



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

AUDIT SERVICES
Chicago/Kansas City Audit Region

September 30, 2015

Control Number
ED-OIG/A05O0007

Dr. Leon E. Linton
President
SOLEX College
350 East Dundee Road, Suite 200
Wheeling, IL 60090

Dear Dr. Linton:

This final audit report, “SOLEX College’s Administration of Selected Aspects of the Title IV Programs,” presents the results of our audit. The objective of our audit was to determine whether SOLEX College disbursed funds authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV), only to eligible students enrolled in Title IV-eligible programs. Our audit covered award years 2012–2013 and 2013–2014.¹

We determined that SOLEX College did not disburse Title IV funds only to eligible students enrolled in Title IV-eligible programs. We found that SOLEX College’s two English as a Second Language (ESL) programs were not Title IV-eligible programs because SOLEX College did not admit only students who needed ESL instruction to use their already existing knowledge, training, or skills for gainful employment and did not document its determinations that the students needed the ESL instruction for such purposes. According to Federal requirements, an ESL program qualifies as an eligible Title IV program if, in addition to satisfying all other relevant Title IV program eligibility provisions, the school admits to the program only students who the school determines need the ESL instruction to use already existing knowledge, training, or skills for gainful employment, and the school documents its determinations. SOLEX College did not meet these program eligibility requirements for its Intensive English Program and Advanced English Studies program. For award years 2012–2013 and 2013–2014, SOLEX College disbursed \$1,795,500 in Federal Pell Grant (Pell) funds to 413 of the students who were enrolled in one or both of these two ineligible ESL programs.

We recommend that the Chief Operating Officer for Federal Student Aid (FSA) require SOLEX College to return to the U.S. Department of Education (Department) \$1,795,500 in

¹ For Title IV program purposes, an award year is from July 1 through June 30.

Pell funds disbursed to the 413 students who were enrolled in one or both of the two ineligible ESL programs for award years 2012–2013 and 2013–2014 and tell SOLEX College to cease disbursing Pell funds to any students enrolled in the Intensive English Program and Advanced English Studies program until it establishes Title IV program eligibility for the two ESL programs.

We provided the draft of this report to SOLEX College for review and comment on April 8, 2015. We received SOLEX College's comments and additional documentation on June 12, 2015. SOLEX College disagreed with our finding that it disbursed Title IV funds to students enrolled in two ineligible ESL programs ([Finding No. 1](#)) and the corresponding recommendations. SOLEX College stated that it met all regulatory requirements related to documenting the Title IV eligibility of the ESL students in the audit sample. SOLEX College also stated that it assessed and documented both the existence of a prospective student's preexisting knowledge, training, or skills and the student's need for ESL instruction to use those skills.

SOLEX College did not explicitly agree or disagree with our finding that it did not identify and resolve discrepancies in information about students applying for Title IV funds ([Finding No. 2](#)) or the corresponding recommendation. SOLEX College stated that the five cases identified by the Office of Inspector General (OIG) were isolated incidents and would not have resulted in any Title IV liabilities. SOLEX College stated that, despite the low frequency with which such errors have occurred, it has taken steps to identify any future discrepancies and to train its financial aid employees in identifying and resolving such discrepancies.

Based on the explanations that it provided in its comments on the draft audit report and the additional documentation that it submitted, SOLEX College asked that the OIG close both findings and withdraw all the recommendations.

We did not close either finding or withdraw the corresponding recommendations. For Finding No. 1, SOLEX College did not provide any information or documentation that we had not already reviewed and considered while conducting the audit. However, we added information to Finding No. 1 to better describe the scope of our review of SOLEX College's available documentation. For Finding No.2, SOLEX College did not provide any information or documentation showing that it resolved the conflicting information. We made minor technical corrections to Finding No. 2 and revised the recommendation to ensure that it was parallel with the applicable Title IV requirements.

We summarized SOLEX College's written comments on the draft audit report at the end of each finding and included the comments in their entirety as [Attachment 2](#) of this report. Because of the voluminous amount of documentation that SOLEX College included with its written comments, we did not include the documentation with [Attachment 2](#). However, copies of the documentation, less any personally identifiable information protected under the Privacy Act of 1974 (5 U.S.C. § 552a) or other information exempt under the Freedom of Information Act (5 U.S.C. § 552(b)), are available on request.

BACKGROUND

SOLEX College is a proprietary school located in Wheeling, Illinois, with two additional locations, both in Chicago, Illinois. Originally founded in 1995 as SOLEX Computer Academy, the name of the school changed to SOLEX College in 2007.

SOLEX College is accredited by the Accrediting Council for Independent Colleges and Schools. Students enrolled in SOLEX College may earn associate degrees and certificates by completing one of the school's programs, including ESL programs. During our audit period, SOLEX College offered students both ESL and non-ESL programs at its main location in Wheeling, Illinois. SOLEX College offered only ESL programs at the two Chicago locations. The two SOLEX College ESL programs that the Department approved as eligible for Pell program purposes were the Intensive English Program and the Advanced English Studies program. From July 1, 2012, through June 30, 2014 (award years 2012–2013 and 2013–2014), SOLEX College reported that it enrolled 2,230 students in its ESL and non-ESL programs.

The purpose of the programs authorized by Title IV is to provide loans, grants, and work-study financial assistance to students to meet the costs of attending eligible schools of higher education. For award years 2012–2013 and 2013–2014, SOLEX College participated in only the William D. Ford Federal Direct Loan (Direct Loan) and Pell programs.

- **Direct Loan.** This program makes loans available to students and their parents to pay the cost of the students' attendance at schools of higher education. These loans are subject to annual and aggregate loan limits and are subsidized or unsubsidized, depending on the student's financial need.
- **Pell.** This program provides grants to financially needy students. The amounts of the grants are subject to annual maximums and minimums. For award year 2012–2013, the maximum Pell award for a student was \$5,550; and for award year 2013–2014, the maximum Pell award was \$5,645.

Generally, a student is eligible to receive Title IV funds only if he or she is enrolled, or accepted for enrollment, in an eligible program (Title 34 Code of Federal Regulations (C.F.R.) Section (§) 668.32(a)).² A program is an eligible program for Title IV purposes only if it is offered by an eligible school and satisfies the other relevant requirements of 34 C.F.R. § 668.8.³ A program that consists solely of instruction in ESL qualifies as a Pell-eligible program if, in addition to satisfying all other relevant Title IV program eligibility provisions, a school admits to the program only students who need the ESL instruction to use already existing knowledge, training, or skills (34 C.F.R. § 668.8(j)). Section 401(c)(2) of the Higher Education Act of 1965, as amended (HEA), authorizes a school to award Pell funds to students enrolled in ESL courses

² All regulatory citations are to the July 1, 2012, version.

³ An ESL program is an eligible program only for Pell program purposes and only in limited circumstances.

only if the school determines that the English language instruction is “necessary to enable the student to utilize already existing knowledge, training, or skills.” A school must document its determination for each student applying for enrollment in an ESL program (34 C.F.R. § 668.8(j)). Furthermore, a program offered by a proprietary school is an eligible program only if it provides training that prepares a student for gainful employment in a recognized occupation (34 C.F.R. § 668.8(d)(2)(iii)). The Department considers an ESL program to be a gainful employment program, subject to all the gainful employment regulations and requirements.⁴

In June 2010, SOLEX College received approval from FSA to participate in the Title IV programs. From July 1, 2010, through June 30, 2014, SOLEX College disbursed about \$2.77 million in Direct Loan and Pell funds (see Table 1).

Table 1. Title IV Funds Disbursed by SOLEX College

Award Year	Pell	Direct Loan	Total
2010–2011	\$223,548	\$38,071	\$261,619
2011–2012	\$300,860	\$46,540	\$347,400
2012–2013	\$640,090	\$82,207	\$722,297
2013–2014	\$1,343,246	\$94,327	\$1,437,573
Total	\$2,507,744	\$261,145	\$2,768,889

Sources: We obtained award years 2010–2011 and 2011–2012 Direct Loan data from the Department’s National Student Loan Data System and the Pell data from the Department’s Common Origination and Disbursement System. We obtained award years 2012–2013 and 2013–2014 data from the Department’s National Student Loan Data System.

According to SOLEX College’s records, during our audit period (award years 2012–2013 and 2013–2014), 469 students received \$2,174,153 Direct Loan and Pell funds. Of these 469 students, 88 percent (413) were enrolled in one or both of SOLEX College’s two ESL programs. The 413 students received \$1,795,500 in Pell funds, almost 83 percent of all the Title IV funds that SOLEX College’s data showed that the school disbursed during award years 2012–2013 and 2013–2014.⁵

AUDIT RESULTS

The objective of our audit was to determine whether SOLEX College disbursed Title IV funds only to eligible students enrolled in Title IV-eligible programs. Our audit covered award years 2012–2013 and 2013–2014. We found that SOLEX College did not disburse Title IV funds only to eligible students enrolled in Title IV-eligible programs. We concluded that SOLEX College’s Intensive English Program and Advanced English Studies program were not Title IV-eligible programs because SOLEX College did not admit only students who needed the ESL instruction

⁴ <http://www.ifap.ed.gov/GainfulEmploymentInfo/GEFAQV2.html#G-Q8>

⁵ \$569,229 for award year 2012–2013 and \$1,226,271 for award year 2013–2014

to use their already existing knowledge, training, or skills for gainful employment. Instead, SOLEX College admitted students into the two ESL programs for reasons other than to use their already existing knowledge, training, or skills for gainful employment. Additionally, SOLEX College did not document its determinations that students enrolling in its Intensive English Program and Advanced English Studies program needed the instruction to use their already existing knowledge, training, or skills for gainful employment.

Because the two ESL programs did not satisfy all relevant Title IV program eligibility provisions, we recommend that the Chief Operating Officer for FSA require SOLEX College to return to the Department \$1,795,500 in Pell funds disbursed to the 413 students who were enrolled in one or both of its ESL programs for award years 2012–2013 and 2013–2014. In addition, we recommend that the Chief Operating Officer for FSA tell SOLEX College to cease disbursing Pell funds to any students enrolled in its ESL programs until it establishes Title IV program eligibility for the two ESL programs.

We also found that SOLEX College did not identify and resolve discrepancies in information that it received from different sources with respect to students' applications for Title IV funds. By not identifying and resolving these discrepancies, SOLEX College increased the risk of awarding Title IV funds to ineligible students.

FINDING NO. 1 – SOLEX College Disbursed Title IV Funds to Students Who Were Enrolled in Two Ineligible ESL Programs

SOLEX College's Intensive English Program and Advanced English Studies program were ineligible for Title IV purposes. SOLEX College did not admit to the two ESL programs only students who enrolled for the purpose of using their already existing knowledge, training, or skills for gainful employment and did not document its determinations that each student needed the ESL instruction to use his or her already existing knowledge, training, or skills for gainful employment. For award years 2012–2013 and 2013–2014, SOLEX College disbursed \$1,795,500 in Pell funds to the 413 students who were enrolled in one or both of these ineligible ESL programs.

ESL Programs Eligible for Pell Purposes Only in Limited Circumstances

Section 401(c)(2) of the HEA states that Pell funds may be awarded to students enrolled in courses providing ESL instruction that are determined by the school "to be necessary to enable the student to utilize already existing knowledge, training, or skills." House of Representatives Report 99–383, November 20, 1985, states "H.R. 3700 [proposed amendment to the HEA] permits students to qualify for Pell Grants if they are studying English in order to qualify for employment based on their already existing knowledge, training or skills." The report further states, "The Committee has amended the law to ensure and to reemphasize its long-standing intent that Pell Grant eligibility should always have been available under the existing language for a person already possessing vocational knowledge, training or skills in a recognized [occupation] but who cannot obtain gainful employment in that occupation for lack of skill in English." The report stated that "gainful employment is the intent of the Committee" and placed responsibility on schools for making determinations whether students needed the programs to use

their already existing knowledge, training, or skills for gainful employment. These provisions were adopted in the Higher Education Amendments of 1986, Public Law No. 99–498.

In its June 30, 2011, answer to a question about the applicability of gainful employment requirements to ESL programs, the Department stated that an ESL program is a gainful employment program, subject to all the gainful employment requirements. On April 30, 2014, the Department reiterated its answer to the question.⁶

An ESL program qualifies as an eligible program if, in addition to satisfying all other program eligibility requirements, (1) the school admits to the program only students who the school determines need the ESL instruction to use their already existing knowledge, training, or skills; (2) the school documents its determination for each student; and (3) the ESL program leads to a recognized educational credential. An ESL program is eligible for participation only in the Pell program (34 C.F.R. § 668.8(j)).

The regulations are reinforced in the FSA Handbook, which states that an ESL program must meet the general requirements for an eligible program. Moreover, a school may admit to its Title IV-eligible ESL program only students who need instruction in English to be able to use the knowledge, training, or skills they already have, and a school must document its determination that the ESL instruction is necessary for each student enrolled (2012–2013 FSA Handbook, Volume 2, Chapter 2).

