award year. We have not made changes to the report based on the Department's response. A synopsis of the Department's response is included in the text of this

report. The complete response is provided as an attachment to this report.

Introduction

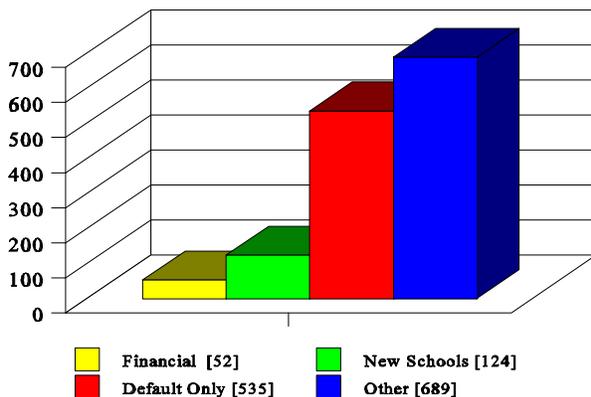
The 1992 amendments to the Higher Education Act of 1965 (HEA) gave the Department the authority to use provisional certification for certain institutions participating in the Title IV Student Financial Assistance (SFA) Programs. Section 498, (h) *PROVISIONAL CERTIFICATION OF INSTITUTIONAL ELIGIBILITY* of the HEA, as amended, provides that:

- (1) *Notwithstanding subsections (d) and (g), the Secretary may provisionally certify an institution's eligibility to participate in programs under this title -*
- (A) *for not more than one complete award year in the case of an institution of higher education seeking an initial certification; and*
 - (B) *for not more than 3 complete award years if -*
 - (i) *the institution's administrative capability and financial responsibility is being determined for the first time;*
 - (ii) *there is a complete or partial change of ownership, as defined under subsection (i), of an eligible institution; or*
 - (iii) *the Secretary determines that the institution is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its responsibilities under its program participation agreement.*

At the end of the period for which a school is placed on provisional certification, it must satisfactorily meet all factors for full certification. If the school is unable to meet these factors, it may be removed from continued participation in the Title IV programs without the appeal opportunities set out in 34 CFR 668, subpart G.

As of March 31, 1998, the Department has placed approximately 1,400 at-risk schools on provisional certification. The chart below shows the distribution of schools on provisional certification by reason. About 4 percent of the schools placed on provisional certification are put there for reasons of financial capability. Schools placed on provisional certification for financial reasons are required to post letters of credit (sureties). Many schools are placed on provisional certification for financial reasons are required to post letters of credit (sureties). Many schools are placed on provisional certification for several of the 14 conditions identified by the IPOS. Among these conditions are failing to submit a required audit, SFA program review findings, change of ownership, and accrediting agency restrictions. Schools in the "Other" grouping are those who were placed on provisional certification for reasons other than initial eligibility, high cohort default rate only, and financial condition as a primary reason.

Provisional Certification Reasons



Audit Results

While the Department appears to have used provisional certification in accordance with current statutory and regulatory provisions, we believe the Department could improve provisional certification's use. The lack of additional information to support full certification of new schools after only one award year on provisional certification could hinder the effectiveness of provisional certification for managing at-risk schools. Although available for nearly six years, the Department has not revoked the eligibility of any provisionally certified schools to participate in the SFA programs using the rules set out in Federal regulation and the provisional Program Participation Agreement (PPA). We believe the Department should use the termination procedures permitted for provisionally certified schools to take action against those schools that fail to correct deficiencies.

More Information Is Needed Before New Schools Are Considered for Full Certification

New institutions are considered for full certification after one award year on provisional certification¹. One award year does not always allow enough time to accumulate the financial and compliance audits that are critical to determining whether a new school should be fully certified.

Financial statement and compliance attestation reports are due 6 months after the end of the school's fiscal year. Single audits are due no later than either 9 or 13 months after the end of the school's fiscal year, depending upon whether the school's fiscal year ends before or after June 30, 1998. These varied time requirements could preclude the gathering of additional administrative and financial information concerning a school during the current short provisional certification period for new schools. As a result, the Department may be fully certifying some institutions without this important new information.

In one instance, the recertification checklist in the Department's files, which is used to document the Department's efforts to determine whether an institution should be fully certified, indicated there was not really any more information available after one award year to make a decision regarding full certification. Increasing the length of time a new school is on provisional certification would allow for the accumulation of additional information on a school's administrative and financial capabilities, and would result in a more informed decision on the appropriate certification status of the school.

