U.S. Department of Education
Office of Inspector General

Office of the Chief Privacy Officer's Processing of Family Educational Rights and Privacy Act Complaints

November 26, 2018
ED-OIG/A09R0008

NOTICE

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

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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

Audit Services

November 26, 2018

TO: Denise L. Carter
Acting Assistant Secretary
Office of Management

FROM: Bryon Gordon /s/
Assistant Inspector General for Audit

SUBJECT: Final Audit Report, "Office of the Chief Privacy Officer's Processing of Family Educational Rights and Privacy Act Complaints," Control Number ED-OIG/A09R0008

Attached is the subject final audit report that consolidates the results of our review of the Office of the Chief Privacy Officer's processing of Family Educational Rights and Privacy Act complaints. We have provided an electronic copy to your audit liaison officer. We received your comments agreeing with the finding and recommendations in our draft report.

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

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

We appreciate your cooperation during this review. If you have any questions, please contact Ray Hendren, Regional Inspector General for Audit, Sacramento Audit Region at (916) 930-2399 or ray.hendren@ed.gov.

Attachment

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Results in Brief

What We Did

The objective of our audit was to determine whether the Office of the Chief Privacy Officer had controls to ensure that it timely and effectively processed complaints received under the Family Educational Rights and Privacy Act.

Our audit covered the U.S. Department of Education (Department), Office of the Chief Privacy Officer's (Privacy Office) processing of Family Educational Rights and Privacy Act (FERPA) complaints that were open for at least one day during fiscal year (FY) 2017, regardless of when the Privacy Office originally received the complaints. Processing of FERPA complaints refers to all actions that the Privacy Office has taken related to the complaints, including receiving, recording, reviewing, tracking, dismissing, investigating, and closing the complaints. We limited our scope to the complaint processing activities that the Privacy Office performed from the time it received the complaints through the end of FY 2017 (September 30, 2017). We also obtained information about changes that the Privacy Office made to its complaint processes during FY 2018 while the audit was underway.

We sampled 74 complaints from four categories: completed investigations, open investigations, inactive complaints, and dismissed complaints. We obtained and reviewed documentation of activity related to each sampled complaint, including the original complaint and correspondence associated with the processing of the complaint. We also obtained other relevant documentation and interviewed Privacy Office personnel to help us evaluate the timeliness and effectiveness of the Privacy Office's FERPA complaint processing.

What We Found

The Privacy Office did not have controls to ensure that it timely and effectively processed FERPA complaints during our audit period. The Privacy Office had a longstanding and substantial backlog of unresolved FERPA complaints that prevented timely and effective resolution of new complaints it received. It also had a number of significant control weaknesses that hampered its ability to resolve FERPA complaints. Unresolved FERPA policy questions have also affected the Privacy Office's ability to resolve certain complaints. The Privacy Office placed many of these complaints into an indefinite inactive status as a result.

The Privacy Office could not precisely quantify the unresolved complaint backlog due to weaknesses in its tracking process, but Privacy Office officials estimated they were about 2 years behind on complaint investigations. Based on the number of open complaints that warrant investigation and the number of investigations the Privacy

Office completed in FY 2017 and part of FY 2018, we concluded that the backlog may be significantly greater than 2 years. According to one official, the Privacy Office has experienced an increase in both the volume and complexity of incoming FERPA complaints in recent years.

The Privacy Office had an opportunity to eliminate, or at least significantly reduce, the complaint backlog beginning in FY 2015 when it received authority to hire several additional staff for the student privacy function. Despite highlighting elimination of the significant complaint backlog as one of the primary benefits of increasing its staffing level, the Privacy Office dedicated the majority of the new staff it obtained to performing FERPA work unrelated to resolving existing complaints, such as providing technical assistance, training, and guidance on best practices. Although these other FERPA activities are important and can lead to fewer complaints in the future, it is critical that the Privacy Office focus its attention on eliminating or reducing the backlog to ensure it is meeting its legal obligation to timely and effectively resolve FERPA complaints and reduce the risks to students and the Department caused by substantial delays in resolving complaints. The Privacy Office does not have a plan to eliminate the complaint backlog despite characterizing the backlog as among its highest management priorities.

We also identified significant control weaknesses in how the Privacy Office designed and implemented processes for evaluating, tracking, and resolving FERPA complaints. These weaknesses contributed to the backlog and led to untimely and ineffective complaint processing. The Privacy Office's complaint tracking process and systems were inadequate and did not allow the Privacy Office to identify the number of individual complaints it had received or track the status of those complaints. As a result, the Privacy Office did not have reliable or complete data on its complaint resolution operations and could not set meaningful performance goals or evaluate its performance.

The Privacy Office did not have a consistent or appropriate complaint resolution process during our audit period. The Privacy Office placed some complaints that required an investigation into an inactive status. The Privacy Office also did not have current written policies and procedures to guide staff responsible for resolving complaints. It left many critical decisions to the discretion of individual caseworkers, and managers did not sufficiently oversee caseworker activity, which led to inconsistencies in complaint handling. The Privacy Office also did not always communicate effectively with complainants during the time that complaints were open. Finally, the Privacy Office generally processed complaints in the order they were received rather than evaluating the risk of each complaint and prioritizing complaints with the highest risk or greatest potential impact.

FERPA violations can have significant ramifications for students. Because of weaknesses in its FERPA complaint resolution processes, the Privacy Office did not ensure the timely remediation of violations, which may have compounded the adverse impact on students. For example, when a school inappropriately releases personal information[1] from a student's education record, the student can face consequences including a loss of reputation, harassment, and retaliation. Further, when a school denies a student the opportunity to access, review, and correct the information in their education record, the student can lose out on important educational or employment opportunities. Complainants rely on the Privacy Office to take prompt enforcement action on their complaints when warranted. The backlog and ineffective communication with complainants could also result in diminished public trust in the Department.

Privacy Office officials took certain actions during FY 2017 and into FY 2018 to improve their ability to timely and effectively resolve FERPA complaints. We evaluated the sufficiency and appropriateness of only those actions that were fully implemented during our audit period.

What We Recommend

We recommend that the Acting Assistant Secretary of the Office of Management require the Privacy Office to take a variety of actions to address the complaint backlog and to correct the control weaknesses associated with its complaint resolution processes.

- The Privacy Office should allocate appropriate resources to eliminate the current unresolved complaint backlog so that it can resolve complaints in a timely manner going forward. The Privacy Office should also work to resolve FERPA policy issues that affect its ability to resolve certain complaints.
- To eliminate control weaknesses, the Privacy Office should ensure its policies and procedures are appropriate and comprehensive to effectively guide staff that resolve complaints as well as managers that oversee their work. The Privacy Office should also implement an effective complaint tracking process to ensure it can maintain reliable and complete information on the status and outcome of all complaints received. In addition, the Privacy Office should develop meaningful performance standards for the complaint resolution function and for staff that resolve complaints. The Privacy Office should also avoid putting

[1] We use the term "personal information" in this report to refer to "personally identifiable information" from a student's education record that is protected under FERPA. This could include information such as a student's grades, disciplinary history, or medical information.

complaints that warrant an investigation into an "inactive" status. Finally, the Privacy Office should ensure it communicates timely and effectively with complainants and develop a process for evaluating the risk of incoming complaints to ensure that high-risk or high-impact complaints are assigned the highest priority.

We provided a draft of this report to the Department's Office of Management, which oversees the Privacy Office, for comment. The Office of Management agreed with the finding and all recommendations and described corrective actions that it had taken or planned to take to address each of the recommendations. The Office of Management provided two factual clarifications related to specific information in the draft report. The Office of Management also stated that it could be perceived that the draft included material covered by attorney-client or deliberative process privileges. We revised the report based on the comments provided. The revisions did not change our finding, conclusions, or recommendations. We included the full text of the Office of Management's comments at the end of this report.

Introduction

Background

FERPA grants certain rights and privacy protections to parents and students regarding student education records. FERPA applies to all schools (elementary, secondary, and postsecondary) that receive Federal education funding under any applicable program administered by the Department, as well as to educational agencies such as school districts and State departments of education. For students under the age of 18, FERPA and the Department's implementing regulations afford privacy rights to parents with respect to their children's education records unless the student is attending a postsecondary school. Once a student turns 18 or attends a postsecondary school, only the student has FERPA privacy rights as an "eligible student."[2] The rights that FERPA affords include the right to review the student's education records maintained by the school, and to request that the school correct records that the parent or eligible student believes to be inaccurate, misleading, or that violate the student's rights to privacy. Parents and eligible students also have the right to file a complaint with the Department if they believe their FERPA rights have been violated.

[2] If a parent with FERPA rights files a complaint for their child, the parent will continue to maintain FERPA rights for that complaint even if the child turns 18 years of age or begins postsecondary school.