SOLEX College Admitted Students Who Were Taking ESL Programs for Reasons Other Than To Use Their Already Existing Knowledge, Training, or Skills for Gainful Employment

SOLEX College did not ensure that its two ESL programs complied with the Title IV program eligibility requirements. SOLEX College admitted to its two ESL programs students who were taking the programs for reasons other than to use their already existing knowledge, training, or skills for gainful employment. We reviewed SOLEX College’s records for a statistical random sample of 75 students selected from the universe of 469 students who received a Title IV disbursement for award year 2012–2013, award year 2013–2014, or both. Of the 75 students, 63 were enrolled in one or both of SOLEX College’s ESL programs.

We mailed letters to the 63 students and asked them to confirm that they enrolled in SOLEX College’s Intensive English Program or Advanced English Studies program, or both; that they had already existing knowledge, training, or skills; and that they enrolled in an ESL program for the purpose of using their already existing knowledge, training, or skills for gainful employment. We received responses from 40 of the 63 students. Of the 40 students who responded, 16 stated that they enrolled in a SOLEX College ESL program to improve their communication capabilities for use in volunteer activities (see Table 2). Improving communication skills for volunteer activities is not for the purpose of using already existing knowledge, training, or skills for gainful employment.

⁶ Frequently asked questions and the Department’s corresponding answers are available at <http://www.ifap.ed.gov/GainfulEmploymentInfo/GEFAQV2.html#G-Q8>.

Table 2. Student Confirmation Results

ESL Program	Number of Students Enrolled	Did Not Enroll to Obtain Employment	Enrolled to Obtain Employment	Response Did Not Specify Reason Student Enrolled in ESL	No Response Received
Intensive English Program	29	4	10	1	14
Advanced English Studies	21	3	8	3	7
Both	13	9	1	1	2
Totals	63	16	19	5	23

Note: Thirteen students enrolled in both of SOLEX College’s ESL programs. The students attended one ESL program at a time.

SOLEX College confirmed to us that it would allow students to enroll in its ESL programs even if the students were enrolling for purposes other than to use their already existing knowledge, training, or skills for gainful employment. However, according to SOLEX College, such students would not be eligible for Title IV funds and would have to enroll as self-paying students. In its September 29, 2014, written response to our preliminary audit finding regarding the eligibility of the two ESL programs, SOLEX College stated:

[D]uring [the admissions process], applicant’s plans to use federal financial aid are discussed. Applicants who intend to use federal financial aid are explicitly explained the difference between ESL training with the purpose of future employment as opposed to ESL training for personal enrichment/development. It is also clearly reemphasized to the applicant that TITLE [IV] financial aid covers ESL training for the purpose of gainful employment only.

Applicants who inform the admissions representative that they are enrolling at their leisure seeking personal growth/enrichment are admitted as self-paying students even though they might otherwise qualify for financial aid.

SOLEX College’s practice of allowing students to enroll as self-paying students in its two ESL programs for “personal growth/enrichment” does not comply with the Title IV program eligibility requirement that a school admit only students who need the ESL instruction to use their already existing knowledge, training, or skills for gainful employment.

SOLEX College Did Not Maintain Documentation Sufficient to Support the Eligibility of Its Intensive English Program and Advanced English Studies Program

SOLEX College did not maintain documentation sufficient to show that it determined that each student enrolling in its Intensive English Program and Advanced English Studies program during award years 2012–2013 and 2013–2014 needed the ESL instruction to use their already existing knowledge, training, or skills for gainful employment. Instead, SOLEX College considered each student’s need for ESL instruction to be implied based on information collected from the student during the admissions process and the school’s acceptance of the student into an ESL program.

For an ESL program to be an eligible program, a school must document its determination that ESL instruction is necessary to enable each student enrolled in the ESL program to use already existing knowledge, training, or skills for gainful employment.

In its September 29, 2014, written response to our preliminary audit finding regarding the eligibility of its Intensive English Program and Advanced English Studies program, SOLEX College described its admissions process. According to SOLEX College, an admissions representative would determine whether the student had preexisting knowledge, training, or skills and whether the student's goal was to seek future employment. SOLEX College stated the following:

- The student would complete an Application for Admission and a Pre-Existing Skills Classification form.
- An admissions representative would interview the student and complete a Student Interview Checklist. The Student Interview Checklist included a list of topics to discuss, including the applicants' career goals.
- Each student would take an ESL placement test to determine his or her English proficiency level. If the placement test showed that the student did not need ESL instruction, he or she would not be eligible for Title IV funds.
- To complete the enrollment process, the student, an admissions representative, and the admission representative's supervisor would sign an enrollment contract.

We reviewed SOLEX College's records for a statistical random sample of 75 students (16 percent) selected from the universe of 469 students who received a Title IV disbursement for award year 2012–2013, award year 2013–2014, or both. Of the 75 students, 63 (84 percent) were enrolled in one or both of SOLEX College's two ESL programs.⁷ Our review of the records for the 63 students showed that SOLEX College did not document its determination that any of the 63 students needed ESL instruction to use their already existing knowledge, training, or skills for gainful employment.

Our review covered all documentation that SOLEX College maintained in each student's file, including the following:

- Application for Admission
- Pre-Existing Skills Classifications form
- ESL Placement Test Results form

⁷ The 63 students included all 16 students who responded to our confirmation letters and told us that they took one or both of SOLEX College's ESL programs for purposes other than gainful employment.

- Enrollment contract
- Student Interview Checklist

None of these individual documents included a place for a school official to indicate his or her basis for determining that the student needed ESL instruction to use already existing knowledge, training, or skills for gainful employment. The Application for Admission included a place for the student to record his or her educational and employment history. The Pre-Existing Skills Classification form documented the student's already existing knowledge, training, or skills. The ESL Placement Test Results form documented the student's English proficiency. The enrollment contract documented the program in which the student enrolled. The Student Interview Checklist included a list of topics that were supposed to be discussed with each student during an admissions interview, but SOLEX College did not maintain a record of the discussion that the admissions representative held with the student.

In its written response to our preliminary audit finding that we provided it while conducting our audit, SOLEX College stated that those applicants who indicated during the interview that they needed to build ESL proficiency for the purpose of gainful employment were asked to fill out the Pre-existing Skills Classification form. SOLEX College explained the purpose of the Pre-existing Skills Classification form and told the prospective student that, by completing and signing the form, he or she was confirming his or her intent to seek future employment in occupations checked on the Pre-existing Skills Classification form.

However, the Pre-Existing Skills Classification form for 62 (98 percent) of the 63 students documented only that the student had already existing knowledge, training, or skills, not evidence that SOLEX College determined that the student needed the ESL instruction to use those already existing knowledge, training, or skills for gainful employment. For one student, the Pre-Existing Skills Classification form did not include any information about the student's already existing knowledge, training, or skills.

In addition, the Pre-Existing Skills Classification forms for 53 (84 percent) of the 63 students were either not fully completed by students or contained no evidence of having been reviewed and approved by a SOLEX College official. All 53 files contained a Pre-Existing Skills Classification form with a prior employment section, but none of the 53 students completed the prior employment section. Although the Pre-Existing Skills Classification form contained a space for a SOLEX College admissions representative's signature, an admissions representative did not sign the forms for 15 (28 percent) of the 53 students. The file for one student contained two versions of the Pre-Existing Skills Classification form, with each form listing different training and skills for the student.

After we discussed the content of the original Pre-Existing Skills Classification form with the director of financial aid, SOLEX College revised the form it used to document a student's need for ESL instruction. According to the president of SOLEX College, the school began using the revised Pre-Existing Skills Classification form for all incoming ESL students who enrolled on or after June 12, 2014. However, the director of financial aid told us that SOLEX College asked students who were still enrolled when SOLEX College revised the form to complete a revised

form. For the students who were still enrolled and completed a revised form, SOLEX College placed the revised forms in the students' files and removed the original forms that the students completed when they enrolled.⁸

The revised Pre-Existing Skills Classification form included a check box and a signature line for the student to assert that he or she needed ESL instruction to use his or her already existing knowledge, training, or skills for employment purposes. The revised form also included a check box and a signature line for a sales representative to assert that SOLEX College had determined that the student needed ESL instruction to be able to use his or her already existing knowledge, training, or skills for employment purposes. Neither the check boxes nor the signature lines were on the original form.

We did not consider the revised Pre-Existing Skills Classification forms when determining whether SOLEX College maintained sufficient documentation to show that it determined each student needed ESL instruction for two reasons. First, despite the presence of a revised form, SOLEX College did not document its determination at the time that it was admitting each student to the ESL program. Making the determination after admitting the student and after disbursing Title IV funds does not satisfy the regulatory requirement (34 C.F.R. § 668.8(j)). Second, the revised Pre-Existing Skills Classification form still did not require an admissions representative to document his or her basis for determining that the prospective student needed SOLEX College's ESL instruction to use already existing knowledge, training, or skills for gainful employment.

Risks of Improperly Disbursing Title IV Funds Are Increased

Of the 40 students who responded to our confirmation letters, 16 (40 percent) indicated that they enrolled in a SOLEX College ESL program for purposes related to volunteer activities. The 16 students ranged in age from 71 to 83 years old. Nineteen (47.5 percent) students indicated that they enrolled in a SOLEX College ESL program for gainful employment. The 19 students ranged in age from 22 to 69 years old.⁹ Five (12.5 percent) students did not provide us with their reasons for enrolling in a SOLEX College ESL program. The five students ranged in age from 62 to 75 years old. Based on the results of the 40 students' responses to our confirmation letters and the lack of documentation in SOLEX College's student files, we concluded that at least 16 students were not enrolling in a SOLEX College ESL program to use their already existing knowledge, training, or skills for gainful employment.

For 2012, the U.S. Department of Labor, U.S. Bureau of Labor Statistics reported a civilian labor force participation rate of only 7.6 percent for individuals 75 years of age or older.¹⁰ To evaluate the risk that SOLEX College could have disbursed Title IV funds to students who did not need the ESL instruction to use their already existing knowledge, training, or skills for gainful employment because they were unlikely to be participating in the labor force, we analyzed the ages of all 413 students who SOLEX College admitted to its Intensive English

⁸ Of the 75 students in our sample, 10 completed a revised Pre-Existing Skills Classification form.

⁹ See [Table 2. Student Confirmation Results](#).

¹⁰ Source: Employment Projections program, U.S. Department of Labor, U.S. Bureau of Labor Statistics http://www.bls.gov/emp/ep_table_303.htm

Program and Advanced English Studies program and who received Pell funds for award year 2012–2013, award year 2013–2014, or both. We identified 120 students (29 percent) who were 75 years of age or older at the start of their first term of ESL instruction at SOLEX College. Based on the lack of sufficient documentation in SOLEX College’s student files, the U.S. Bureau of Labor Statistics reported civilian labor force participation rate, and our analysis, we concluded that it was unlikely that SOLEX College admitted and disbursed Title IV funds only to students who needed the ESL instruction for the purpose of using their already existing knowledge, training, or skills for gainful employment.

Recommendations

We recommend that the Chief Operating Officer for FSA require SOLEX College to—

- 1.1 Return to the Department Pell funds totaling \$1,795,500 that were improperly disbursed to the 413 students enrolled in the Intensive English Program or Advanced English Studies program, or both, for award years 2012–2013 and 2013–2014.
- 1.2 Cease disbursing Pell funds to any students enrolled in its Intensive English Program or Advanced English Studies program until SOLEX College establishes Title IV program eligibility for its two ESL programs.
- 1.3 Strengthen the admissions process to ensure that it establishes and maintains Title IV program eligibility for its two ESL programs. The process should include ensuring that SOLEX College (a) admits to its Title IV-eligible ESL programs only students who need ESL instruction to use their already existing knowledge, training, or skills for gainful employment and (b) sufficiently and clearly documents its determination that each applicant needs ESL instruction to use already existing knowledge, training, or skills for gainful employment.

We also recommend that the Chief Operating Officer for FSA—

- 1.4 Determine whether SOLEX College complied with the Title IV program eligibility provisions for ESL programs before award year 2012–2013. If it did not comply, require SOLEX College to return to the Department all Pell funds that it disbursed to students enrolled in SOLEX College’s two ESL programs before award year 2012–2013.
- 1.5 Determine whether SOLEX College complied with the Title IV program eligibility provisions for ESL programs after award year 2013–2014. If it did not comply, require SOLEX College to return to the Department all Pell funds that it disbursed to students enrolled in SOLEX College’s two ESL programs after award year 2013–2014.