The Department Has Not Revoked the Eligibility of Any Schools Under the Regulations For Provisional Certification

¹ The HEA provides for provisional certification for an institution's initial participation in the Title IV programs to expire no later than the end of the first complete award year following the date of provisional certification (HEA of 1965, as amended, subpart 3, section 498(h)(1)(A)).

Although provisional certification has been available for nearly six years, the Department has not used it to revoke the eligibility of any schools. While we did not conduct specific tests to determine that the Department should have revoked the eligibility of any provisionally certified school, we believe the Department should use the termination procedures permitted for provisionally certified schools to ascertain whether the revocation procedures are useful to manage certain at-risk schools. Furthermore, the rules governing the revocation of provisional certification have the potential to save significant resources as compared to the use of the formal termination action against schools provided for under 34 CFR 668, subpart G².

Section 498, (h)(3) *PROVISIONAL CERTIFICATION OF INSTITUTIONAL ELIGIBILITY* of the HEA, as amended, permits the termination of schools that fail to make the changes necessary to comply with Federal regulations. It provides that:

If, prior to the end of a period of provisional certification under this subsection, the Secretary determines that the institution is unable to meet its responsibilities under its program participation agreement, the Secretary may terminate the institution's participation in programs under this title.

34 CFR 668.13 (d)(2)(ii) provides that:

The revocation takes effect on the date that the Secretary mails the notice to the institution.

34 CFR 668.13 (d)(2)(iii) states that:

...the institution may request the Secretary to reconsider the revocation.

Institutions retained in the SFA programs under provisional certification agree to the terms specified in the *PROGRAM PARTICIPATION AGREEMENT [PROVISIONAL APPROVAL]*. The PPA for provisional certification states:

The execution of this Agreement by the Institution and the Secretary is a prerequisite to the Institution's initial or continued participation in any Title IV, HEA Program.... In the event the Department chooses to revoke this Agreement and the Institution's participation in the Title IV, HEA programs, the Institution will have the right to show cause why this Agreement should not be revoked by presenting its objections to the designated Department official in writing. The Institution agrees that this opportunity to show cause, and not the procedures in 34 CFR 668 subpart G, shall be the sole administrative appeal regarding such revocation. The decision by the designated Department official will constitute the final agency action.

Departmental officials informed us that the rules set out in 34 CFR 668.13 and the provisional PPA had not been used to revoke provisional certification. We were told that such action was reserved for

² The savings could result from the limited process of reviewing the Secretary's decision to revoke an institution's eligibility as opposed to a formal appeal, the uncertainty associated with sustaining an Emergency Action, and limiting a schools access to SFA funds if the Department's Emergency Action is not sustained.

the most egregious cases and to date it has not been necessary to use the provisional certification rules related to revocation. We were informed by another Departmental official that there may be some concern regarding the rules of due process when using the revocation rules under provisional certification. Regardless of the reason, it seems improbable that, after nearly six years and with over 1,400 schools placed on provisional certification, no school has warranted the revocation of its certification under the provisional certification guidelines set out in both Federal regulation and the provisional PPA.

Recommendations

We recommend that the Department take the following actions to improve the effectiveness of provisional certification:

1. Extend the period of provisional certification for new schools until the Department receives the financial and compliance audits covering the schools' first full award year.
2. Use the rules set out in the provisional PPA related to revoking provisional certification for schools when the opportunity presents itself.

Other Matters

Approximately 38 percent of the institutions provisionally certified as of March 1998 (535 of 1,400) were certified as such solely on the basis that their cohort default rate exceeds 25 percent in at least one of the three most recent years. We were informed that no additional assistance or oversight is provided to these institutions to assist them in reducing their cohort default rate. Moreover, the provisional certification for these institutions may not be revoked, nor can a punitive action be taken, based solely on a high default rate of less than 40 percent for only one year. As a result, a large number of institutions have been placed on provisional certification for which remedial action can not be taken and for which additional assistance and oversight is not provided. If the Department is unable to provide these institutions with additional assistance and oversight, then placing the schools on provisional certification based solely on their default rate appears to be of limited value. Furthermore, this practice is contributing to the growth of the population of institutions on provisional certification, which may become less manageable due to the large number of institutions provisionally certified.