Schools generally must obtain written consent from the parent or eligible student before disclosing information from the student's education record. However, schools can release education records, or the personal information contained therein, without consent under certain circumstances, such as providing the records to a school official who has a legitimate educational interest in the information, to other schools to which the student is transferring, or to authorized officials in connection with an audit or judicial order. Schools can also disclose "directory information" (such as a student's name, address, phone number, and date and place of birth) without consent as long as they inform the parent or eligible student of their policy regarding directory information and allow a reasonable amount of time for them to opt out of sharing the directory information.

Under Title 20, U.S. Code, Section 1232g(f) and (g), the Department is required to establish an office for the purpose of investigating, processing, reviewing, and adjudicating FERPA violations and complaints of alleged FERPA violations and to take "appropriate actions" to enforce FERPA. Under Title 34, Code of Federal Regulations (C.F.R.), Section 99.60(b), the Department has designated the Privacy Office as the office responsible for enforcing FERPA, including investigating, processing, and reviewing complaints, and providing technical assistance to help ensure compliance with FERPA. The law and regulations generally do not specify how the Department should process complaints or establish timeframes for resolving complaints. Instead, the Privacy Office has discretion as to how it resolves FERPA complaints.

In addition to enforcing FERPA, the Privacy Office is also responsible for administering two other laws related to student privacy: the Protection of Pupil Rights Amendment and the military recruiter provisions of the Every Student Succeeds Act. However, Privacy Office officials told us that 95 percent or more of the Privacy Office's student privacy workload is related to FERPA. In addition to its work on student privacy, the Privacy Office administers other statutes for the Department, such as the Freedom of Information Act, the Privacy Act, the Federal Records Act, and the Paperwork Reduction Act.

The Family Policy Compliance Office (Compliance Office) within the Privacy Office is responsible for conducting FERPA compliance and enforcement activities, including processing and investigating FERPA complaints. Until 2017, the Compliance Office was formally responsible for all of the Privacy Office's activities related to FERPA. In January 2017, the Privacy Office created a new division called the Student Privacy Policy

and Assistance Division (Policy and Assistance Division).[3] The Policy and Assistance Division assumed responsibility for certain FERPA-related functions that the Compliance Office had previously performed. Table 1 shows the respective responsibilities of the Compliance Office and the Policy and Assistance Division.

Table 1. FERPA Responsibilities of the Compliance Office and the Policy and Assistance Division

Activity	Compliance Office	Policy and Assistance Division
Complaint resolution and enforcement	Yes	No
Technical assistance (a)	Yes	Yes
Policy development and issuance of best practices guidance	No	Yes
FERPA compliance training and maintenance of studentprivacy.ed.gov	Yes	Yes

(a) In general, the Compliance Office provides technical assistance to parents and students and the Policy and Assistance Division provides technical assistance to educational agencies and schools.

FERPA complaints must be submitted to the Compliance Office in writing. The Compliance Office has a complaint form on its website that complainants can submit online or by mail or email. A FERPA complaint must meet the following three criteria to warrant an investigation by the Compliance Office:

1. the complainant must have standing (be a parent or eligible student),
2. the complaint must be timely (submitted to the Compliance Office within 180 days of the date of the alleged FERPA violation or the date that the complainant knew or reasonably should have known of the alleged violation), and
3. the complaint must contain specific allegations of fact giving reasonable cause to believe that a FERPA violation may have occurred.

[3] The Compliance Office was the office designated by the Secretary at 34 C.F.R. Section 90.60 as responsible for FERPA until 2017 when the Privacy Office made a technical amendment to the C.F.R. to change the responsible office from the Compliance Office to the Privacy Office.

In January 2017, the Compliance Office began holding a weekly meeting (which it referred to as a "triage meeting") to evaluate each of the complaints that it received during the prior week. The Compliance Office director, deputy director, investigation caseworkers, and other appropriate staff participate in the triage meetings and use their collective knowledge to determine the proper course of action for each complaint. Generally, staff place complaints into one of three categories during the triage meeting: investigation, pending, or dismissal. If a complaint meets the criteria for investigation, the Compliance Office assigns an investigation number to the complaint and places it in a queue to be investigated. If the complaint does not include enough information for the Compliance Office to determine whether it warrants investigation, the complaint is classified as pending and the Compliance Office requests additional information from the complainant. If the complaint does not warrant investigation, it is dismissed.

FERPA complaints vary widely in subject matter and impact, ranging from specific issues related to one student's education record to systemic issues that affect every student at a school. For example, a parent or eligible student may file a FERPA complaint if a school denies them access to the student's education records or if a school declines to correct a mistake in the education records. An error in the student's education record, such as a missing course or incorrect grade, can affect the student's eligibility for graduation and employment. As another example, a parent or eligible student may file a complaint if the school shares the student's directory information despite the student having opted out. This type of prohibited disclosure would be significant if a student had a restraining order against someone who should not have access to the student's address or other personal information. Schools may also have policies or practices that systemically violate the FERPA rights of all students who attend the school. The underlying circumstances of FERPA complaints may have high stakes for the complainant and the scenarios can be time-sensitive, demanding prompt action by the Department to resolve the complaint.

In 2010, the Department hired a consultant to evaluate the Compliance Office's operations. The consultant identified 19 recommendations, including a number of suggestions for improving how the Compliance Office processed and resolved FERPA complaints. Since 2010, the Compliance Office has taken action to implement a number of the recommendations, but it has not fully implemented some critical recommendations related to tracking complaints and using data to measure performance. Beginning in FY 2017, the Compliance Office undertook a significant redesign and overhaul of its complaint resolution processes. As part of this initiative, the Compliance Office reviewed the backlog of all open complaints to determine the appropriate action for each complaint, modified and improved its complaint tracking processes, developed standard templates for letters it commonly issued during complaint resolution, and developed written policies and procedures.

The Department identified FERPA enforcement as a priority in its FY 2018–2022 Strategic Plan. Strategic objective 3.2 is to "[i]mprove privacy protections for, and transparency of, education data both at the Department and in the education community." Strategic objective 3.2 includes two implementation strategies, the second of which is to "[i]mprove the efficiency of the Department's administration, enforcement, and technical assistance relating to student privacy." This implementation strategy includes ensuring the timeliness of FERPA enforcement.

Finding. The Privacy Office Did Not Have Sufficient Controls to Ensure that it Timely and Effectively Processed FERPA Complaints

The Privacy Office had and continues to have a longstanding backlog of unresolved FERPA complaints; Compliance Office officials estimated they were about 2 years behind on complaint investigations. However, based on the number of open complaints and the number of complaint investigations that the Compliance Office has recently closed, we concluded that the backlog may be significantly greater than 2 years. Multiple factors contribute to the backlog, including a lack of resources to timely investigate all complaints and unresolved FERPA policy issues that impede complaint investigations. The Privacy Office had an opportunity to reduce or eliminate the complaint backlog beginning in FY 2015 when it received authority to hire additional staff for the student privacy function. However, despite the significant complaint backlog, the Privacy Office dedicated the majority of the new resources to performing FERPA work unrelated to resolving existing complaints.

We also identified a number of weaknesses in the Compliance Office's processes for resolving complaints. The Compliance Office's tracking process for FERPA complaints was inadequate and did not enable the Compliance Office to identify the number of individual complaints it had received or track the status of all complaints through the resolution process. As a result, the Compliance Office did not have reliable data on its effectiveness in resolving complaints and could not set meaningful performance goals or evaluate its performance. The Compliance Office's processes also lacked consistency and in some cases were not appropriate, in part because the Compliance Office had not implemented written policies and procedures to guide personnel. Many critical decisions were left to the discretion of caseworkers and managers did not sufficiently oversee the work, which led to inconsistency in complaint handling. The Compliance Office also did not always communicate effectively with complainants during the complaint resolution process. Finally, the Compliance Office generally processed complaints in the order they were received rather than evaluating the risk of each complaint and prioritizing the complaints with the highest risk or most significant potential adverse impact.

FERPA violations can have significant ramifications for students. Because of weaknesses in its FERPA complaint resolution processes, the Compliance Office did not ensure the timely remediation of violations, which may have compounded the adverse impact on students. For example, when a school inappropriately discloses personal information from a student's education record, the student can face consequences including a loss of reputation, harassment, and retaliation. Further, when a school denies a student the opportunity to access, review, and correct the information in their education record, the student can lose out on important educational or employment opportunities. Complainants rely on the Compliance Office to take timely enforcement action on their complaints when warranted. The backlog and ineffective communication with complainants could also result in diminished public trust in the Department.

The U.S. Government Accountability Office's "Standards for Internal Control in the Federal Government," September 2014, (known as the Green Book) establishes internal control standards for Federal entities. The Green Book identifies the following five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components of internal control contains several principles which are the underlying requirements of the component. For an internal control system to be effective, the five components of internal control must all be effectively designed, implemented, and operating together in an integrated manner. The Privacy Office should correct the control weaknesses we identified to help ensure that its controls over the processing of FERPA complaints meet the standards of the Green Book.