SOLEX College’s Comments and OIG Response

SOLEX College disagreed with the finding and recommendations but did not provide any additional information or documentation that we had not already considered while conducting our audit. SOLEX College stated that

- the finding is not a Title IV program eligibility matter,
- it satisfied all regulatory requirements related to documenting the Title IV eligibility of the ESL students in the audit sample,
- the OIG did not consider all the documentation in SOLEX College’s files for each student,
- the OIG survey was deficient, and the student responses are not relevant, and
- the OIG did not provide any authority for its conclusion that a student’s age impacts the likelihood that the student will obtain gainful employment.

In the following subsections, we first summarize SOLEX College’s comments (see [Attachment 2](#)) and then provide our response.

The Finding Is Not a Title IV Program Eligibility Matter

SOLEX College Comments

SOLEX College stated that the finding was not a Title IV program eligibility matter but rather an individual student eligibility matter. According to SOLEX College, the OIG’s regulatory interpretation contradicts the legislative and regulatory history of the ESL provisions. The law does not require an eligible ESL program to admit only students requiring ESL instruction to use preexisting knowledge, training, or skills. Also, the regulatory history of 34 C.F.R. § 668.8(j) indicates that the Department did not intend to restrict Pell eligibility to programs enrolling only students who require the ESL instruction to use existing knowledge, training, or skills.

Additionally, SOLEX College stated that the documentation associated with an individual student or group of students does not support a conclusion that the entire program is ineligible. To disallow all Title IV funds disbursed during the audit period to all students enrolled in the ESL programs, regardless of their documented need for ESL training to use preexisting skills, is contrary to the legislative and regulatory history of the applicable law and regulation.

OIG Response

The regulatory requirements that we cite in this report (34 C.F.R. § 668.8(j)) are located under the eligible program section of the regulations (34 C.F.R. § 668.8), not the eligible student section of the regulations (34 C.F.R. §§ 668.31 through 668.40). Therefore, if the program were determined to be ineligible, then no students enrolled in the program would be allowed to receive Title IV funds, regardless of whether they would otherwise be Title IV-eligible students under the student eligibility provisions. The plain language of the program eligibility requirements at 34 C.F.R. § 668.8(j)(1) clearly establish this matter as a program eligibility matter.

Section 401(c)(2) of the HEA and the corresponding regulations discuss Pell grant program eligibility in terms of “courses of study” and “courses in English language instruction.” Neither this law nor the program eligibility regulations include an exception permitting a school to admit students to Title IV-eligible ESL programs if the students do not have already existing

knowledge, training, or skills or do not need ESL instruction to use such knowledge, training, or skills for gainful employment. For the ESL programs to be Title IV eligible programs, SOLEX College should not have admitted to its ESL programs any students who enrolled for purposes other than to use their already existing knowledge, training, or skills for gainful employment. When it admitted such students, albeit as cash-paying students, SOLEX College's ESL programs failed to satisfy the program eligibility requirements. A school may not disburse any Title IV funds to any students enrolled in ineligible programs (34 C.F.R. § 668.32(a)).

SOLEX College Satisfied All Regulatory Requirements Related to Documenting the Title IV Eligibility of the ESL Students in the Audit Sample

SOLEX College Comments

SOLEX College stated that it met all regulatory requirements related to documenting the Title IV eligibility of the ESL students in the audit sample, both assessing each student's English proficiency and documenting that each student had preexisting knowledge, training, or skills. According to SOLEX College, these two pieces of information, coupled together, constituted its determination that the students required ESL instruction to use preexisting knowledge, training, or skills.

SOLEX College also stated that it was not required to determine and document whether each student's intent was to obtain gainful employment, contending that it was not required to have each student certify that he or she was enrolling for the purpose of obtaining employment. According to SOLEX College, the law does not require that each graduate of an ESL-only program actually obtain gainful employment on the basis of ESL training.

Additionally, SOLEX College stated that a Department internal memorandum acknowledged the lack of specific requirements pertaining to the manner in which a school documents its determination, but specifically identified documentation of a test of a student's English proficiency as meeting the regulatory standard. A Department internal memorandum, dated August 2, 1995, stated, "proof that some kind of evaluation was made (for example, documentation of an analysis of the student's prior schooling, of an interview, or of a test of the student's proficiency in English) would be necessary to show that the student needed ESL training."

OIG Response

We disagree that SOLEX College met all the regulatory requirements related to documenting its determination that students in the audit sample needed ESL instruction to use their already existing knowledge, training, or skills. The regulations required SOLEX College to admit to Title IV-eligible ESL programs only students who needed the ESL instruction for such purposes. To admit only students who needed ESL instruction to use their already existing knowledge, training, or skills means that SOLEX College would first have needed to assess whether each student seeking admission to an ESL program demonstrated that need. The regulation then required SOLEX College to document its determination that each student needed the ESL instruction to use his or her already existing knowledge, training, or skills. Therefore, to demonstrate compliance with the regulation, SOLEX College should have maintained adequate documentation of the process that it used and the decision that it reached with respect to each

student's need for ESL instruction to use his or her already existing knowledge, training, or skills.

Although the HEA does not require the actual outcome for each student to be gainful employment, the HEA and the Department's intent are clear—an ESL program is a gainful employment program, subject to all the gainful employment requirements. As such, an ESL program qualifies as an eligible program if the school admits only students who need ESL instruction to use their already existing knowledge, training, or skills for gainful employment, and the school documents its determination that the students needed the ESL instruction for such purposes.

The Department's internal memorandum, dated August 2, 1995, that SOLEX College cited as supporting its position that it met all regulatory requirements further supports our finding that SOLEX College did not adequately document its determinations. The internal memorandum stated that a school must have an "evaluative component" to its determination that a student needed ESL instruction. Documentation, such as that of a student's prior education (for example, a high school transcript), without an evaluation of such documentation is not sufficient to demonstrate that the school made a determination of whether ESL instruction was necessary for a student to use his or her already existing knowledge, training, or skills. The internal memorandum also noted that a student's self-certification does not constitute a determination on the part of a school, because a student's attestation cannot be proved, disproved, or evaluated. Similarly, having a student complete a Pre-Existing Skills Classification form with no further follow-up by the school does not constitute a determination by SOLEX College that the student had preexisting knowledge, training, or skills.

The documentation that SOLEX College retained during our audit period was not sufficient, on its own, to show that SOLEX College made a determination that each student it admitted to its ESL programs needed the ESL instruction to use his or her already existing knowledge, training, or skills for gainful employment. SOLEX College's student files generally contained documentation of the students' English proficiency and documentation of the students' preexisting knowledge, training, or skills. However, SOLEX College's student files did not contain documentation proving that SOLEX College conducted the kind of evaluation referenced in the Department's internal memorandum.

The OIG Did Not Consider All the Documentation in SOLEX College's Files for Each Student

SOLEX College Comments

SOLEX College stated that the conclusions of the OIG were deficient because the OIG did not consider the signed forms in each student's file. According to SOLEX College, the signed forms demonstrated its student-by-student determinations of English proficiency and the need for ESL instruction. However, the OIG failed to consider the Test Results and Assessment Form that SOLEX College maintained for each student in the audit sample.

SOLEX College stated that it administered an English proficiency test to each prospective student, assessed the test results, and recorded the results of those assessments on a form placed in each student's file. It was after such an analysis and the assignment of an English proficiency

rating that SOLEX College determined whether a student required ESL instruction to use his or her preexisting knowledge, training, or skills. Therefore, a student's need for ESL instruction was not simply implied. Instead, SOLEX College explicitly determined each student's need for ESL instruction through the use of the English proficiency test and documented that need on the Test Results and Assessment Form. According to SOLEX College, the OIG did not take into account the Test Results and Assessment Form; instead, the OIG focused entirely on the Pre-Existing Skills Classification form, imposing a documentary burden that the form was never meant to carry. SOLEX College's determination cannot be properly evaluated based solely on the Pre-Existing Skills Classification form. An evaluation of its determinations must take into account the Test Results and Assessment Form.

SOLEX College further stated that there is no regulatory basis for the OIG's statement that the Pre-Existing Skills Classification form is deficient because it was not fully completed by the student or signed by a school official. According to SOLEX College, the Department's regulations at 34 C.F.R. § 668.8(j) do not require any specific form of documentation of a school's determination, and a school official's signature or certification is irrelevant to the student's certification of preexisting skills.

OIG Response

When drawing our conclusion, we did not limit our review to the Pre-Existing Skills Classification form. We considered all documentation, including the ESL Placement Test Results form (which SOLEX College refers to as the Test Results and Assessment Form), contained in SOLEX College's student files. We also considered SOLEX College's written response to the preliminary audit finding that we provided to it while conducting our audit. In that response, SOLEX College described its admissions process as we have presented it in the finding (see "[SOLEX College Did Not Maintain Documentation Sufficient to Support the Eligibility of Its Intensive English Program and Advanced English Studies Program](#)"). In that section, we acknowledged SOLEX College's use of an English proficiency test as part of its admissions process. Based on SOLEX College's comments, we added information to that section to better describe the scope of our review of SOLEX College's available documentation.

Our finding does not question students' English proficiency levels or SOLEX College's assessment of the students' English proficiency levels. Rather, our finding questions whether the documentation that SOLEX College had was sufficient to clearly show that it determined each student needed ESL instruction to use his or her already existing knowledge, training, or skills for gainful employment.

The OIG Survey Was Deficient, and the Student Responses Are Not Relevant

SOLEX College Comments

SOLEX College stated that the OIG survey and corresponding student responses have no relevance to ESL determinations made at the time of the students' enrollment. In addition, there were deficiencies in the OIG survey methodology. The surveys were deficient because they did not inquire about the information the student provided at the time of enrollment and because they lacked follow-up questions to the student.

OIG Response

We did not conduct a survey. We sent confirmation letters to the 63 students in our sample. We sent the confirmation letters to the students because SOLEX College lacked sufficient documentation concerning its determinations that the students needed the ESL instruction to use their already existing knowledge, training, or skills for gainful employment. Our use of the confirmation letters was relevant to our work because such determinations are required to establish that an ESL program is a Title IV-eligible program.

We asked the students to confirm (1) their enrollment in an ESL program; (2) that they had already existing knowledge, training, or skills; and (3) that they enrolled in an ESL program for the purpose of using their already existing knowledge, training, or skills for gainful employment. When needed, we attempted to contact students whose responses to the confirmation letters required follow-up. We successfully contacted seven of the eight students whose responses required follow-up.

The OIG Did Not Provide Any Authority for Its Conclusion That a Student's Age Impacts the Likelihood That the Student Will Obtain Gainful Employment

SOLEX College Comments

SOLEX College stated that the ages of the students enrolled in the ESL programs should not be a factor for Title IV eligibility purposes. According to SOLEX College, the OIG did not provide any authority for its conclusion that a student's age impacts the likelihood that the student will obtain gainful employment. The Age Discrimination Act of 1975 and the Department's regulations at 34 C.F.R. § 110.10(b) explicitly prohibit limiting individuals, regardless of age, the opportunity to participate in the Title IV programs.

OIG Response

We agree that the law and regulations prohibit schools from limiting individuals' opportunity to participate in the Title IV programs based on their ages. And we did not conclude that "a student's age impacts the likelihood that a student will obtain gainful employment." However, schools must admit to Title IV-eligible ESL programs only students who need ESL instruction for a vocational purpose.

According to the U.S. Department of Labor, U.S. Bureau of Labor Statistics, individuals 75 years of age or older have a limited presence in the workforce. For 2012, the U.S. Bureau of Labor Statistics reported a civilian labor force participation rate of only 7.6 percent for individuals 75 years of age or older. Of the 413 students who were enrolled in one or both of SOLEX College's ESL programs during award year 2012-2013, award year 2013-2014, or both, 29 percent (120) were 75 years of age or older. Based on the civilian labor force participation rate, the lack of sufficient documentation in SOLEX College's student files, and our analysis of students' responses to our confirmation letters, we concluded that it was unlikely that SOLEX College admitted and disbursed Title IV funds only to those students who were enrolled because they needed ESL instruction to use their already existing knowledge, training, or skills for gainful employment. We clarified the relevant section of the report (see "[Risks of Improperly Disbursing Title IV Funds Are Increased](#)") to better explain our reasoning.

FINDING NO. 2 – SOLEX College Did Not Identify and Resolve Discrepancies in Information About Students Applying for Title IV Funds

SOLEX College did not identify and resolve discrepancies in information that it received from different sources with respect to students' applications for Title IV funds. When determining student eligibility for Title IV funds, SOLEX College did not identify and resolve discrepancies in information about the high schools that students attended. Students who claim to be high school graduates and apply for Title IV funds report on their Free Application for Federal Student Aid the name of the high school from which they graduated. This information is included on the Institutional Student Information Record (ISIR) that SOLEX College received for each student. Students also provided SOLEX College with the name of the high school from which they graduated on the Attestation of High School Diploma or GED and the Application for Admission forms that they completed when they enrolled.