Department's Response and Auditor's Comments

The response states that our recommendation to extend the period of provisional certification for new schools is inconsistent with the HEA and unnecessary. The intent of our recommendation to extend

the period of time for provisionally certified new schools is to ensure that procedures are in place to require that additional and updated financial and compliance information is available before granting full certification for provisionally certified new schools. The Department notes, and we agree, that the HEA places limits on the period of time new schools may be placed on provisional certification. We are not recommending that the Department violate the HEA. The extension of time we recommend is similar to the Department's avowed practice of extending provisional certification for short periods of time until the data needed to make an informed judgement is provided³. However, our file review did not reveal any documentation of a school being extended on provisional certification on a month-to-month basis. Moreover, our review did show that on at least one occasion, when a school's provisional certification should have been extended on a month-to-month basis, this procedure was not followed.

The response also stated the Department's belief that the recommendation was unnecessary because, "...Case Management teams monitor schools and practice early intervention whenever an institution begins to show evidence that it is experiencing problems in complying with its Title IV program responsibilities." Our file review did not reveal any documentation of additional monitoring of schools on provisional certification other than for financial reasons. A school's performance was not reviewed until the school applied for recertification.

The Department agreed with our recommendation that it should use the rules set out in the provisional PPA related to revoking provisional certification for schools when the opportunity presents itself.

The Department did not agree with our statement, included in the Other Matters section of the report, that placing schools on provisional certification based solely on default rates appears to be of limited value. However, the response noted that in the future schools placed on provisional certification for default purposes will be reminded that Appendix D of 34 CFR 668 can assist the school in managing its cohort default rate.

³The Department's response stated: "In those instances where a compliance audit might not be received in time to be reviewed before the expiration of the provisional certification, the school's participation is extended on a month-to-month basis until the audit report can be reviewed."

Scope and Methodology

The objective of our review was to determine the effectiveness of provisional certification. Our audit covered schools placed on provisional certification from July 1, 1992 through March 31, 1998, and we reviewed the available SFA files for judgmental samples that included a total of 59 schools⁴. We reviewed the files to ascertain the reason and length of time the schools were placed on provisional certification. In addition, we determined the schools' current certification status and whether any additional monitoring activity was made by the Department at these at-risk institutions. We did not conduct specific tests to determine that the Department should have revoked the eligibility of any provisionally certified school. We relied on computer-processed data contained in the Department's Postsecondary Education Participants System (PEPS) database. We performed testing for completeness and accuracy of the computer processed data. We concluded that the data utilized in our analyzes was sufficiently reliable to meet our audit objective.

Our review was conducted from November 1997 through May 1998. We visited the Department of Education's headquarters in Washington, D.C., where we obtained an overview of the procedures related to provisional certification. In addition, we conducted fieldwork and our analysis of the data at our Kansas City and Seattle offices. Our audit was conducted in accordance with generally accepted government auditing standards applicable to the limited scope of review described above.

Statement on Management Controls

As part of our review we assessed the system of management controls, policies, procedures, and practices applicable to the Department's monitoring of schools on provisional certification. Our assessment was performed to determine the level of control risk for determining the nature, extent, and timing of our substantive tests to accomplish the audit objective. For the purpose of this report we assessed and classified the significant controls into the following categories:

- File Maintenance
- Management of Sureties
- PEPS Data Input

Because of inherent limitations, a study and evaluation made for the limited purposes described above would not necessarily disclose all material weaknesses in the management controls. However, our assessment disclosed management control weaknesses which could adversely affect the Department's ability to effectively utilize provisional certification. These weaknesses are discussed in the AUDIT RESULTS section of this report. In addition, issues related to File Maintenance (missing current Program Participation Agreements and missing files) were discussed in SFA Action Memorandum 98-06 issued by the OIG's Chicago Office on March 2, 1998.

⁴ As discussed in the Management Controls section of this report, all files related to the sample of 59 schools were not readily available at the time of our fieldwork. Typically, schools have three files - Eligibility File, Compliance Audit File, and a Financial File. For schools in our sample, four Eligibility Files, seven Compliance Audit Files, and four Financial Files were not received during our on site field work at IPOS. We were able to satisfy our assignment objectives without these files.

EXHIBIT: Department of Education Response

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