Unresolved Complaint Backlog

The Compliance Office had a significant backlog of FERPA complaints and the Chief Privacy Officer told us that the backlog has existed for decades. Compliance Office officials could not precisely quantify the complaint backlog due to weaknesses in the complaint tracking process (described further in the section "Complaint Tracking System was Inadequate"), but they estimated that the Compliance Office was about 2 years behind on FERPA investigations. According to Compliance Office officials, the average FERPA investigation takes about 24 hours of active staff time to complete, and the work is spread over a period of about 6 months. Thus, any complaint older than about 6 months would be considered part of the backlog.

The Compliance Office's records indicated that there were 285 open investigations at the end of September 2017.[4] By May 2018, the number of open investigations had increased to 344. These numbers include only the complaints that the Compliance Office has decided to investigate and do not include other open complaints, such as those in a pending status while the Compliance Office determines whether they warrant an investigation, or those that the Compliance Office has placed in an inactive status due to unresolved policy issues that impede the Compliance Office's ability to investigate them.

According to the Compliance Office's records, it completed and issued letters to close 24 investigations during FY 2017. Compliance Office officials told us that the number of investigations they completed in FY 2017 was lower than the number they completed in prior years for two reasons. First, there was a backlog resulting from delays in completing managerial reviews of letters to formally close investigations that had been completed in FY 2017. According to Compliance Office officials, they completed 31 additional investigations during FY 2017. However, the Compliance Office had not issued letters to close these 31 completed investigations nearly 8 months after the end of the fiscal year. Second, the Compliance Office dedicated a substantial amount of staff time to redesigning its operations during FY 2017. Compliance Office officials told us that staff shifted their focus from their regularly assigned work to help develop new policies and procedures and perform other redesign activities during the year. However, we noted that according to the Compliance Office's tracking spreadsheet updated in May 2018, the Compliance Office had closed only 17 investigations during FY 2018 (nearly 8 months into the year). This closed investigations count was comparable with the total number of investigations the Compliance Office closed during FY 2017. At this rate of closing investigations, the inventory of 344 open investigations would amount to a backlog of far greater than 2 years.

We reviewed all 24 investigations that the Compliance Office completed during FY 2017 and determined that the age of the complaints, calculated from the date that the Compliance Office received each complaint until the closure of the associated

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[4] We identified relevant FERPA complaint populations—including the number of completed investigations, open investigations, dismissed complaints, and inactive complaints—to the extent possible given the available data. Because the Compliance Office's complaint tracking process had significant limitations, the populations we identified may not be entirely complete or accurate. See the "Sampling Methodology" section of the "Scope and Methodology" section of this report for additional details.

investigation, ranged from 1.1 years to 3.3 years.[5] The average age was 2.2 years. We also reviewed 20 of the 285 open investigations and found that the age of the investigations ranged from about 2 months to 4.8 years. We determined that 30 percent of the population of open investigations was more than 2 years old and 10 percent was more than 3 years old as of September 30, 2017. The oldest open investigation was more than 6 years old.

The Compliance Office had two distinct FERPA complaint backlogs. The first backlog was related to delays in processing complaints, including conducting the investigation (if necessary) and preparing draft correspondence for the complaint such as dismissal letters, investigation initiation letters, finding letters, or closure letters. The second backlog, as mentioned above, was the result of delays in Compliance Office management's review of the draft correspondence. In November 2017, the director and deputy director of the Compliance Office stated that they each had a backlog of correspondence awaiting their review that was at least 4 months old. By May 2018, the review backlog had grown to about 8 months. The delay in reviewing outgoing correspondence was at least partly caused by the transfer from the Compliance Office to the Policy and Assistance Division of an experienced staff member who had been responsible for reviewing the Compliance Office's outgoing letters. The Compliance Office's practice of having both the deputy director and the director of the Compliance Office review all outgoing correspondence before its release also contributed to the review backlog. Compliance Office officials told us that they streamlined the review process to increase efficiency in FY 2018 by having only the director or the deputy director review most correspondence items before issuance.

Missed Opportunity to Reduce Complaint Backlog

The Privacy Office had an opportunity to significantly reduce or eliminate the longstanding unresolved complaint backlog beginning in FY 2015 when it was allowed to hire new staff to improve its administration of FERPA. Instead, the Privacy Office dedicated the majority of the new personnel to performing FERPA activities that were unrelated to complaint processing. The Privacy Office allocated just two new entry-level staff to assist the Compliance Office with complaint processing while also reassigning one of the Compliance Office's most experienced team members to perform activities unrelated to complaints.

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[5] The results of our testing of sample complaints and investigations apply only to the items tested and cannot be projected to the population as a whole.

The Privacy Office received authorization in FY 2015 to hire five new Federal staff to perform FERPA-related activities. The Privacy Office requested six new Federal staff positions and six contractor positions in its FY 2015 budget request, which stated that it did not have the resources necessary to meet its legal obligations under FERPA. The Privacy Office asked for the additional resources so that it could reengineer the student privacy function to make it more effective. The Privacy Office's budget request outlined a number of benefits to be achieved with the additional staffing. The first benefit listed in the budget request was the elimination of the FERPA complaint backlog, which would bring the Privacy Office into compliance with its statutory obligations under FERPA.[6] The Privacy Office also planned to use the additional resources for a number of other initiatives related to student privacy, such as enhancing technical assistance and guidance, resolving longstanding policy issues, providing support for Department programs and priorities, and conducting self-initiated investigations of potential FERPA violations.

After receiving the authorization for five new positions, Privacy Office leadership decided to perform an internal reorganization to create the Policy and Assistance Division. After the reorganization, the Compliance Office retained responsibility for complaint investigations and providing technical assistance to parents and eligible students, while the Policy and Assistance Division assumed responsibility for providing technical assistance to institutions, as well as performing FERPA-related policy functions and developing guidance. Both units provide training on FERPA's requirements.

After the reorganization, the Privacy Office allocated only two of the five newly authorized positions to the Compliance Office and allocated the remaining three positions to the Policy and Assistance Division. Furthermore, the Compliance Office was authorized to hire only entry-level staff with no prior experience with FERPA, which meant that they would not be able to immediately help reduce or eliminate the complaint backlog in any substantive way.[7] The Privacy Office also transferred a senior staff member who had previously functioned as the acting director of the Compliance Office to the Policy and Assistance Division as part of the reorganization. The Compliance Office director told us that this individual had played a crucial role within

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[6] Although the Privacy Office performs a wide range of activities related to its administration of FERPA, the only activity that is explicitly required under FERPA statute is enforcement, including resolving complaints. The Department implemented regulations that state the Privacy Office is also responsible for providing technical assistance.

[7] The Compliance Office director told us that Compliance Office caseworkers need at least 2 years of on-the-job training before they are able to independently resolve FERPA complaints.

the Compliance Office and that her transfer to the Policy and Assistance Division adversely affected the Compliance Office's complaint processing operations and contributed to a growing backlog. Overall, the Privacy Office's staffing decisions after receiving authority to hire five new staff members appear to have done little to improve the Compliance Office's ability to resolve complaints, as the unit lost a highly experienced team member in exchange for two new hires with no FERPA experience.[8]

Although the Privacy Office did not receive all the staff it had requested in its FY 2015 budget request, the five new positions that it did receive represented a substantial infusion of new personnel. It represented a more than 60-percent increase in the number of Federal staff authorized to perform student privacy-related work (the Privacy Office had only 8 Federal staff members working on student privacy in FY 2013 when it submitted its FY 2015 budget request). Because the Privacy Office did not receive all of the personnel it had requested, its leadership faced a critical decision about how to best allocate the available staff to meet organizational needs. The Privacy Office could have first allocated the staff, on a temporary basis, to help address the growing backlog. Once the backlog was eliminated and FERPA complaints were being processed timely, the additional staff could have been reallocated to other Privacy Office activities. The Compliance Office director estimated that the Compliance Office could eliminate the unresolved complaint backlog in about 1 year if it had 5 additional staff with prior FERPA experience or in 2 years with 5 additional staff who did not have FERPA experience. Instead, the Privacy Office's decisions about allocating the new staff provided only limited benefit to the Compliance Office and did not address the backlog.

We recognize that activities carried out by the Policy and Assistance Division represent valuable, proactive measures that may help increase compliance and reduce the volume of FERPA complaints by providing education and technical assistance to schools and other entities that handle student records. Once the backlog has been resolved and the Compliance Office is timely and effectively processing FERPA complaints, the Privacy Office could determine the best way to allocate any available staff. However, considering the substantial backlog that the Compliance Office faced, the Privacy Office should have prioritized its statutory enforcement obligations under FERPA (complaint resolution).