A student is eligible to receive Title IV funds if the student has a high school diploma or its recognized equivalent (34 C.F.R. § 668.32(e)). We randomly selected 75 students (about 16 percent) from a universe of 469 students who received at least one Title IV disbursement for award year 2012–2013, award year 2013–2014, or both. We reviewed each student's ISIR, Attestation of High School Diploma or GED, and Application for Admission. For 5 (6.7 percent) of the 75 students, we identified discrepancies in information about the high school attended that SOLEX College did not identify. Documentation in SOLEX College's files for the five students did not indicate that SOLEX College resolved any of these discrepancies.

The Department does not expect schools to specifically check the Free Application for Federal Student Aid high school information for every student against information obtained from different sources. However, a school must be capable of adequately administering the Title IV programs and must have a system to identify and resolve discrepancies in the information that the school receives from different sources with respect to a student's application and eligibility for Title IV funds (34 C.F.R. § 668.16(f)). This requirement is separate from a school's obligation to verify the information for students selected for verification (34 C.F.R. §§ 668.51 through 668.61).

The "SOLEX College Manual of Financial Aid Policies and Procedures," Section 7.4, states that "The Financial Aid Officer reviews documents to make sure there is no conflicting information in file. If so, the student is contacted in an attempt to resolve any conflicts. If no conflicts exist, the Financial Aid Officer proceeds with processing."

Discrepancies between a student's Attestation of High School Diploma or GED and the Application for Admission forms and the ISIR could indicate that the student did not graduate from high school and, therefore, might not be eligible for Title IV funds. By not identifying and resolving these discrepancies and not having a process to document resolution, SOLEX College increased the risk of awarding Title IV funds to ineligible students.

After we notified SOLEX College of the discrepancies in high school information that we identified, it added an additional item ("High School Diploma Match Y/N") to its FSA Checklist.

However, the additional FSA Checklist item does not require SOLEX College employees to confirm that the high school name on documents in a student's file matches the high school name on the student's ISIR. Therefore, the additional FSA Checklist item might not result in SOLEX College resolving discrepancies in the name of the high school listed on a student's Attestation of High School Diploma or GED, Application for Admission, and ISIR.

Recommendation

We recommend that the Chief Operating Officer for FSA require SOLEX College to—

- 2.1 Revise its processes for identifying and resolving discrepancies, including those concerning a student's previous educational experience, in the information that it receives from different sources with respect to a student's eligibility for Title IV funds and ensure that it retains sufficient documentation to support the resolution of any discrepancies that it identifies.

SOLEX College's Comments and OIG Response

SOLEX College Comments

SOLEX College did not explicitly agree or disagree with the finding and recommendation. SOLEX College stated that schools are required to correct and submit for processing any error in a nondollar item on a student's original Free Application for Federal Student Aid only if that student was selected for verification. Of the five students identified by the OIG, only one student had been selected for verification. SOLEX College overlooked the discrepancy at the time of verification but the discrepancy did not impact the student's eligibility for Title IV funds because the student had graduated from high school. The remaining four students were not selected for verification; therefore, SOLEX College was required only to correct and submit for processing errors reported on the original Free Application for Federal Student Aid that would change the Expected Family Contribution or that had an effect on the student's eligibility for Title IV funds.

SOLEX College further stated that it has taken steps to identify any future discrepancies and will train its financial aid employees in identifying and resolving discrepancies.

OIG Response

SOLEX College did not provide any additional information or documentation showing that it identified and resolved discrepancies in information that it received from different sources with respect to students' applications for Title IV funds. Contrary to SOLEX College's interpretation, this finding is not related to the verification requirements described in 34 C.F.R. §§ 668.51 through 668.61. The requirement that we cite is included in the Standards of Administrative Capability requirements described in 34 C.F.R. § 668.16(f). According to 34 C.F.R. § 668.16(f), a school must have a system to identify and resolve discrepancies in the information that the school receives from different sources with respect to a student's application for Federal financial aid. Therefore, regardless of whether a student is selected for verification, a school is obligated to have a system of internal control in place that will provide reasonable assurance that it identifies and resolves conflicting information if that information could have an impact on a

student's eligibility for Title IV funds. We clarified the Title IV requirements cited in the finding and revised the recommendation to make it parallel with the applicable requirements.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to determine whether SOLEX College disbursed Title IV funds only to eligible students enrolled in Title IV-eligible programs. Our audit covered award years 2012–2013 and 2013–2014. To accomplish our objective, we gained an understanding of selected provisions of the HEA, Title IV regulations, and FSA guidance applicable to the audit objective. To gain an understanding of its history, organization, and programs, we reviewed SOLEX College's Web site; organizational chart; program participation agreement, dated January 8, 2013; Eligibility and Certification Approval Report, with an action date of December 13, 2012; "Comprehensive Catalog 2012–2013;" and "2013–2014 Comprehensive Catalog." Using a school-provided list of all students who received Title IV funds, we identified the amount of Title IV funds that SOLEX College received on behalf of its students for award years 2012–2013 and 2013–2014. We also used the list of all students who received Title IV funds for award years 2012–2013 and 2013–2014 to identify the ages of the students who were enrolled in SOLEX College's two ESL programs. To determine whether the school's independent public accountant identified findings related to our audit objective, we reviewed SOLEX College's financial statements and "Report on Compliance with Specified Requirements Applicable to the SFA Programs" for the years that ended December 31, 2011, 2012, and 2013. The audit reports did not include findings related to our audit objective.

To verify the school's Title IV eligibility, we reviewed school and program eligibility documents from FSA and the Accrediting Council for Independent Colleges and Schools. We also contacted FSA, the Accrediting Council for Independent Colleges and Schools, and the Illinois Board of Higher Education for information relevant to the school's Title IV eligibility. In addition, we confirmed that the Intensive English Program and Advanced English Studies program met the program length requirements and were offered as described by SOLEX College.

Internal Control

To gain an understanding and assess the adequacy of SOLEX College's system of internal control applicable to its administration of the Title IV programs, including SOLEX College's control activities for determining and documenting that students needed ESL instruction to use their already existing knowledge, training, or skills for gainful employment, we reviewed available written policies and procedures and interviewed SOLEX College employees.

We identified deficiencies in the system of internal control over the administration of the Title IV programs that were significant to our objective. We found that SOLEX College's policies, procedures, and practices were not sufficient to ensure that the school established and maintained Title IV program eligibility for its ESL programs (see Finding No. 1, ["SOLEX College Disbursed Title IV Funds to Students Who Were Enrolled in Two Ineligible](#)

[ESL Programs](#)"). In addition, SOLEX College's process for determining a student's eligibility for Title IV funds was not sufficient to identify and resolve discrepancies in information about the high schools that students attended (see Finding No. 2, "[SOLEX College Did Not Identify and Resolve Discrepancies in Information About Students Applying for Title IV Funds](#)").

Sampling Methodology

To determine whether SOLEX College ensured that students had met Title IV general student eligibility requirements and specific student eligibility requirements for the Direct Loan and Pell programs, we selected a statistical random sample of students who received Title IV funds for award years 2012–2013 and 2013–2014. From a SOLEX College-provided spreadsheet listing all students who received Title IV funds for award years 2012–2013 and 2013–2014, we identified the universe (of students) that we used to select our sample. Our universe consisted of 469 students who received at least one Title IV disbursement for award year 2012-2013, award year 2013-2014, or both. The 469 students received a total of \$2,174,153 in Title IV funds for award years 2012–2013 and 2013–2014. Of the 469 students, 413 students were enrolled in SOLEX College's Intensive English Program or the Advanced English Studies program, or both, and received \$1,795,500 in Pell funds. The remaining 56 students were enrolled in other SOLEX College programs and received \$378,653 in Direct Loan and Pell funds.

From this universe of 469 students, we randomly selected 75 students (16 percent) who received \$324,623 (14.9 percent) in Title IV funds. Of the 75 students, 63 were enrolled in SOLEX College's Intensive English Program or Advanced English Studies program, or both. We used the sample of 75 students to complete the procedures described in the [Testing Methodology](#) section.

Testing Methodology

We analyzed SOLEX College's records to determine whether SOLEX College ensured that all 75 students in our sample had met the Title IV general student eligibility requirements and requirements specific to the Direct Loan and Pell programs. We also analyzed SOLEX College's records to determine whether any discrepancies existed in the information that SOLEX College received. For each of the 63 students who enrolled only in the Intensive English Program or Advanced English Studies program, or both, we also analyzed the records to determine whether SOLEX College had documented its determination that the student needed ESL instruction to use his or her already existing knowledge, training, or skills for gainful employment. To confirm that these 63 students attended SOLEX College and needed ESL instruction to use their already existing knowledge, training, or skills for gainful employment, we also sent confirmation letters to obtain information directly from the students. We received responses from 40 (63.5 percent) of the 63. We identified eight students whose responses required clarification and contacted seven in an attempt to have them clarify their responses.¹¹

While we selected our sample as a statistical random sample, we did not project the results because one of the testing procedures had too small of a respondent count to project.

¹¹ We attempted to contact the eighth student but were unsuccessful.

Data Reliability

We relied, in part, on a SOLEX College-provided list of all students who received Title IV funds and the amount of Title IV funds that each student received for award years 2012–2013 and 2013–2014. To assess the reliability of the data, we interviewed SOLEX College employees who extracted the data from the school’s system to gain an understanding of the data and the source of the data. We also compared the SOLEX College-provided data to Title IV funding data that we obtained from the Department’s National Student Loan Data System. In addition, we analyzed the SOLEX College-provided data for dates outside our audit period and values outside an expected range, such as unusually high Direct Loan or Pell amounts. Based on our interviews and comparisons, we concluded that the list of all students who received Title IV funds and the amount of Title IV funds that each student received for award years 2012–2013 and 2013–2014 was sufficiently reliable for the purpose of our audit.

We conducted our audit at SOLEX College’s offices in Wheeling, Illinois, and our offices in Chicago, Illinois, and Kansas City, Missouri, from April 2014 through February 2015. We discussed the results of our audit with SOLEX College officials on February 25, 2015, and provided them with a copy of the draft of this report on April 8, 2015. After reviewing the draft audit report and our supporting audit documentation, SOLEX College provided us with comments on the draft audit report on June 12, 2015. We reviewed and analyzed SOLEX College’s comments on the draft of this report and revised the report as necessary.

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.

ADMINISTRATIVE MATTERS

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the OIG. Determinations of corrective actions to be taken will be made by the appropriate Department officials.

This report incorporates the comments that you provided in response to the draft audit report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Department official, who will consider them before taking final Departmental action on this audit:

James W. Runcie
Chief Operating Officer
Office of Federal Student Aid
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

It is the policy of the Department to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 calendar days would be appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the OIG are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

We appreciate the cooperation and assistance extended by your employees during our audit. If you have any questions or require additional information, please do not hesitate to contact me at (312) 730-1620 or Lisa F. Robinson, Assistant Regional Inspector General for Audit, at (816) 268-0500.

Sincerely,

/s/

Gary D. Whitman
Regional Inspector General for Audit

Attachments

ATTACHMENT 1

Acronyms, Abbreviations, and Short Forms Used in This Report

C.F.R.	Code of Federal Regulations
Department	U.S. Department of Education
Direct Loan	William D. Ford Federal Direct Loan
ESL	English as a Second Language
FSA	Federal Student Aid
HEA	Higher Education Act of 1965, as Amended
ISIR	Institutional Student Information Record
OIG	Office of Inspector General
Pell	Federal Pell Grant
Title IV	Title IV of the Higher Education Act of 1965, as amended

ATTACHMENT 2

**AUDITEE COMMENTS ON
THE DRAFT AUDIT REPORT**



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June 12, 2015

VIA E-MAIL

Gary D. Whitman
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
500 West Madison Street
Suite 1414
Chicago, IL 60661

RE: ED-OIG/A0500007

Dear Mr. Whitman:

Enclosed please find SOLEX College's response to Findings 1 and 2 of the OIG's draft audit report bearing control number ED-OIG/A0500007. The narrative response to each finding is contained in two PDF files. As requested in the draft audit report, we also are providing copies of both narrative responses in Word files. The exhibits to the responses are contained in separate password protected PDF files.

If you have any questions regarding the response or the exhibits, please contact me. Thank you for your assistance.