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[8] The creation of the Policy and Assistance Division reduced the Compliance Office's workload because the Policy and Assistance Division assumed responsibility for some functions previously performed by the Compliance Office. However, the effect of this change on the backlog appeared to be negligible.

Reasons for the Complaint Backlog and its Consequences

A number of factors have contributed to the FERPA complaint backlog. According to Privacy Office management, the Compliance Office has had a complaint backlog for decades. The Chief Privacy Officer told us that she had seen letters from the 1990s apologizing for 3 to 4 year delays in processing complaints. This inherited historical backlog makes it difficult for the Compliance Office to catch up; even if the Compliance Office is able to resolve as many complaints as it receives each year, the backlog will continue.

The most significant factor contributing to the backlog is that the Compliance Office has not had sufficient resources to adequately address and eliminate the backlog. During FY 2017, the Compliance Office director analyzed how long it takes the Compliance Office to investigate and resolve FERPA complaints and developed a work flow analysis documenting his results. Based on this analysis, he told us that the Compliance Office does not have enough staff to process the volume of incoming complaints on an ongoing basis, let alone address the complaint backlog. The Chief Privacy Officer agreed that the Compliance Office did not have enough resources to reduce or eliminate the backlog. However, Privacy Office management has not prioritized resolving the complaint backlog relative to other FERPA activities such as enhancing technical assistance, developing nonregulatory guidance, or providing training to schools and other entities. Consequently, the Compliance Office's complaint resolution function has been short-staffed and the Privacy Office missed an opportunity to reduce or eliminate the backlog when it received authority to increase staffing for student privacy.

According to Privacy Office officials, unresolved policy issues have also led to delays in complaint resolution that contribute to the backlog, and in some cases, have prevented the Compliance Office from investigating certain complaints. The Compliance Office designated 21 complaints as indefinitely inactive during FY 2017 because of unresolved policy issues. Compliance Office officials identified several areas where the application of FERPA requirements is unclear or has not been resolved. Delays in resolving these issues impedes the Compliance Office's ability to complete, or even conduct, investigations. Officials stated that resolution of these issues has implications beyond resolution of individual complaints and may require statutory or regulatory change or other action by the Department to resolve the underlying policy issues. Privacy Office officials told us there was ongoing dialogue both within the Privacy Office and between the Privacy Office and the Department's Office of General Counsel regarding how certain policy issues and related complaints should be addressed.

The Compliance Office director also told us that complaint volume and complexity have increased in recent years, which has also contributed to the backlog. However, the director could not quantify the increase in complaint volume because of the ineffective tracking system that was in place during the audit period.

Because the complaint backlog still exists, the Privacy Office is not meeting its statutory obligation under 20 U.S. Code Section 1232g(f) and (g) to appropriately enforce FERPA and resolve FERPA complaints. Complainants' privacy rights are also not appropriately protected as FERPA intends. We found that 16 of the 24 complaints in our sample of completed investigations related to the inappropriate disclosure of personal information from students' education records to third parties who should not have had access to the information. The improper disclosures included information related to educational performance, medical records, disciplinary information, and other confidential records. Complainants stated in the sample documentation that the improper disclosures had resulted in harm that included bullying, harassment, retaliation, and loss of employment. Other complainants in our review said they were denied access to their education records. As a result, they were unable to review the records and request the correction of any inaccurate information contained therein. Errors and inaccurate information in a student's official education records may impact the student's eligibility for graduation, postsecondary education, employment, and other opportunities.

Due to the backlog, by the time that the Privacy Office renders a decision on certain complaints, it may be too late to be of use to the students whose rights were violated. Furthermore, schools that have systemic policies or practices that violate FERPA may continue to violate the FERPA rights of additional students for years before the Privacy Office issues a finding and requires corrective actions. For example, one of the open investigations in our sample related to an online charter school with over 8,000 students that required all students to waive their FERPA rights as a condition of enrollment. Despite the significant student privacy ramifications of the school's policy, this complaint was almost 5 years old at the end of FY 2017.[9] Finally, the backlog and ineffective communication with complainants could also result in diminished public trust in the Department.

No Plan to Address the Backlog

During our fieldwork, the Privacy Office did not have a plan to increase the Compliance Office's resources to address the backlog, despite stating that improving the Compliance Office's operations was a high organizational priority. Privacy Office officials told us that they were considering options to help reduce the backlog, such as obtaining a limited and temporary detail of staff to assist the Compliance Office. However, such measures are not likely to have a significant impact on the backlog. The Chief Privacy Officer identified the Compliance Office's complaint backlog and inadequate complaint tracking process as two of the top four challenges within the Privacy Office. Neither of the other

[9] The Compliance Office closed the investigation of this complaint in January 2018.

top challenges was related to the Policy and Assistance Division's operations. She also told us that the primary cause of the complaint backlog was a lack of resources. Despite this, the Privacy Office's budget request for FY 2019 requested four additional positions for the Policy and Assistance Division in FY 2019 compared to three positions for the Compliance Office.[10] Three of the positions that it requested for the Policy and Assistance Division were for experienced personnel while only one of the Compliance Office positions was for experienced personnel. Even though the Privacy Office did not receive any of the positions it had requested for the Compliance Office or the Policy and Assistance Division in its FY 2019 request, the budget request provides insight into the Privacy Office's organizational priorities and how it intended to use additional resources that it might have received.

Design and Implementation of Complaint Resolution Processes

Although the Compliance Office made improvements to its complaint resolution processes during FY 2017 and into FY 2018, we identified a number of remaining weaknesses. These weaknesses included an inadequate complaint tracking system, lack of controls to ensure effective and timely processing of complaints, and inadequate communication with complainants.

Complaint Tracking System was Inadequate

The Compliance Office did not have an adequate process for tracking FERPA complaints during the audit period. The Compliance Office could not identify the number of complaints that it had received during each of the last 3 fiscal years (FYs 2015–2017) or the status of those complaints. The Compliance Office also could not identify the total number of complaints that were currently open or the age and status of the open complaints. Complaint tracking is a critical control for ensuring the complaint resolution function is effective and that all investigations are carried out.

Complaint Tracking Systems and Processes

The Compliance Office has used a correspondence tracking system (the correspondence system) to track FERPA complaints since 1997.[11] However, the correspondence system did not have the functionality that the Compliance Office needed to ensure efficient and

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[10] The additional positions included both new positions and staff to fill existing positions that were vacant.

[11] A Compliance Office official told us that the Department's Office of the Secretary uses the correspondence system to track correspondence. A modified version of the Secretary's correspondence system was developed for the Compliance Office's use.

effective complaint tracking. The correspondence system was designed to track information at the correspondence level rather than the complaint level. During the audit period, the Compliance Office generally opened a new tracking control number for each item of correspondence that it received and closed the control number when it issued correspondence in response. For example, the Compliance Office opened a control number when it received a new complaint and closed that control number when it issued an investigation initiation letter for the complaint. The Compliance Office then opened another control number for the school's response to the investigation initiation letter and closed that control number when it issued a finding letter. In some cases, the Compliance Office opened additional control numbers for follow-up information, status inquiries, and other correspondence related to the complaint. We found that information associated with each investigation was generally stored in the correspondence system using two to five different control numbers, and system users could not always easily locate all correspondence relevant to a given complaint. Additionally, open complaints did not always have an open control number in the correspondence system at any point in time, which created a risk of complaints getting "lost" in the system and not being effectively or timely processed. Finally, the Compliance Office logged all correspondence that it received into the correspondence system even if it was a general inquiry or other information that was not a complaint, so numerous control numbers represented correspondence items that did not involve complaints.

The Compliance Office made changes to its tracking processes in the latter part of FY 2017 and into FY 2018 that helped improve its ability to account for and track complaints. For example, the Compliance Office began to track all open investigations outside of the correspondence system using spreadsheet software. This new tracking process would enable the Compliance Office to identify all open investigations and track them through the resolution process, which it could not do using the correspondence system alone. The Compliance Office also modified the correspondence system to allow it to designate the status of each complaint into a useful category, such as investigating, dismissing, or pending. However, despite these improvements, many tracking weaknesses remain, including the following:

- *No single system to track complaints*. The Compliance Office is now using two separate systems to track complaints (the correspondence system and spreadsheet software) and there are risks associated with the manual entry and updating of the information in both tracking systems.
- *Lack of user-defined querying functionality*. The current tracking systems have significant limitations in how information can be categorized and queried to identify useful subsets of data.