Sincerely,

/s/

Leon E. Linton, Ed.D. President,
SOLEX College

This is SOLEX College's response to draft Finding No. 1 ("SOLEX College Disbursed Title IV Funds to Students Enrolled in Two Ineligible ESL Programs") in OIG's Draft Audit Report bearing control number A0500007. SOLEX respectfully disagrees with the conclusions and recommendations in draft Finding No. 1 because:

- SOLEX met all regulatory requirements related to documenting the Title IV eligibility of the ESL students in the audit sample. SOLEX assessed and documented both the existence of a prospective student's pre-existing training, skills, or knowledge and the student's need for ESL education to utilize those skills. The documentation comports with the Department's own internal guidance for acceptable documentation.
- Finding No. 1 does not consider the signed forms in each student's file demonstrating SOLEX's student-by-student determinations of English proficiency and the need for ESL education based on the results of an English proficiency test. SOLEX administered an English proficiency test to each prospective student, conducted an individualized assessment of the test results, and recorded the results of the assessment of each student on a form placed in each student's file. The determination demonstrated that the student's lack of English proficiency necessitated ESL training to use the student's preexisting skills. Despite the central importance of this documentation, the draft audit report and the audit work papers do not analyze each of these forms or acknowledge the college's documented assessment of each student's English proficiency.
- Finding No. 1's recommendation to disallow all Title IV funds disbursed during the audit period to all students enrolled in the ESL programs – regardless of their documented need for ESL training to use preexisting skills – is contrary to the clear intent of the law. The Finding contends that the admission of even one ineligible student into the ESL programs renders ineligible all otherwise eligible students enrolled in those programs. This result makes no sense and is contrary to the legislative and regulatory history of the applicable law and regulation which are designed to preserve the availability of Pell Grants to eligible students, not to revoke that eligibility.
- SOLEX adequately documented its ESL determination for each of the sixteen students identified by OIG as current volunteers.
- There was and is no legal requirement that SOLEX document each student's intent to obtain gainful employment, nor that the student certify that he or she was enrolling for the purpose of obtaining employment. Similarly, the law does not require that each graduate of an ESL-only program actually obtain gainful employment on the basis of ESL training.
- OIG's survey, and corresponding graduate responses, has no relevance to SOLEX's ESL determination made at the time of enrollment. There are deficiencies in the survey methodology and the survey responses do not justify or support the draconian recommendations proposed in Finding No. 1.

- Findings regarding the documentation associated with an individual student or group of students do not support a conclusion that the entire program was ineligible.

For these reasons, SOLEX respectfully requests that OIG close draft Finding No. 1 and withdraw the recommendations to FSA associated with this Finding.

1. Background

a. SOLEX College

SOLEX College ("SOLEX" or "College") is a private business and vocational school located in Wheeling, Illinois. SOLEX College's mission is to provide innovative career training and English as a Second Language ("ESL") programs based on current information, technology, and best practices in a supportive environment to encourage students' personal growth and success. SOLEX enrolls numerous international students from more than forty countries, and has an established track record of assisting these students in adjusting to the language and culture of the United States such that they are prepared to successfully enter the American workforce. SOLEX also has an established track record of job placement for a substantial majority of its graduates from its ESL and other programs notwithstanding the economic and social challenges faced by its students.

SOLEX was established in Wheeling in 1995. SOLEX currently offers associate's and certificate programs in the Business and Information Technology, Healthcare, Manufacturing, and ESL fields. SOLEX subsequently added two additional locations in Chicago that offer only ESL programs.

SOLEX offers two ESL-only programs (i.e., programs that do not provide any instruction apart from ESL), both of which are approved by the U.S. Department of Education ("Department") and appear on its Eligibility and Certification Approval Report. The Intensive English Program ("IEP") received its initial approval from the Department on June 11, 2010, and the Advanced English Studies Program ("AEP") received its initial approval on May 22, 2013. SOLEX has been granted authority to operate associate's degree and certificate programs, as well as stand-alone courses, by the Illinois Board of Higher Education's Division of Private Vocational Schools ("IBHE"). It is accredited by the Accrediting Council for Independent Colleges and Schools ("ACICS") to award occupational associate's degrees and certificates.

SOLEX participates in a variety of federal financial aid programs under Title IV of the Higher Education Act of 1965 ("Title IV"). Under federal law, students enrolled

in ESL-only programs, such as SOLEX's IEP and AEP program, are only eligible for Pell Grants and not for federal loans. Many SOLEX students, particularly those interested in its ESL programs, are international students ineligible to receive Title IV student aid. The number of students willing to enroll in and pay tuition for ESL programs without federal financial aid is evidence of the quality and desirability of the programs.¹²

b. The ESL Admissions Process

Students attending SOLEX's IEP and AEP programs undergo an extensive admissions process. The centerpieces of the admissions process for both ESL programs are 1) a Skills Form in which the prospective student identifies his or her preexisting skills and 2) an English language proficiency test administered by the College for the purpose of confirming that the prospective student lacks English aptitude and, as a result, requires ESL training in order to utilize his or her pre-existing skills. As discussed below, the Skills Form and the Test Results and Assessment Form documenting the College's assessment of the student's English proficiency are contained in each student's file.

First, all students must complete SOLEX's Application for Admission. See Exhibit 1-1. The Application requires students to provide information regarding their educational history, including the location, dates attended, major, and degree received for any previous study. Students are also required to list the name and contact information of their most recent employer, and their own job title. The form is signed by the student and maintained by SOLEX.

After completing the Application for Admission, the next step in the process is for a SOLEX admissions representative to interview the prospective student. The admissions representative conducts the interview according to SOLEX's Student Interview Checklist Form, which lists the following required topics: the applicant's career goals and interests, SOLEX's admissions requirements; career opportunities for students upon graduation and any relevant licensing requirements imposed by the State or another agency, the student's chosen program's academic performance (i.e., outcomes statistics), descriptions of the student's anticipated courses, the total cost of the student's program, SOLEX's tuition payment plans and refund policy, SOLEX's complaint and conduct policies, and the availability of placement assistance. See Exhibit 1-2. The Student Interview Checklist Form includes a signature line for the student indicating their acknowledgement that the interview covered each topic. This admissions interview, and specifically the discussion of the applicant's career goals and interests, assists SOLEX in its determination of whether the applicant needs ESL training in order to use preexisting knowledge, training or skills.

¹² See Postsecondary Issues in the 113th Congress, Congressional Research Service Report R 43302, p. 23 (“[I]f proprietary institutions are providing a quality education, then they should be able to attract a certain amount of non-Title IV funds (e.g., students who pay out-of-pocket)”).

Such students next complete a Skills Form that constitutes part one of the College's two-part determination whether a student is eligible for Title IV funds. The process calls for the admissions representative to inform students interested in SOLEX's ESL programs that Title IV financial aid (i.e., Pell Grants) is only available for students who require ESL training in order to use preexisting knowledge, training or skills. If a student is interested in receiving Title IV funds, the student completes a Preexisting Skills Classification Form (the "Skills Form"), which provides a list of skills and occupations from which students identify their prior knowledge, training, or experience. Students also identify any prior professional education and when and where they used their preexisting skills. Students certify the information on the Skills Form by signing the bottom. OIG Audit Work Paper H.1.1, tab 1, Columns AN-AV documents OIG's review of these Skills Forms. Nearly all of SOLEX's ESL applicants possess preexisting knowledge, training, or skills because they are almost exclusively adult immigrants who had previous employment in their native country. If, however, no preexisting knowledge, training, or skills are identified during a student's interview and/or on the Preexisting Skills Classification Form, that student is deemed ineligible to receive Title IV funds.

Next, the College administers and analyzes the results of an ESL proficiency test that constitutes the second part of the College's determination whether a prospective ESL student qualifies for Title IV funds. Once they have completed their admissions interview, all prospective ESL students take an ESL proficiency test: the nationally-recognized Pearson Longman English Assessment Test ("Longman Test"). The test assesses a prospective student's English proficiency and skills by measuring performance in listening and written comprehension. Students receive an overall percentage score on the Longman Test, as well as subscores associated with their listening performance and written structures performance. These subscores translate to designations as Beginning, Intermediate, or Advanced. SOLEX then analyzes and translates these Longman Test designations to a Level between 1 and 6, corresponding to the Levels of SOLEX ESL instruction (each Longman Test designation is subdivided into High and Low, to create a total of six designations corresponding to the six Levels of ESL training). This Longman Test Level determination forms one component of SOLEX's determination regarding a student's need for ESL training.

The next step in the process was for SOLEX's ESL instructors to administer to each ESL applicant an oral evaluation aligned to the levels of SOLEX's ESL programs. Exhibit 1-3. In order to confirm a student's need for ESL training as well as the accuracy of the Longman Test results, the individual administering the oral evaluation, one of SOLEX's ESL instructors, assigned each student a Level between 1 and 6 on the basis of the student's performance. On the basis of the Longman Test results and the oral evaluation results, the SOLEX instructor then determined each student's Final Level Result, which confirmed that the student required ESL training and assigned the student to the appropriate ESL program Level. These results (i.e., the Longman Test results and the oral evaluation results) and SOLEX's Final Level determination, are documented on the student's test results sheet (the

"Test Results and Assessment Form"), which is signed by the SOLEX official and placed in the student's file.¹³ Exhibit 1-4.

SOLEX's ESL students generally require ESL instruction because they possess little or no English skills. As a result, the majority of students receive low scores on their Longman Test and oral evaluation, resulting in a final determination by SOLEX that they require significant ESL instruction and should be placed at a low Level. For example, based on a review of the sixty-three Test Results and Assessment Forms pertaining to students in the OIG audit sample, no student received a Final Level determination above Level 4, High Intermediate. Forty-three of the sixty-three students received a Final Level determination of Level 1, Low Beginner. *Id.*

The Skills Form coupled with the Test Results and Assessment Form constitutes the College's determination that the student requires ESL training to use preexisting skills. Once the admissions process is completed, including the Application for Admission, admissions interview (based upon the Interview Checklist), Skills Form, Longman Test, oral evaluation, and discussion, the student completes an enrollment agreement and formally enrolls in SOLEX. SOLEX developed this admissions process based on standard practices used by other successful ESL programs that are accredited by Department-recognized accrediting agencies and that participate in Title IV programs. The process was designed to ensure compliance with Title IV regulations, including the ESL-only course eligibility requirements articulated in 34 C.F.R. § 668.8(j).

c. The OIG Audit

Between April 2014 and February 2015, the Office of Inspector General for the Department ("OIG") conducted an audit of SOLEX's participation in the Title IV federal student aid programs. OIG conducted the on-site portion of its audit at SOLEX during June and July, 2014, at which time it conducted, or began conducting, a file test of a sample of seventy-five Title IV recipients who were enrolled at SOLEX during the audit period, out of a total 2,230 enrolled students. Of these seventy-five students, sixty-three were enrolled in one or both of SOLEX's ESL programs.

On October 6, 2014, OIG requested that SOLEX send a letter, drafted by OIG but placed on SOLEX letterhead, OIG Audit Work Paper H.2.2, and a nine-question survey drafted by OIG to the sixty-three ESL students in the audit sample, OIG Audit Work Paper H.2.1. Recipients submitted their survey responses to OIG only. SOLEX did not have an

¹³ SOLEX recently switched ESL assessment tests to Cambridge Michigan Language Assessments English Placement Test ("EPT"). This change took place after the audit period. SOLEX uses the EPT in the same manner as the Longman Test – i.e., as a tool to measure a prospective student's English aptitude and to determine whether ESL training is necessary to use pre-existing skills based on analysis of the prospective student's score on the exam. As was the case with the Longman Test, the results of the EPT test, and the College's assessment of the test results, are documented and retained in the student's file.

opportunity to review students' responses until several weeks after receipt of OIG's draft audit report. We discuss the deficiencies in these surveys and the responses in section 4.d.

On April 8, 2015, OIG issued its draft audit report recommending to the Chief Operating Officer for Federal Student Aid at the Department ("FSA") that SOLEX be required to return to the Department \$1,795,000 in Pell Grant funds that were disbursed to the 413 students enrolled in SOLEX's ESL programs during the audit period and to cease disbursing Pell Grants to students in these programs. OIG explained that it believed the IEP and the AEP programs were not eligible programs during the audit period for two reasons. First, the draft report contends that SOLEX admitted ineligible students into the programs and that all Title IV disbursements to students in those programs, including those made to eligible students should be disallowed. Second, the draft report contends that SOLEX did not maintain documentation adequate to support its determinations that the students required ESL training in order to use their preexisting knowledge, training, or skills. We respectfully disagree with the finding and the proposed recommendations for the reasons discussed below in sections 3 and 4.

On May 21-22, 2015, six weeks following OIG's issuance of the draft audit report, representatives of SOLEX were permitted to examine OIG's audit work papers. Those work papers indicate that there were several significant omissions from the analysis performed for Finding No. 1. First, the work papers did not contain any analysis of the Test Results and Assessment Form used by SOLEX College to analyze the need of prospective students for ESL training to use preexisting skills. Second, the work papers did not analyze or acknowledge the significance of the Test Results and Assessment Form in each student's file documenting the results of the College's assessment, analysis and evaluation of the English proficiency of each prospective student. Third, the work papers did not indicate that OIG discussed its interpretation of the applicable Title IV regulations with the Department, or that it considered the Department's internal guidance regarding what constitutes acceptable documentation that a student requires ESL training to use preexisting knowledge, training, or skills. We discuss each of these items in more detail in sections 3 and 4 of this response.