- *Lack of report functionality*. The Compliance Office's ability to generate reports for tracking purposes and to oversee caseworker performance is limited.
- *No ability to automate letters*. The Compliance Office cannot automate the generation of letters, which is a feature that would enable the Compliance Office to efficiently generate updates and other routine correspondence for all complaints that meet selected criteria.
- *No ability to automatically populate the tracking system via smart form linkage*. All data in the tracking systems must be manually entered and updated, which is labor-intensive and creates a risk of data entry errors or omissions.
- *File management limitations and inability to purge obsolete records*. The Compliance Office's ability to manage documentation stored in the correspondence system is limited and it cannot destroy obsolete documentation. Files must be individually marked for deletion by the Compliance Office and then deleted by the correspondence system administrator in the Department's Office of the Secretary.
- *Risk of unintended changes and data loss*. It is relatively easy to inadvertently overwrite information in the tracking systems and the Compliance Office does not have a mechanism to recover data that has been accidentally lost.

Availability and Use of Operations and Performance Data

Because of the significant limitations of its complaint tracking systems, the Compliance Office did not have access to reliable data regarding the effectiveness and timeliness of its complaint resolution operations. As a result, Privacy Office management had little ability to oversee the performance of the complaint function or trends in the characteristics of incoming FERPA complaints over time. Although the Chief Privacy Officer received a monthly report with information on the volume of work and performance metrics for both the Compliance Office and the Policy and Assistance Division, the metrics that were included for the Compliance Office had little meaning. For example, the report included monthly data on the number of open complaints, but this information actually represented the number of open correspondence control numbers, which does not provide information about the actual number of open complaints. The report also included the number of cases received on a monthly basis, which was also based on the number of control numbers that the Compliance Office had

opened for incoming correspondence rather than the actual number of new incoming complaints.[12]

The Privacy Office did not have the necessary data to set reasonable performance goals for the Compliance Office related to processing and resolving complaints or for caseworkers responsible for handling complaints, or to assess Compliance Office or caseworker performance against those goals. The 2010 consulting report identified this as an area for improvement and included a recommendation that the Compliance Office should establish performance metrics for its key outputs and track its performance against them. The Compliance Office director told us that setting performance standards for the Compliance Office has been challenging given the limitations of available data. At the time of our site visit, the Privacy Office used the average age of open correspondence as a performance standard for the Compliance Office (the goal was to keep the average age under 300 days), but Compliance Office officials acknowledged that this standard does not provide meaningful information. The Compliance Office director told us that he was in the process of gathering data on the Compliance Office's workflows and planned to use the data to establish more meaningful performance metrics. However, until Privacy Office management has access to reliable data on the number of individual complaints that the Compliance Office receives, and the age and status of every complaint, it will not have the data it needs to effectively oversee the Compliance Office's performance.

Outlook for New Tracking System

The 2010 consulting report on the Compliance Office's operations recommended that the Compliance Office replace the correspondence system with a more effective tracking system and suggested developing a business case to modify the tracking system used by the Department's Office of Civil Rights for the Compliance Office's use. Privacy Office officials told us that they had multiple meetings with the Office of Civil Rights to discuss its tracking system, but abandoned the effort due to a lack of funding and an inability to dedicate staff time to identify and resolve system issues.

The Acting Chief Privacy Officer told us that the Privacy Office requested and was approved for funding for a new complaint tracking system in its FY 2019 budget request. According to the Chief Privacy Officer, the Privacy Office had not previously requested funding for a new tracking system. A new tracking system that has been properly

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[12] Compliance Office officials told us they made changes to the data included on the internal performance report in FY 2018 that improved the quality of the information and meaningfulness of the report.

designed and implemented could resolve the control weaknesses we observed related to tracking. Compliance Office officials told us that they had developed system specifications and were conducting market research to identify a new tracking system that would have many of the beneficial features that the current correspondence system lacks. The Acting Chief Privacy Officer said she expects to put a new tracking system in place during FY 2019.

Improperly Classified Complaints as Inactive

In an effort to manage the backlog, the Compliance Office placed some complaints that warranted an investigation, or that might warrant an investigation, into an "inactive" status. While our audit was underway, the Compliance Office reviewed the complaints it had previously made inactive and reactivated or closed most of the complaints. Some complaints remained in an indefinite inactive status because of unresolved policy issues that hampered the Compliance Office's ability to resolve the complaints.

During FY 2017, the Compliance Office reviewed all open correspondence in the correspondence system to determine the appropriate action to take on each item. Compliance Office officials told us there were at least 900 items of open correspondence when they performed this review. The Compliance Office placed more than 170 of these correspondence items into an inactive status. Compliance Office officials told us that they did not plan to take any further action on the inactive items unless the complainants contacted them regarding the status of the complaints. The officials cited several reasons for why they had made these items inactive, including that the associated complaints were very old or vaguely worded.

During our audit fieldwork, Compliance Office officials told us that they had decided to perform a quality check on the inactive items to ensure they were coded properly. The Compliance Office determined that it had incorrectly coded some items as inactive and corrected their status in the correspondence system. After the Compliance Office completed its review of inactive items, we identified the updated status of each formerly inactive item, as shown in Table 2.

Table 2. Updated Status of Complaints that the Compliance Office Previously Made Inactive

Status	Number of Items Now in this Status
Investigating: The Compliance Office opened an investigation.	1
Pending: The Compliance Office planned to follow up with the complainants to determine whether they still wanted their complaint to be investigated and to obtain additional information, if necessary.	31
Inactive: The Compliance Office determined these complaints appeared to warrant an investigation but remained inactive because they related to unresolved policy questions.	21
Dismissed: The Compliance Office determined that these complaints did not warrant an investigation and planned to issue dismissal notices to the complainants.	85
Closed: The Compliance Office closed these items for a variety of reasons other than dismissal (for example, some were duplicates or general inquiries that were not complaints).	34

The Compliance Office is required to investigate every FERPA complaint that meets the criteria for investigation. Therefore, it is important that the Compliance Office takes timely and appropriate action to process every complaint that it receives. We reviewed the 31 complaints that the Compliance Office previously made inactive and are now in a pending status and determined that all 31 were at least 2 years old, and 8 were at least 3 years old. At a minimum, the Compliance Office should have made the necessary inquiries to determine whether an investigation was warranted at the time that it received the complaints. Additionally, the Compliance Office should not put complaints that meet the criteria for investigation into an indefinite inactive status. If unresolved policy questions interfere with the Compliance Office's ability to investigate complaints, Privacy Office should take action to resolve those policy questions to the fullest extent of its ability.

Additional Controls over the Complaint Process Needed

The Compliance Office did not have current written policies and procedures for the FERPA complaint resolution process during the audit period. The Compliance Office director told us that the Compliance Office was actively updating and redesigning its complaint resolution processes during the period from FY 2014 through FY 2017. While the redesign of the Compliance Office's operations was underway, the Compliance Office used work flowcharts to identify roles, responsibilities, and processes related to FERPA complaint resolution. The Compliance Office frequently updated the flowcharts to reflect changes to its processes as they developed. The Compliance Office

implemented written policies and procedures for its operations in FY 2018, when it had sufficiently developed its new processes and had staff available with the skillset needed to document the processes in policies and procedures.[13]

Written policies and procedures are an essential component of effective internal control. According to the Green Book, management is responsible for designing policies and procedures to fit the organization's circumstances and incorporating them as an integral part of its operations. An organization's control activities are the actions management establishes through policies and procedures to achieve objectives and respond to risks in the internal control system. Policies and procedures provide staff with guidance that helps to ensure activities are carried out in accordance with legal requirements and also help provide continuity of operations if key personnel leave the organization.

The Compliance Office did not have a consistent process for handling incoming complaints during the audit period, in part because the Compliance Office had not implemented written policies and procedures. Until January 2017 when the Compliance Office implemented weekly triage meetings, the Compliance Office deputy director or team leader performed only a cursory review of incoming complaints before assigning them to individual caseworkers to process as they deemed appropriate. According to Compliance Office officials, each caseworker generally had a caseload of more than 200 complaints, and new complaints generally went to the back of the processing queue. This resulted in variability in the complaint resolution process, delays in issuing correspondence to complainants and the subjects of complaints, and lack of management oversight.

The timing of all activities and correspondence related to each complaint was generally left to the discretion of individual caseworkers. For example, based on our review of the 24 investigations that the Compliance Office completed in FY 2017, the elapsed time from the receipt of the complaint to the issuance of an investigation initiation letter ranged from about 1 month to over 2 years. Although management reviewed outgoing correspondence related to complaints, management did not routinely directly oversee the caseload of each caseworker or always provide input into significant technical decisions, such as how to develop a plan of action for an allegation or whether to investigate or dismiss an individual complaint. Implementing the weekly triage meetings improved both the consistency of complaint processing and management oversight.

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[13] We did not evaluate the sufficiency of the written policies and procedures nor assess whether Compliance Office personnel were following the policies and procedures because they were not in effect during the audit period.

Communication with Complainants Needs to be Improved

The Compliance Office did not communicate effectively with complainants. Even though most investigations took over 2 years to complete, the Compliance Office did not regularly provide investigation status updates to complainants. Based on the documentation available in the correspondence system for the 24 completed investigations in our sample, it was common for there to be periods of 1 to 2 years during which the Compliance Office provided no information to the complainants about the status of their complaint. The Compliance Office director told us that the Compliance Office wants to institute regular status updates to keep complainants informed of the status of their complaints, but that it has not yet implemented this practice because of inadequate staffing and the correspondence system's inability to generate automated notifications.

The Compliance Office also may not have responded to all inquiries from complainants regarding the status of their complaints. For example, 2 of the complainants in our sample of 24 completed investigations submitted status inquiries to the Compliance Office, and there was no evidence that the Compliance Office had responded to the inquiries. Finally, the Compliance Office did not issue dismissal notifications for all of the complaints that it dismissed during FY 2017. Specifically, as of July 2018 (over 9 months after the end of FY 2017), the Compliance Office had not issued dismissal notifications for 4 dismissed complaints in our sample. After we inquired about these items, Compliance Office officials told us that as a result of their ongoing quality review, the complaints were now designated to receive either a dismissal notification or a pending letter which would enable officials to determine whether the complaint warranted an investigation. However, the Compliance Office had not yet issued the dismissal and pending notifications.

The Compliance Office did not adequately record information about its communication with complainants in its tracking system. When the Compliance Office contacted complainants by email or telephone, it did not always document the details and outcome of those contacts in the correspondence system. As a result, Compliance Office personnel working on a complaint sometimes did not have access to the information that the complainant had already provided to the Compliance Office. Based on our review of sample complaint documentation, some complainants said that the Compliance Office asked them to provide the same information and documentation on multiple occasions.

Complainants in our sample, or their legal representatives, sometimes expressed frustration with the Compliance Office's lack of communication and timely response to their complaints. For example, a legal assistance firm submitted a FERPA complaint on behalf of a client in June 2013. The Compliance Office issued a letter to the complainant's legal counsel about 14 months later to determine whether the

complainant still wished to proceed with the investigation. The complainant's counsel responded that they did. Almost 2 years later, and 3 years after the complaint was originally submitted, the complainant's counsel wrote to the Compliance Office to inform it that they were no longer representing the complainant. The counsel noted that nearly 2 years had passed since the complainant had received any communication from the Compliance Office. Complainant counsel expressed disappointment in the apparent lack of progress in the Compliance Office's investigation and that the Compliance Office had not kept the complainant informed of any progress it had made. Our review determined that the Compliance Office had not yet taken any investigative action on the complaint and that the Compliance Office subsequently dismissed it. Compliance Office officials told us that complainants sometimes contact their Congressional representatives or the Department's Office of the Secretary to express grievances about the Compliance Office's handling of their complaints. The Compliance Office receives letters from Congress inquiring about the status of complaint investigations on a regular basis. The Office of the Secretary also forwards inquiries it has received about complaint investigations to the Compliance Office for resolution.

Higher Risk Complaints Were not Prioritized

Compliance Office officials told us that the Compliance Office generally processed complaints in the order they were received rather than prioritizing complaints based on risk factors such as potential harm to large numbers of students or the release of personal information. However, officials noted that when they received inquiries from Congress on behalf of complainants, they would immediately provide a response to the inquiry and in certain cases may expedite the investigation of the associated complaint. The Compliance Office received a congressional inquiry regarding 1 of the 24 investigations that it completed during FY 2017. The Compliance Office completed the investigation with the congressional inquiry faster than any of the other investigations it completed that year. In fact, the Compliance Office completed the investigation in just over 1 year, which was about 6 months faster than the next fastest investigation completed during FY 2017.

Compliance Office management has the discretion to establish criteria to enable it to assign a risk score to each complaint and resolve the highest risk complaints first. Complaints vary widely in effect and potential harm to students. For example, one complaint may relate to one student's access to his or her education records, whereas another complaint may relate to a systemic violation of FERPA rights for all students at a school. As noted earlier in the report, one investigation in our sample related to the privacy rights of thousands of students but had been open for nearly 5 years as of the end of FY 2017 despite its significant ramifications. Evaluating each complaint's risk would help the Compliance Office address the Green Book's risk assessment internal

control component, which requires management to identify, analyze, and respond to risks related to achieving its objectives.

After we discussed the prioritization of higher risk investigations with the Compliance Office, the director stated that the Compliance Office plans to develop a risk-based approach to processing complaints. He also noted that the backlog makes prioritizing the resolution of certain complaints more difficult because the Compliance Office is required to investigate every complaint that warrants investigation. According to the director, prioritizing complaints based on risk may be most effective after the Compliance Office has substantially reduced or eliminated the backlog.

Recommendations

We recommend that the Acting Assistant Secretary of the Office of Management require the Privacy Office to—

1.1 Allocate appropriate resources to the Compliance Office based on the stated priority of reducing or eliminating the investigation backlog so that FERPA complaints are resolved in a timely manner.

1.2 Work with the Office of General Counsel to resolve outstanding policy issues that impede the Compliance Office's ability to investigate certain FERPA complaints.

1.3 Implement an effective FERPA complaint tracking system that allows the Compliance Office to account for and track all complaints it receives, including the status and outcome of each complaint, and that provides an effective mechanism for reliable performance measurement and reporting.

1.4 Use reliable performance data to design and implement appropriate performance standards for the Compliance Office as a whole and for individual personnel responsible for handling complaints.

1.5 Investigate all complaints that meet the criteria requiring investigation and do not place complaints into an "inactive" status.

1.6 Revise processes for resolving FERPA complaints to ensure effective and appropriate communication with the complainant, to include providing dismissal notifications, updates, and responses to inquiries in a timely manner and recording all communication in the tracking system.

1.7 Design and implement a risk-based approach to processing and resolving FERPA complaints, where complaints deemed highest risk are prioritized. Risk can be evaluated based on the subject matter of the complaint, the severity of

risk to student privacy, the number of students affected, or other relevant factors.

1.8 Review and evaluate its current policies and procedures for processing FERPA complaints to ensure they are complete and appropriate.

Office of Management Comments

The Office of Management agreed with the finding and recommendations and described corrective actions that it had taken or planned to take to address each of the recommendations. The Office of Management provided factual clarifications related to three sentences in the draft report. We removed two of the sentences because they were not essential to the report's finding, conclusions, or recommendations. We did not make any changes to the third sentence because it was correct as stated. The Office of Management also stated that it could be perceived that the draft report included material covered by attorney-client or deliberative process privileges. Where warranted, we made additional revisions to the report in response to these comments. These revisions included technical and clarifying edits, as well as changes to resolve concerns about possible privileged material being discussed in this report. None of the revisions resulted in changes to our finding, conclusions, or recommendations.

Other Matter. The Privacy Office Should Conduct Self-Initiated Investigations When Warranted

Under 20 U.S. Code Section 1232g(f), the Department is required to take appropriate actions to enforce FERPA, and in 2008, the Department amended the FERPA regulations at 34 C.F.R. Section 99.64(b) to clarify that the Department's enforcement responsibilities include the authority to conduct self-initiated investigations of possible FERPA violations. A "self-initiated investigation" is any investigation that the Compliance Office undertakes of its own initiative when no complaint has been filed or when a complaint is withdrawn but raises concern about FERPA compliance at an institution. The Privacy Office stated in its FY 2015 budget request and its FY 2016 reorganization memorandum that it planned to begin conducting self-initiated investigations. However, at the time of our on-site work, the Compliance Office had not yet begun any self-initiated investigations.

Conducting self-initiated investigations could be an important part of the Privacy Office's statutory responsibility to enforce FERPA. This is especially important when the Compliance Office learns of potential FERPA violations affecting large numbers of students, such as a school sharing students' personal information with a third-party vendor that does not have a legitimate educational need for the information. In cases such as this, parents and eligible students may not file any complaints because they are not aware of the school's practices or do not understand that a violation has occurred. However, the Compliance Office has a responsibility to take action in the absence of a complaint.

In May of 2018, the Compliance Office director told us that the Compliance Office had recently begun its first self-initiated investigation in response to a high-profile incident that gave the Compliance Office reasonable cause to suspect that a FERPA violation may have occurred. He also said that the Compliance Office intends to conduct self-initiated investigations when feasible and necessary, despite its current staffing limitations. The Compliance Office should continue conducting self-initiated investigations as practicable with currently available resources and consider placing greater emphasis on self-initiated investigations once the backlog is reduced or eliminated.

Appendix A. Scope and Methodology

The original objective of our audit was to determine whether the Privacy Office effectively oversees and enforces compliance with selected provisions of FERPA and the Protection of Pupil Rights Amendment. After performing initial audit work, we revised the objective to focus on the Privacy Office's processing of FERPA complaints. The audit covered the Privacy Office's processing of FERPA complaints that were open for at least one day during FY 2017, regardless of when the Privacy Office originally received the complaints. "Processing" of FERPA complaints refers to all actions that the Privacy Office has taken related to the complaints, including receiving, recording, reviewing, tracking, dismissing, investigating, and closing the complaints. We limited our scope to the complaint-processing activities that the Privacy Office performed from the time it received the complaints through the end of FY 2017. We also obtained information about changes that the Privacy Office made to its complaint processes during FY 2018 while the audit was underway. However, we did not verify the completion, implementation, or effectiveness of these changes.