2. Title IV Law Governing Pell Grant Eligibility for ESL-Only Programs

The Higher Education Act expressly provides that qualified students enrolled in ESL-only courses are eligible for Pell Grants:

"Period of eligibility for grants

(1) The period during which a student may receive Federal Pell Grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance except that any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.

(2) Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language instruction) which are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills. Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.”

20 U.S.C. § 1070a(c)(emphasis added).

The legislative history of this statutory provision states:

H.R. 3700 permits students to qualify for Pell Grants if they are studying English in order to qualify for employment based on their already existing knowledge, training or skills. The Committee has amended the law to ensure and to reemphasize its long-standing intent that Pell Grant eligibility should always have been available under the existing language for a person already possessing vocational knowledge, training or skills in a recognized occupational but who cannot obtain gainful employment in that occupation for lack of skill in English [...] It is, of course, the responsibility of institutions offering English instruction to persons purporting to possess presently the skills of a recognized occupation to make such a determination.

H.R. Rep. No. 99-383 (emphasis added).

The Department issued a regulation implementing this statutory provision, which provides as follows:

(1) In addition to satisfying the relevant provisions of this section, an educational program that consists solely of instruction in ESL qualifies as an eligible program if—

- (i) The institution admits to the program only students who the institution determines need the ESL instruction to use already existing knowledge, training, or skills; and
- (ii) The program leads to a degree, certificate, or other recognized educational credential.

(2) An institution shall document its determination that ESL instruction is necessary to enable each student enrolled in its ESL program to use already existing knowledge, training, or skills with regard to the students that it admits to its ESL program under paragraph (j)(1)(i) of this section.

34 C.F.R. § 668.8(j).

When promulgating the Final Rule that became § 668.8(j), the Department stated:

Under § 668.8, a student is considered to be enrolled in an eligible program, for purposes of the Pell Grant Program, if the program consists solely of instruction in English as a second language, if the program meets the other requirements for eligibility, and if the institution that offers the program determines that the program is necessary to enable the student to use already existing knowledge, training, or skills.

52 FR 45712, 45715 (emphasis added). The Federal Student Aid Handbook does not provide any additional guidance. In particular, the Handbook does not prescribe or dictate the type of documentation that an institution must use to document the student's need for ESL training in order to use already existing knowledge, training or skills. See 2014-2015 Federal Student Aid Handbook 2-21.

3. SOLEX Determined and Documented That Each of the Sixty-Three ESL Students in the OIG Sample Required ESL Training In Order to Use Pre-existing Knowledge, Training, or Skills

The Title IV regulations require that an institution with an ESL-only program “document its determination that ESL instruction is necessary to use already existing knowledge, training, or skills” with regard to its admitted students. 34 C.F.R. § 668.8(j)(2). This regulation is based on a statute that permits Pell Grants to be awarded to students attending courses “which are determined by the institution to be [...] necessary to enable the student to utilize already existing knowledge, training, or skills.” 20 U.S.C. § 1070a(c)(2) (emphasis added). The legislative history also emphasizes that the determination is to be made by institutions.

SOLEX made this determination, supported by multiple resources and multiple documents, for each of the 63 ESL students in the OIG's 75-student audit sample. First, all SOLEX Title IV ESL students complete a Skills Form on which SOLEX documents the students' preexisting knowledge, training, or skills. See OIG Audit Work Paper H.1.1, tab 1, columns AN-AV. This form provides SOLEX staff the information they need to make an initial determination that a prospective student has preexisting skills.

Second, SOLEX conducts a comprehensive analysis and assessment of each student's English proficiency and documents the results of its analysis in a form contained in each student's file. Specifically, each student takes an ESL placement test designed to assess the appropriate entry level of ESL training, the results of which are documented in the students' files. Based on those results, SOLEX determines the level of ESL training the student requires to use the preexisting knowledge, training, or skills documented on the Skills Form, and documents that determination on the Test Results and Assessment Form. Exhibit 1-4. Each step is documented: 1) the Skills Form and the signed Student Interview Checklist form; and 2) the Test Results and Assessment Form. Taken together, these two steps constitute SOLEX's determination, and document that determination, that students

"need the ESL instruction" and that they have "already existing knowledge, training, or skills."

The documentation of the College's assessment of each of these students already is contained in the record. The presence of the Skills Form for each student in the sample is acknowledged on the spreadsheet at OIG Audit Work Paper H.1.1, tab 1, columns AN-AV. The Test Results and Assessment Forms were in each file examined during the audit (with one exception), and SOLEX has provided a copy of each such form for each student in the sample in Exhibit 1-4. Finally, SOLEX has provided Student Interview Checklist Forms in Exhibit 1-2. We walk through a representative example of the documentation for one of these students in section 4.a below.

4. Finding No. 1's Allegations of Noncompliance are Contrary to Applicable Law and the Factual Record

OIG concluded in Finding No. 1 that: 1) SOLEX did not adequately document an ESL determination for the 63 ESL students in the student sample; 2) all students in SOLEX's ESL programs were ineligible to receive Pell Grants because non-Title IV eligible students were enrolled in the same program; and 3) sixteen ESL students who received Title-IV funds enrolled in the program to seek a volunteer position. We address each of these contentions below.

a. Finding No. 1 Does Not Acknowledge or Account For Test Results and Signed Documents From the Institution Analyzing the Results of Those Tests

Finding No. 1 is based upon a review of the files of sixty-three ESL students who received Title IV funds. The review found that all but one of the sixty-three students had, in their file, a Skills Form that "included a place for the student to indicate that he or she had already existing knowledge, training, or skills."

Finding No. 1 concludes that the Skills Forms for fifty-three of the sixty-three students were "either not fully completed by students or contained no evidence of having been reviewed and approved by a SOLEX College official." The Finding also states that the Skills Form does not contain "evidence that SOLEX College determined that the student needed [] ESL instruction to use [] already existing knowledge, training, or skills for gainful employment" and that its review more broadly did not show any such determination to be made. OIG stated its rationale to SOLEX in the following manner during its Exit Interview:

SOLEX considered each student's need for ESL instruction to be implied based on information collected during the admission process. OIG found the Application, Skills Form, and Interview Checklist did not include any items for the student or school official to indicate whether the student needed ESL instruction to use already existing skills. Skills Form only included documentation of preexisting skills, not documentation that SOLEX determined that the student needed ESL instruction to

use those skills for purposes of obtaining gainful employment. Interview Checklist contained no record of discussion with student.

OIG Audit Work Paper A.4.1. Similarly, the draft audit report states that OIG "found that SOLEX College's Application for Admission, original Pre-Existing Skills Classifications form, and Student Interview Checklist did not include any items for the student or a school official to indicate whether the student needed ESL instruction to use already existing knowledge, training, or skills for gainful employment."

These conclusions are deficient for several reasons. First, the draft audit report, as well as the stated rationale in the Exit Interview, overlooks a crucial and final step in SOLEX's determination: the Longman Test and the College's analysis of those results and its assignment of ratings to each student who takes the test. It is at this point that SOLEX is able to determine whether a student requires ESL training to use the preexisting skills already disclosed by the student. An applicant's need for ESL training therefore was not simply implied, but was explicitly determined through the use of the Longman Test and documented on the Test Results and Assessment Form.

The Finding does not account for the Test Results and Assessment Form, or the fact that a document signed by SOLEX officials that determines the level of English skill displayed by the applicant is present in each of the sixty-three sample-student files. Exhibit 1-4. Instead, the Finding focuses entirely on the Skills Form, on which the Finding imposes a documentary burden that the form was never meant to carry. SOLEX's determination cannot be properly evaluated based solely on the Skills Form without also taking into account SOLEX's analysis of the Test Results and Assessment Form. Together, these documents support the SOLEX determination that students required ESL training in order to be able to make use of their preexisting knowledge, training, or skills. The completed Skills Form documenting that the students have preexisting knowledge, training, or skills, and the completed Test Results and Assessment Form documenting SOLEX's determination of the level of ESL training required by the students based on an individualized analysis of the students' test results, are contained in the students' files. OIG Audit Work Paper H.1.1, tab 1, columns AN-AV, Exhibit 1-4.

The importance of the Longman Test, and the Test Results and Assessment Form, are apparent from the consideration of a representative audit-sample-student's file. Student #65 of OIG's audit sample enrolled in the IEP program on October 5, 2012. Contained within this student's file is a Skills Form signed and dated by the student on October 5, 2012. On that Skills Form, the student checked boxes stating that the student possessed previous skills and training applicable to the following Engineering/Technical duties: Technician, Assembler; and Maintenance. The student further indicated that the student obtained professional education in high school. SOLEX maintained this Skills Form in the student's file, documenting that the student possessed the preexisting knowledge, training, or skills identified on the Form.

Also contained within the student's file is a Test Results and Assessment Form, documenting the student's performance on the Longman Test and SOLEX's oral evaluation. The Form is dated October 5, 2012, and signed by a SOLEX official. The student is identified as having scored a Beginning-19% on the Longman Test, with associated subscores of Listening-20% and Written Structures-27%. On the basis of its assessment of these scores, SOLEX documented its determination that the student displayed Level 1 skills on the Longman Test, equivalent to a Low Beginner. SOLEX also documented that the student displayed Level 1 skills on its own oral evaluation. Based on these two performance indicators, SOLEX documented its Final Level determination that the student's need for ESL instruction was equivalent to that of a Level 1 student. SOLEX provided similar documentation for all sixty-two other ESL students in the audit sample. As shown, the Test Results and Assessment Form is an integral component of SOLEX's documentation of its determination that a student requires ESL training in order to use preexisting knowledge, training, or skills. Finding No. 1 does not address or analyze the Test Results and Assessment Forms of each student in the audit sample, and does not appear to have considered the individualized assessment that SOLEX made and documented on these forms for each student.

Second, neither the statute nor the regulations prescribe any requirements regarding the manner in which an institution documents its determination that a student requires ESL training in order to use preexisting knowledge, training, or skills. What the statute and regulations do make clear is that it is the institution's determination to make. SOLEX opted for a two-step process that involves multiple documents, standardized testing, and individualized assessments.¹⁴

Third, the Department's own internal communications not only acknowledge the lack of specific requirements pertaining to the manner in which an institution documents its determination, but specifically identify documentation of a test of a student's English proficiency as meeting the regulatory standard (assuming, presumably, the preexisting knowledge, training, or skills are elsewhere documented). An August 2, 1995 Memorandum from Jeffrey Baker, Director of the Policy Development Division at the Department, obtained through a Freedom of Information Act request, states that "proof that some kind of evaluation was made (for example, documentation of an analysis of the student's prior schooling, of an interview, or of a test of the student's proficiency in English) would be necessary to show that the student needed ESL training." Exhibit 1-5. Under this analysis, any one of these three suggestions would be sufficient documentation. Yet, SOLEX's determination uses all three of these suggestions: 1) SOLEX discusses with a student any prior education that they list on the Skills Form; 2) SOLEX holds an interview

¹⁴ On December 22, 2014, SOLEX notified OIG of proactive steps it was taking to improve its admissions practices. However, SOLEX's existing practices already complied with Title IV requirements for the reasons discussed in this response. SOLEX adopted these new steps to incorporate input from its regulators to enhance and improve its own best practices.

with a formal checklist signed by the student; and 3) SOLEX administers a standardized English proficiency test, evaluates the results of the test, and records its analysis on a form placed in the student's file.

This Memorandum responded to a July 17, 1995 Memorandum written by Keith Kistler, Acting Chief, Institutional Review Branch at the Department, in which Acting Chief Kistler wondered whether a program review finding pertaining to the insufficiency of an institution's documentation of its ESL determinations could be sustained "given the fact that our ESL regulations don't give us very many firm pegs to hang our hats on."¹⁵ Exhibit 1-6. He went on to note that "we gather from OGC's Steve Kraut that Dianne Van Riper of OIG may be recommending to Congress the removal of ESL from Title IV, because enforcement under the regulatory structure is too problematic."

While these Memoranda were written in 1995, in the intervening years the applicable regulation has not substantively changed, nor does the draft audit report cite to any guidance to the contrary issued by the Department since that time regarding ESL-only programs or institutions' documentation of their determinations. The draft audit report not only recommends a multi-million dollar liability for an institution with outstanding student satisfaction and outcomes on the basis of a regulation without any "firm pegs," but it does so while failing to consider documentation the Department's own internal communications acknowledge as fulfilling the requirements of the rule.¹⁶

Fourth, there is no regulatory basis for OIG's assertion that the Skills Form is deficient because, in some cases, it was not completed fully, or signed by a SOLEX official. The Department's regulations, at § 668.8(j), do not require any specific form of documentation of an institution's determination. Moreover, the College's signature or certification would be irrelevant to the student's certification of preexisting skills. What matters is that each student signed the Skills Form,¹⁷ SOLEX accepted a Skills Form from each of the sixty-three ESL students in OIG's sample, placed the form in the student's file, administered the Longman Test after receipt of the Skills Form, and evaluated the student's English language capabilities based on the results of that test.

b. 34 C.F.R. § 668.8(j) Is Not Meant to Prohibit Eligible ESL Students From Obtaining Pell Grants

¹⁵ The documentation at issue in that instance amounted only to a signed statement completed by the student certifying that the student had "completed the equivalent of the 12th grade in my native country of [BLANK]. I further certify that I have vocational skill from my country that can be transferred to the American work force." SOLEX's documented determinations, including the Skills Form and the ESL test results form, are significantly more robust.