We performed the following procedures to answer the audit objective:

1. Reviewed applicable sections of the FERPA statute and regulations (20 U.S. Code Section 1232g and 34 C.F.R. Part 99) to gain an understanding of FERPA's student privacy rights, the FERPA complaint process, and the Department's responsibilities under FERPA.
2. Reviewed background materials, including the Privacy Office's organizational charts, functional statements of Privacy Office divisions, and any available reports on the Privacy Office's FERPA complaint-processing function. There were no prior Office of Inspector General or U.S. Government Accountability Office reports in this area, but we did review a 2010 consulting report on the Compliance Office's operations commissioned by the Department.
3. Interviewed Privacy Office officials including the Chief Privacy Officer, the director and deputy director of the Compliance Office, the director of the Policy and Assistance Division, and other relevant personnel to gain an understanding of the Privacy Office's processing of FERPA complaints and other Privacy Office activities related to the oversight and administration of FERPA. We also observed Compliance Office complaint triage meetings in September and November of 2017.
4. Obtained and reviewed documentation to gain an understanding of the processes, systems, activities, and circumstances that were relevant to the Privacy Office's oversight and administration of FERPA. We reviewed the Privacy Office's budget requests, strategic plans, reorganization memorandums, and

staffing information; policies and procedures for the Compliance Office and the Policy and Assistance Division's operations; performance standards and reports for the Compliance Office and the Policy and Assistance Division; the Compliance Office's work and resource analysis and complaint tracking files; and other relevant documentation.

5. Obtained user access to the correspondence system to gain a first-hand understanding of the system's capabilities and limitations and to obtain copies of complaint records for testing.
6. Selected a sample of 74 FERPA complaints for detailed review (see "Sampling Methodology" section below).
7. Obtained and reviewed documentation for each of the 74 sampled complaints to gain a detailed understanding of the circumstances and timeframes of activity associated with each complaint.[14] Depending on the complaint's stage in the resolution process, available documentation could include the original complaint, the Compliance Office's investigation initiation letter to the complainant and school, the school's response to the investigation initiation letter, the Compliance Office's finding and closure letters, as well as follow-up and communication between the Compliance Office and the complainant or other relevant parties.
8. Analyzed the results of our review of the 74 sampled complaints to draw conclusions regarding complaint resolution processes and timeframes for the sample.
9. Reviewed the Green Book, September 2014, and used it as a framework for evaluating the design and implementation of the Privacy Office's controls that were significant to the audit objective. We assessed the collective testimonial, documentary, and direct observational evidence and used the information to evaluate the Privacy Office's internal control over the processing of FERPA complaints.

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[14] Our review of the sampled complaints was limited to the Compliance Office's processing of each complaint and did not include an evaluation of the Compliance Office's technical conclusions. For example, we did not evaluate the Compliance Office's decision to investigate or dismiss a given complaint or assess the Compliance Office's findings on FERPA compliance in the sample of completed investigations. We did evaluate the Compliance Office's processes to determine whether the Compliance Office had controls, such as supervisory reviews, over the accuracy of its technical conclusions.

Sampling Methodology

The weaknesses in the Compliance Office's FERPA complaint tracking processes and related data prevented us from identifying the population of all FERPA complaints. As a result, we could not draw statistical samples and project our results to the population of all complaints. Instead, we used judgmental sampling to select complaints for testing. The results of our review are therefore limited to the items tested.

We worked within the known limitations of the Compliance Office's complaint tracking data to identify four populations of FERPA complaints for judgmental sampling purposes: (1) completed investigations, (2) open investigations, (3) inactive complaints, and (4) dismissed complaints. We used the most reliable source of data available to identify each sample for testing (that is, the correspondence system, the tracking spreadsheet, or both). We performed appropriate steps to identify each population, which included querying the correspondence system, generating reports of the search results, combining multiple reports, and manually evaluating the results, as well as reviewing and sorting the entries in the tracking spreadsheet.

The populations that we identified had reliability issues that included a lack of completeness and accuracy (the populations may exclude complaints that belong or include complaints that do not belong). However, we determined that the populations were sufficiently reliable for our intended use.

We selected 24 completed investigations, 20 open investigations, 20 inactive control numbers, and 10 dismissed complaints for review using a combination of random and risk-based judgmental selection processes as detailed below. We considered various factors when determining the appropriate sample size to draw from each population, including the size of each population and the significance of each population to the overall sampling objective.

- *Completed investigations*. We identified a population of 24 FERPA complaint investigations that the Compliance Office completed during FY 2017 and reviewed all 24 of the investigations.
- *Open investigations*. We identified a population of 285 FERPA complaint investigations that were open on September 30, 2017 (the last day of FY 2017). We selected a systematic sample of 20 investigations by first sorting the population in chronological order and then selecting every 14th item.
- *Inactive complaints*. We identified a population of 172 correspondence control numbers that the Compliance Office had made inactive during FY 2017. We selected a sample of 20 inactive control numbers from the population using 2 separate methodologies.

- First, we determined that the Compliance Office had assigned an investigation number to 15 of the 172 inactive control numbers at some time before making them inactive. We then reviewed information available in the correspondence system and on the tracking spreadsheet and made a risk-based judgmental selection of 10 of the 15 items that had an investigation number.
- Second, we systematically selected another 10 items by first sorting the remaining population of 162 inactive control numbers in chronological order and then selecting every 16th item.

- *Dismissed complaints.* We identified a population of 110 complaints that the Compliance Office had dismissed during FY 2017 because the complaints did not meet the criteria to warrant an investigation. We selected a systematic sample of 10 complaints by first sorting the population in chronological order and then selecting every 11th item.

After we began the sample testing, we observed that a limited number of the sample items we had selected for review did not meet the criteria to be included in the sample (for example, we found that some items in the sample of dismissed complaints were not actually dismissals). This was a result of the known reliability limitations of the populations from which we drew our samples. In these cases, we replaced the items that did not belong in the sample with the next item in the population that met the criteria to be included in the sample.

Use of Computer-Processed Data

The only computer-processed data that were significant to the audit objective were data related to the Compliance Office's tracking of FERPA complaints. As discussed earlier in this report, the tracking processes that the Compliance Office used for FERPA complaints had significant weaknesses and reliability issues. Since the Compliance Office did not have reliable tracking data on complaints, we did not use the computer-processed tracking data to support our finding or conclusions related to the sample complaints we reviewed. Our only uses of the computer-processed data were to help identify complaints for detailed testing (see "Sampling Methodology" section above) and to perform a limited comparison of the 2017 and 2018 versions of the tracking spreadsheet to assess the reasonableness of the Compliance Office's estimate that it had a 2-year backlog (as described in the "Unresolved Complaint Backlog" section). Although the tracking spreadsheet had known reliability issues, it provided the best and only data available to evaluate the Compliance Office's estimate. We deemed the spreadsheet to be sufficiently reliable for the limited purpose of this comparison. We derived the results of the sample testing from the manual evaluation of source documentation for each complaint, and consequently the results were not affected by

the reliability of the computer-processed complaint tracking data. The reliability concerns related to the computer-processed tracking data prevented us from drawing a statistical sample and projecting our testing results to the population of all complaints, but it did not affect the reliability of the results for the items we tested. We did not perform a reliability assessment for the Compliance Office's computer-processed data because we did not use the data to support our audit results, except as described above.

We held our entrance conference and performed initial audit work at the Privacy Office's office in Washington, D.C., in September 2017. We held a separate meeting to inform Privacy Office officials of changes to our audit objective and audit scope when we conducted additional on-site work in November 2017. We held an exit conference to discuss the audit results with Privacy Office officials in June 2018.

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 finding and conclusions based on our audit objective.

Appendix B. Acronyms and Abbreviations

C.F.R.	Code of Federal Regulations
Compliance Office	Privacy Office's Family Policy Compliance Office
correspondence system	Compliance Office's correspondence tracking system
Department	U.S. Department of Education
FERPA	Family Educational Rights and Privacy Act
FY	fiscal year
Green Book	U.S. Government Accountability Office's "Standards for Internal Control in the Federal Government"
Policy and Assistance Division	Privacy Office's Student Privacy Policy and Assistance Division
Privacy Office	Office of the Chief Privacy Officer

Office of Management Comments

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF MANAGEMENT

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TO: Mr. Ray Hendren
Regional Inspector General for Audit
Office of Inspector General

FROM: Denise L. Carter /s/
Acting Assistant Secretary
Office of Management

SUBJECT: Response to Draft Audit Report *Office of the Chief Privacy Officer's Processing of Family Educational Rights and Privacy Act Complaints* Control No. ED-OIG-A09R0008

Thank you for providing the U.S. Department of Education (Department) Office of Management (OM) the opportunity to review and comment on the September 18, 2018, draft report, titled *Office of the Chief Privacy Officer's Processing of Family Educational Rights and Privacy Act Complaints* (ED-OIG-A09R0008). OM appreciates the extensive work that went into the draft report and professional and cooperative manner demonstrated by the audit team when working with the Office of the Chief Privacy Officer's (Privacy Office's) staff throughout the audit process.