¹⁶ OIG's workpapers do not contain any discussion of these Memoranda or any indication that OIG spoke with the Department about them or was aware of them.

¹⁷ Moreover, the draft audit report does not allege that the incomplete Skills Form failed to demonstrate the students' preexisting skills.

Finding No. 1 contends that all Pell funds disbursed to ESL students during the audit period must be disallowed if the College admitted one or more ineligible students into the program. Finding No. 1 claims that SOLEX's ESL programs do not comply with the requirement in 34 C.F.R. § 668.8(j) that a Title IV eligible ESL program enroll only students who require ESL training to utilize existing knowledge, training, or skills.

The OIG's reading of § 668.8(j), under which the admission of even one such student renders the entire program ineligible, is deficient for several reasons. First, the interpretation is contrary to the intent of the statute. The statute does not require that an eligible ESL program admit only students requiring ESL training in order to use preexisting knowledge, training, or skills and was meant to preserve Pell Grant eligibility for eligible students and courses. As discussed above, the legislative history demonstrates that the purpose of 20 U.S.C. § 1070a(c)(2) is to provide Pell Grant eligibility to students with preexisting skills who need English instruction in order to use those skills. Congress did not intend to revoke the eligibility of all such students if other non-Title IV eligible students were admitted to the program or if there are disputes over the adequate documentation of other Title IV students.

Second, the OIG's interpretation of the regulation is contrary to the intent of the regulation. OIG reads the Department's regulation to limit the Title IV eligibility of students rather than ensure that Pell Grants are available for "a person already possessing vocational knowledge, training, or skills" who lacks necessary English skills. All of the ESL students in the audit sample are "person[s] already possessing vocational knowledge, training or skills in a recognized occupational but who cannot obtain gainful employment in that occupation for lack of skill in English," the very people for whom Congress was "reemphasizing its long-standing intent that Pell Grant eligibility" be available. OIG has made no allegation that the quality of ESL training SOLEX provided to these students would in any way be affected by the inclusion in the program of students not requiring ESL training to utilize their existing vocational knowledge, training, or skills.

The regulatory history underlying § 668.8(j) indicates that the Department did not intend to restrict Pell Grant eligibility to courses enrolling only students who require ESL training to utilize existing knowledge, training, or skills. The Department's intent was to restrict Pell Grant eligibility to *students* who require ESL training for the specified purposes. This interpretation comports with common sense; the actual instruction is identical for students regardless of whether other students were to enroll in the ESL program without preexisting skills or need for ESL training to use those skills. The presence of a non-Title IV eligible student in the classroom in no way expands Pell Grant eligibility in violation of the Department's stated purpose: to restrict eligibility on a student-by-student basis depending on whether a student needs ESL training to use preexisting skills. Moreover, the Department's view has been that the willingness of students to pay cash for a program is an indicator of that program's quality, not a basis for disallowing all federal aid to other students enrolled in that program.

One can imagine a hypothetical ESL program that enrolls forty students, all of them documented as having preexisting knowledge, training, or skills, and all of them documented as requiring ESL training in order to develop the English proficiency necessary to use that knowledge, training, or skills. Under any interpretation, that program would meet the requirements of § 668.8(j) and each student would be eligible to participate in the Pell Grant program. Imagine, then, that the ESL program enrolls a single additional student who receives no Title IV funds and who does not require ESL training to utilize preexisting knowledge, training, or skills. Solely on the basis of that single additional student's enrollment, despite the training provided to the original forty students not being altered in any way, under OIG's interpretation, the entire program and all forty-one students enrolled in the program would not be Pell Grant eligible. This interpretation is contrary to the intent of both Congress and the Department of Education that students requiring ESL training in order to use existing knowledge, training, or skills be eligible for Pell Grants when enrolled in ESL-only programs providing such ESL training.¹⁸ The interpretation also exceeds the Department's circumscribed HEA authority, which extends to the administration of the federal student aid programs but not beyond. The OIG and the Department lack any authority to sanction an institution or to determine Title IV eligibility based solely upon facts pertaining to one or more students who never received any Title IV funding and who were determined by the institution to be non-Title IV eligible from the outset.

Third, the Department itself has conducted reviews at SOLEX and not identified eligibility findings in the ESL programs. The Department visited SOLEX in September 2011 as part of an Institutional Assistance Visit, and again in November 2011. The Department did not, in either visit, indicate that SOLEX was administering its programs incorrectly or that SOLEX's ESL programs were out of compliance. See OIG Work Paper B.4.PRG. SOLEX's compliance audits for 2011, 2012, and 2013 also had no findings.

Fourth, SOLEX's accrediting body, ACICS, has reviewed the College's ESL programs under standards similar to those of the Department's and not identified any eligibility findings in those programs. SOLEX's ESL programs have been approved by ACICS since

¹⁸ The OIG's interpretation – which would prohibit non-eligible students from attending an eligible ESL-only course – is contrary to the Federal prohibition on control over an institution's programs. 20 U.S.C. § 1232a states :

No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the... program of instruction... of any educational institution...

The OIG's interpretation would result in a federal prohibition on the discretion of a U.S. college to permit a non-Title IV student from sitting next to a Title IV eligible student in the same classroom. This is tantamount to the Department controlling the academic instruction in the program itself in direct violation of § 1232a. SOLEX believes the OIG's draft report represents an improper attempt to exert federal control over its program of instruction.

December 10, 2009, when SOLEX was granted initial accreditation. At that time, as well as when SOLEX's accreditation was reaffirmed in 2012, ACICS reviewed SOLEX's programs, including its ESL programs, and found them to be in compliance with the ACICS Accreditation Criteria, including Appendix F governing ESL programs. *Id.* ACICS explicitly stated in the Evaluation Team Reports associated with the 2009 grant of accreditation and the 2012 reaffirmation that it found sufficient evidence to conclude that SOLEX's ESL programs administer a nationally recognized examination of English comprehension at students' admission, and that SOLEX verified at admission, with supporting documentation, that all students enrolling for a vocational purpose possessed preexisting knowledge, training, or skills. OIG Audit Work Paper B.4.PRG documents OIG's review of these Reports.

For all of these reasons, the regulatory interpretation underlying Finding No. 1 is contradicted by the legislative and regulatory history of the ESL provisions and by prior reviews of SOLEX's ESL programs. Moreover, the regulatory interpretation yields an irrational result that is not consistent with the legislative and regulatory purpose and intent. Finding No. 1 does not articulate a rationale for its restrictive reading of the regulation or cite to authority demonstrating that Congress or the Department intended such a result. Instead, the authority supports the conclusion that the eligibility of Title IV recipients enrolled in an ESL program would not be impacted by the enrollment of non-Title IV eligible students in the ESL program.

c. SOLEX Satisfied the Documentation Requirements for Each of the Sixteen Students Cited As Noncompliant in Finding No. 1

The draft audit report states "SOLEX College admitted to its two ESL programs students who were taking the programs for reasons other than to use their already existing knowledge, training, or skills for gainful employment." Finding No. 1 identifies sixteen students it believes enrolled in an ESL program for a purpose other than obtaining gainful employment (i.e., volunteering). The Finding relies not on documentation or statements from students at the time of enrollment, but rather on the results of surveys purportedly answered by these students by regular mail during the OIG audit.

The documentation collected by SOLEX at the time of the student's enrollment demonstrates the eligibility of each of these sixteen students as already discussed in section 4.a. For example, the OIG identified student #8 of its audit sample as a student who enrolled in SOLEX's ESL programs for the purpose of volunteering as a companion to the homebound based on the student's survey response. OIG Work Paper H.2.1. However, the student filled out and signed a Skills Form dated October 29, 2012, the same date on which the student signed the enrollment agreement. OIG Audit Work Paper H.2.1-8. On that Skills Form, the student checked boxes indicating that the student had previously existing skills or training pertaining to Accounting/Bookkeeping, Bank Teller, and Cashier. *Id.* The student also indicated that the student's professional education was obtained in high school. The student filled out this form and participated in an admissions interview, the signed and dated checklist for which is also contained in the student's file. Exhibit 1-2.

That same day, SOLEX administered to the student the Longman Test in order to determine the student's English proficiency and need for ESL training in order to use the student's preexisting skills. The student scored a Beginning – 17% on the test, including a 12% in Listening and a 6% in Written Structures. Exhibit 1-4. SOLEX conducted an individualized assessment of those scores. The results of that assessment are reflected in the Test Results and Assessment Form that indicates that the student's appropriate Final Level Resolution was Level 1 and that the student's English skills were at a Low Beginner level. *Id.* SOLEX thus satisfied the documentation requirements for the student, as it did for the fifteen other volunteer students.

d. OIG's *Post Hoc* Survey of Sixteen ESL Students Does Not Rebut SOLEX's Contemporaneous Determinations Regarding the Students' Need for ESL Training In Order to Use Preexisting Knowledge, Training, or Skills

The OIG's *post hoc* survey results do not provide a basis for questioning the Pell disbursements to the 16 students at issue (nor the disbursements made to the other 397 students for whom the OIG has not provided any such *post hoc* documentation) for several reasons.

First, the surveys do not provide a basis for undercutting the College's contemporaneous determinations of eligibility for these students because the responses constitute *post hoc* documentation. SOLEX made and documented its determination that each of the sixteen students identified by OIG required ESL training in order to use preexisting knowledge, training, or skills at the time of enrollment. The OIG may not substitute its own *post hoc* determination for the contemporaneous determination made by SOLEX (inasmuch as the statute states that the institution makes this determination). Moreover, any *post hoc* information OIG obtained from student surveys is irrelevant to the determination.

The OIG already has taken the position in this audit that it will not accept *post hoc* documentation on this matter. When SOLEX furnished updated Pre-Existing Skills Classification forms that SOLEX began employing, including for students contained within the audit sample, the OIG refused to accept the documentation as reflected in its audit work papers:

We did not accept the revised form as evidence that SOLEX College made an appropriate determination because SOLEX College did not document its determination at the time that it was admitting each student to the ESL program. Making the determination after admitting the student and after the disbursement of Title IV funds does not satisfy the regulatory requirement.

Thus, the OIG's position is clear that it will not consider or deem credible information furnished after the admission of the students. But, this is precisely the case with the

surveys the OIG wishes to rely upon regarding the sixteen students. The survey responses were obtained years after the admission of the students and the College's determination of their eligibility and, therefore, should be disregarded.

Second, SOLEX cannot be held responsible retroactively for answers that sixteen graduates may have provided years after enrolling in their ESL program. SOLEX based its eligibility determinations on information provided by these graduates when they were prospective students, and as part of the regimented admissions process. SOLEX was entitled to rely on the information these students provided during the admissions process. Any variation between that information and the information provided in response to the survey several years after the fact is not relevant to the reasonability of the college's determination based on the facts presented to it at the time of determination.

Third, the surveys are deficient because they do not inquire about the information the survey respondent provided to SOLEX at the time of enrollment. The surveys do not ask the respondent to explain or reconcile discrepancies between the survey results and the information communicated to SOLEX at the time of enrollment. Instead, Finding No. 1 seeks to rely exclusively on the results of the surveys in lieu of documentation furnished to SOLEX at the time of enrollment and without questioning or evaluating what the student was told at the time of enrollment and what the student communicated to the school. The surveys do not focus on the fundamental issue of whether the student had preexisting skills and whether the school documented the student's need for ESL instruction to use those skills.

The surveys are unhelpful because they lack the necessary follow-up questions that cannot be asked in a simple form (which the school was not provided an opportunity to review or comment on in advance). The document does not provide students with, or remind them of, the answers they provided back at the time they enrolled in the college. The document does not ask the student what he or she communicated to SOLEX at the time of enrollment. The document does not ask whether, as reflected in the Interview Checklist, the school discussed the student's career goals in advance of the program. The document does not ask whether the student was told that the college's practice was to not allow a student to receive Title IV funds for an ESL program if he or she intended to take the program for non-vocational reasons. The surveys should be focused on what the student communicated at the time of enrollment, rather than a retrospective account influenced by years of intervening circumstances and faded memories.

The surveys also did not ask follow-up questions triggered by the responses allegedly provided by the students. For example, in the few cases in which a student indicated that he or she did not enroll in the ESL program to get a job and that he or she was working as a volunteer, the surveys did not ask: 1) did she state to SOLEX that she intended to use her training for volunteering purposes when she enrolled; 2) did she intend to use her skills at the time of enrollment, but begin volunteering following graduation because she could not find a paid position; 3) might her volunteer position become a paid position over time; 4)

might her volunteer position assist her in obtaining a different paid position; or 5) might she seek a paid position at some point in the future?¹⁹

The surveys also do not permit the type of probing questions that one would need to ask in order to assess the credibility of the responding party. Is the student answering the questions out of pride (i.e., not wanting to admit that he or she sought to use ESL training to obtain a job, but was unable to obtain one due to economic, social, or other circumstances)? Did the student's plans change during the years after graduation and has that impacted the student's memory of what his or her original plans were? How does the student reconcile his or her answers with the answers and documentation furnished to the college at the time of admission?

The responses are not credible without a full exploration of the student's history and state of mind at the time of enrollment, particularly where, as here, the students likely do not understand the legal nuances of the questions being asked. While it may have been convenient for auditing purposes to send out a survey with a few questions, the inability to ask follow-up questions of the survey respondents and the failure to ask follow-up questions in response to the surveys renders the results unpersuasive and insufficient to support the recommendations suggested in Finding No. 1.

Fourth, the work papers summarizing the auditors' attempts to conduct telephone interviews with eight students, including four they assert were ineligible because they purportedly sought ESL training for purposes other than to use preexisting knowledge, training, or skills to obtain gainful employment, demonstrate the inadequacy of the survey responses. See OIG Work Paper H.2.1. In three of these four cases, the work papers state that the student's written response "did not provide information to conclude whether (s) he did or did not enroll in ESL to use already existing knowledge, training, or skills for gainful employment" but also that OIG was unable to obtain any information based on its telephone interview. *Id.* Despite stating that the written response was insufficient to make a determination and, acknowledging that the telephone interview provided no additional information, contrary to the statute's explicit language, OIG attempts to substitute its own determination for SOLEX's contemporaneous determination made and documented through the Skills Form and the Test Results and Assessment Form.

Fifth, even if one assumed that some or all of the sixteen students enrolled in the ESL programs with the intention at the time of not seeking employment, there was and is no

¹⁹ SOLEX is aware, for example, of two graduates of its ESL programs, students #300 and 459 of the Student Universe identified in OIG Audit Work Paper F.1.2, who worked as volunteers following their graduation, but whose volunteer positions led directly to paid positions at the same entity. Exhibit 1-7. Both of these students attended during the audit period and both received Title IV funds. Had these students received OIG's survey, depending on the precise timing of their promotions to paid positions, they likely would have responded that they were volunteers and OIG would have concluded that they did not meet the requirements of § 668.8(j).

legal requirement that SOLEX document each student's intent to obtain gainful employment. As noted in section 3, SOLEX documented its determination that students require ESL training in order to use preexisting knowledge, training, or skills. SOLEX did not require a prospective student to certify that the student enrolled for the purpose of obtaining gainful employment. Neither the statute, nor the regulation, nor any Department guidance cited in Finding No. 1, requires an institution to determine that a student attending an ESL-only program has certified his or her intent to use such training to obtain gainful employment. See 20 U.S.C. § 1070a(c)(2); 34 C.F.R. § 668.8(j)(2); Handbook 2-21. The law does not require that each graduate of an ESL-only program actually obtain gainful employment on the basis of the ESL training.²⁰ The law requires the institution to document that the student requires ESL training in order to utilize pre-existing skills. Department officials have acknowledged implicitly this point in internal guidance regarding the requirement to document ESL Student Eligibility:

[The regulation] states "An institution shall document its determination that instruction in ESL ... is necessary to enable each student whom it admitted to use already existing knowledge, training, or skills."

While the regulations do not specify what kinds of documentation institutions must provide, prior policy guidance to program reviewers (see the attached memos of May 4, 1987, and September 28, 1989) has interpreted the regulations to hold institutions responsible for evaluating the student separately on two qualifications:

- a) Whether the student possess knowledge, training or skills.
- b) Whether the student needs the ESL instruction to use already existing knowledge, training or skills

See Exhibit 1-5. This is precisely what SOLEX did by documenting that the student possessed pre-existing skills and then documenting that the student's lack of English proficiency necessitated ESL training in order for the student to utilize those skills. The Department does not require institutions to obtain a certification or other documentation of the student's intent to obtain gainful employment following graduation.

Sixth, the fact that certain students currently may be engaged in volunteer activities would not provide a basis for disallowing Pell disbursements to those students or for every other student enrolled in the ESL programs. Student success in obtaining employment is

²⁰ The Department already has a gainful employment regulation that takes effect on July 1, 2015 and that prescribes certain metrics that certain programs, including the ESL programs, must meet. Should these potential volunteers not translate their education into paying positions, then the ESL programs may fail to meet the gainful employment metrics. But it will be at that point, not now, when the Department will assess whether SOLEX's ESL programs lead to gainful employment.

not a prerequisite to establishing a student's eligibility to receive Title IV funding for an ESL program.

SOLEX also disagrees that volunteer positions do not constitute gainful employment. Volunteering provides an individual with opportunities to demonstrate preexisting knowledge, training, and skills, which opportunities are crucial to obtaining employment. A skills-based volunteer position fills this educational deficit by showing future employers a history of exposure to and success in a relevant field. This principle is particularly important to SOLEX students, whose opportunities for demonstrating knowledge and skills, whether as students or employees, were often in foreign countries.²¹

Seventh, Finding No. 1 focuses on the age of some of the students enrolled in the ESL programs during the audit period. To the extent the Finding is suggesting that Title IV funding should not have been provided to the 16 students because of their age, the suggestion is contrary to law. Finding No. 1 noted that these sixteen students were between 71 and 83 years of age, and that more generally 43% of the Title IV recipients in SOLEX's ESL programs were 70 years of age or older. Based on that information OIG concluded "there is an inherent risk that SOLEX College enrolled students in ESL programs for purposes other than to use their already existing knowledge, training, or skills for gainful employment."

Finding No. 1 provides no authority for its conclusion that a student's age impacts the likelihood that the student will obtain gainful employment. SOLEX is explicitly prohibited by the Age Discrimination Act of 1975 and the Department's implementing regulations, at 34 C.F.R. § 110.10(b), from "us[ing] age distinctions [...] that have the effect of [...] limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance" (i.e., the ESL programs). Considering older students as inherently more risky with respect to meeting the requirements of § 668.8(j) would limit their opportunity to participate in the Title IV programs in violation of 34 C.F.R. § 110.10(b).

Eighth, even if one incorrectly concluded that one or more of the sixteen students was ineligible, the appropriate remedy would be to disallow the Title IV funds disbursed to those particular students, not to all students enrolled in the program. Finding No. 1 recommends that the Department impose a liability covering not just the Pell Grant funds awarded to the sixty-three sample students, but also the Pell Grant funds awarded to the remaining 350 students enrolled in the ESL programs during the audit period. The Finding's recommendation is unsupported because: 1) it is based on a flawed principle that would result in a program losing Title IV eligibility if it enrolls even one ineligible student (or insufficiently documents the eligibility of even one student) and 2) the Finding has not examined the eligibility of any of the 350 ESL students outside the audit sample

²¹ To the extent that the Finding suggests that the student intended to obtain employment as a volunteer, we refer to the prior discussion above regarding the relevance and credibility of those responses.

(nor has it correctly evaluated the eligibility of the sixty-three ESL students in the audit sample).

5. Conclusion

For the reason discussed above, SOLEX College respectfully requests that Finding No. 1 be closed and that the recommendations proposed in the draft finding be withdrawn.

This is SOLEX College's response to draft Finding No. 2 ("SOLEX College Did Not Identify and Resolve Discrepancies in Information About Students Applying for Title IV Finds") in OIG's Draft Audit Report bearing control number A0500007. Finding No. 2 alleges that SOLEX College did not identify or resolve discrepancies in information about the high schools attended by students when determining student eligibility for Title IV funds.

In reviewing the files of 75 randomly selected students, OIG identified discrepancies regarding the high school attended by the student in five student files. As discussed below, these discrepancies had the potential to impact only one of the five students' eligibility for Title IV funds and a correction to the ISIR was only required in two of the five cases (i.e., less than 3% of the student files reviewed).

Schools are required to correct and submit for processing any error in a non-dollar item on a student's original FAFSA if that student was selected for verification.²² Of the five students identified by OIG, only one student had been selected for verification. This student, #65 of OIG's 75-student audit sample, misidentified the student's high school number on the original FAFSA. The correct high school number was documented in the student file maintained by SOLEX. This discrepancy was overlooked at the time of verification but did not impact the student's eligibility for aid because the student had, in fact, graduated from high school.

For students who are not selected for verification, a school is only required to correct and submit for processing those errors reported on the original FAFSA "that would change the EFC or that determine the student's eligibility for aid."²³ The remaining four students were not selected for verification.

Two of the four students, #8 and #18 of OIG's audit sample, misidentified their high school numbers on their original FAFSA. Again, the correct high school number was documented in the student files maintained by SOLEX. This discrepancy did not impact either student's eligibility for federal financial aid and, therefore, SOLEX was not required to correct the errors on the ISIR. In these two cases, the Director of Financial Aid did identify and resolve the discrepancy, but did not submit the corrections to be resolved on the ISIR because such action was not required.

The remaining two students erroneously indicated on their FAFSA that they did not graduate from high school. In one case, SOLEX identified the discrepancy but chose not to submit a correction because the student was eligible under the ATB alternative and, therefore, the mistake on the original FAFSA did not impact the student's eligibility for aid. This student was #44 of OIG's audit sample.

²² 2015-2016 *Application and Verification Guide*, at 88.

²³ *Id.*

The final student, #3 of OIG's audit sample, had also erroneously indicated on the FAFSA that the student did not graduate from high school. SOLEX verified and documented that this student had graduated from high school making the student eligible for federal student aid.

These five cases were isolated incidents, none of which would have resulted in any Title IV liabilities.

Despite the low frequency with which such errors have occurred at SOLEX, SOLEX has taken significant steps to identify any future discrepancies and to train its financial aid staff in identifying and resolving such discrepancies.

As of September 1, 2014, SOLEX has utilized a revised Financial Aid Checklist Form that includes a High School Diploma cross check. *See OIG Work Paper A.3.5, at Attachment #3.* Financial aid employees are now required to actively identify whether the high school information contained on the ISIR matches the high school information contained in the student's Application for Admission and Attestation of High School Diploma or GED. The checklist is maintained in each student's financial aid file.

We recognize that the OIG indicated that it believes that this update to the form was not sufficient to ensure that discrepancies regarding the high school name identified in the student's Attestation of High School Diploma or GED, Application for Admission, and ISIR would be resolved.²⁴ We respectfully disagree with this assessment of the revision. The revised form requires financial aid employees to actively identify any discrepancies in high school information and SOLEX's *Financial Aid Policies and Procedures* further require that such discrepancies be resolved. The checklist and documentation pertaining to resolution are maintained in the student's financial aid file.

The Draft Audit Report emphasizes the importance of identifying discrepancies in high school information provided by the student. However, the addition to the form made in September 1, 2014 is intended to ensure that financial aid employees are specifically reviewing all information provided by the student about his/her high school, including but not limited to the name of the high school attended, and identifying any discrepancies.

In addition to identifying such discrepancies, SOLEX's *Financial Aid Policies and Procedures* require that conflicting information pertaining to student eligibility be formally resolved. The Policies state: "The Financial Aid Officer reviews documents to make sure there is no conflicting information in file. If so, the student is contacted in an attempt to resolve any conflicts." The Policies provide that the information that must be verified prior to awarding financial aid includes "High School Completion (GED/postsecondary institution)." See Exhibit 2-1.

²⁴ See page 10 of the Draft Audit Report.

Upon identifying a discrepancy, SOLEX sends a letter to the student regarding the mistake or inconsistency. See Exhibit 2-2. The letter to the student explains that the discrepancy must be resolved before financial aid can be awarded and that the student may also be required to correct the information on his/her FAFSA. The correspondence to and from the student demonstrating resolution, or a lack thereof, is maintained in the student's file. Financial aid will only be awarded to a student after all items, including the high school match, have been verified and any discrepancies have been resolved. Documentation of such resolution will be maintained in the student file.

SOLEX has also started monthly training for admissions staff, including training on verifying high school information. A bi-monthly seminar focused on how to resolve discrepancies was initiated in January of 2015. SOLEX has also hired a third-party consultant to conduct regular reviews of its forms, including the Financial Aid Checklist Form. The consultant has confirmed that these forms are meeting all applicable requirements.

Finding No. 2 focuses on isolated occurrences of alleged noncompliance. Despite the limited scope of the Finding, SOLEX has taken broad action through revised documentation, policies, and training to ensure that discrepancies in high school information are identified and resolved on a going forward basis. For these reasons and the reasons discussed above, SOLEX College respectfully requests that Finding No. 2 be closed and that the recommendations proposed in the draft finding be withdrawn.