We have reviewed the draft report and generally concur with the finding, and its subcomponents regarding the Department's processing of complaints under the Family Educational Rights and Privacy Act or FERPA. OM is taking appropriate actions to ensure that the Department's Family Policy Compliance Office (Compliance Office or FPCO), which is responsible for implementing FERPA, has the resources and mechanisms available to meet its legal obligations under FERPA.

In this response to the draft report, OM makes a few factual clarifications, and provides responses, with implementation updates, to the specific recommendations included in the draft report.

Factual Clarifications

1. On page 9, the draft report describes the Privacy Technical Assistance Center (PTAC) as "*a contractor that functions as a unit within the Policy and Assistance Division.*" This is incorrect, as the Department "in-housed" PTAC operations in fiscal year (FY) 2015. While PTAC is supported by contractor staff, PTAC's technical assistance operations are conducted by a combined team of Student Privacy Policy and Assistance Division's (SPPAD) federal employees and contractor subject matter experts.

2. On resource allocation to SPPAD, the draft report states, on page 16, that "*…two of the three new positions allocated to the Policy and Assistance Division were for experienced senior-level staff. The Privacy Office also transferred a senior staff member who had previously functioned as the acting director of the Compliance Office to the Policy and Assistance Division as part of the reorganization.*" This is incorrect. SPPAD only received one new, senior-level staff member (i.e. the GS-15 director) out of the five newly-authorized positions. The remaining two new positions were both for junior-level hires. Furthermore, the senior staff member transferred from the Compliance Office to SPPAD was thereafter detailed back to the Compliance Office on a part-time basis to continue assisting with complaint processing.

Response to Recommendations

RECOMMENDATION 1.1: *Allocate appropriate resources to the Compliance Office based on the stated priority of reducing or eliminating the investigation backlog so that FERPA complaints are resolved in a timely manner.*

RESPONSE (1.1): OM concurs that appropriate resources should be allocated to the Compliance Office to reduce or eliminate the investigation backlog and to ensure that all complaints are processed in a timely and effective manner. You state that OM had the opportunity to eliminate or reduce the complaint backlog when it received authority to hire five additional staff for FERPA-related activities in FY 2015; that the Privacy Office dedicated the majority of the new staff it obtained to performing FERPA work unrelated to the resolution of existing complaints (such as technical assistance, training, and guidance); and that the Privacy Office should have focused its resources on its legal obligation to investigate and resolve complaints.

Since the conclusion of the audit, OM has implemented changes to address these concerns and to improve its compliance activities. In September 2018, responsibility for responding to technical assistance inquiries from parents and students was transferred from Compliance Office staff to the contractors supporting the Privacy Technical Assistance Center, enabling case-workers to focus exclusively on complaint processing. Additionally, in September 2018, federal staff from the Policy and Assistance Division were indefinitely assigned to assist with the processing of FERPA complaints. In October 2018, the director of the Compliance Office was detailed to the separate Office of Planning, Evaluation, and Policy Development within the Department and the director of the Policy and Assistance Division, a certified Project Management Professional with extensive FERPA expertise, was made acting director of the Compliance Office. Also in October 2018, a senior data analyst was permanently reassigned to the Compliance Office from the OM Executive Office, to provide needed data analysis and performance management support. OM continues to evaluate additional resource needs on an ongoing basis to

determine if additional staff or skill-sets are required. Together, these staffing changes will enable the Compliance Office to reduce (and ultimately eliminate) the complaint backlog.

RECOMMENDATION 1.2: *Work with the Office of General Counsel to resolve outstanding policy issues that impede the Compliance Office's ability to investigate certain FERPA complaints.*

RESPONSE (1.2): OM notes that a small percentage of complaints raise issues that require the interpretation and clarification of complex legal and policy issues that the Department has yet to address and which would have broad implications far beyond the individual complaint. These unresolved policy issues have in some cases made it difficult for the Compliance Office to complete the review and investigation of these complaints.

With respect to addressing those policy issues that are raised by complaints, OM agrees that it will actively work with senior Department leadership and OGC to determine how best to clarify legal and policy issues needed to ensure that complaints are resolved in a timely manner, recognizing that some issues may require issuance of other documents.

Additionally, in support of this recommendation, we note some of the statements in the draft report could be perceived as waiving attorney-client and deliberative process privileges, which the Department is not waiving. Some of these points are also not fully accurate, and should be deleted. OGC will provide separately comments on this section as well.

RECOMMENDATION 1.3: *Implement an effective FERPA complaint tracking system that allows the Compliance Office to account for and track all complaints it receives, including the status and outcome of each complaint, and that provides an effective mechanism for reliable performance measurement and reporting.*

RESPONSE (1.3): OM concurs that the Compliance Office must have an effective complaint tracking system that allows it to account for and track all complaints it receives, including the status and outcome of each complaint, and to provide the Compliance Office and the Department with reliable performance measurement and reporting. As the report notes, the Compliance Office has used a correspondence tracking system to track FERPA complaints since 1997. The system does not have the functionality that the Compliance Office needs to ensure efficient and effective complaint tracking. The report acknowledges that the Compliance Office made changes to its tracking processes in the latter part of FY 2017 and into FY 2018 that helped improve its ability to account for and track complaints.

OM is currently taking action to rectify this deficiency, and anticipates identifying and implementing a new technical solution in FY 2019 that will meet FPCO complaint processing information management requirements.

As an interim measure, OM has improved the functionality of the existing systems by integrating both ccmMercury and the Complaint Tracker into the Microsoft Business Intelligence platform through data application programming interfaces (APIs), to enable integrated, on-demand performance tracking of cases and complaints across both systems.

RECOMMENDATION 1.4: *Use reliable performance data to design and implement appropriate performance standards for the Compliance Office as a whole and for individual personnel responsible for handling complaints*.

RESPONSE (1.4): OM agrees that having reliable and meaningful performance data to design and implement appropriate performance standards for the Compliance Office as a whole and for individual personnel responsible for handling complaints is necessary. Effective FY 2019, the Privacy Office will begin using data from a newly-developed dashboard prepared by the Performance Improvement Office within the Office of the Deputy Secretary. This data and dashboard will be used by the Compliance Office director to establish meaningful performance measures for the office and staff.

RECOMMENDATION 1.5: *Investigate all complaints that meet the criteria requiring investigation and do not place complaints into an "inactive" status.*

RESPONSE (1.5): OM agrees that coding complaints as "inactive" is not an effective or appropriate way of coding complaints. The Compliance Office no longer places complaints into "inactive" status and has already re-coded those complaints related to unresolved policy issues to indicate they are in need of policy determinations and these are currently being addressed, through consultation with senior Department leadership and OGC, as described in our response to recommendation 1.2.

RECOMMENDATION 1.6: *Revise processes for resolving FERPA complaints to ensure effective and appropriate communication with the complainant, to include providing dismissal notifications, updates, and responses to inquiries in a timely manner, and recording all communication in the tracking system.*

RESPONSE (1.6): OM agrees that the Compliance Office should revise its policy and procedures to ensure effective and appropriate communication with complainants, including dismissal notifications, updates, and response to inquiries in a timely manner and recording all communications in the tracking system. The Compliance Office has taken multiple steps to address this recommendation as described below:

- Initiated an intake team process with responsibility to: (1) log all new complaints and correspondence received from complainants; (2) appropriately prepare incoming documents for further review by Department staff; (3) triage all complaints to determine how complaints will be handled; and (4) either draft letters that dismiss complaints for cause, request further clarification from complainants, or open formal investigations. If opening a formal investigation, the intake team drafts a letter to send to the educational agency or institution to initiate the investigation and to obtain facts from the educational agency or institution regarding the alleged violation(s). This process change has resulted in earlier notifications to complainants on the status of their complaints.

- Updated and expanded our standard language for notifying complainants of receipt of complaints or correspondence and developed a process for automating this process.

- Expanded our bank of dismissal templates to 58, which has resulted in the drafting of dismissal letters more expeditiously. This has reduced the amount of time required to process dismissal letters, and streamlined the overall review and processing of such letters. As a result of these actions, the Compliance Office has issued all of the dismissal letters for those complaints designated for dismissal that were open during the period of the audit.

- Established template letters for initiating investigations which has expedited letter drafting by the intake team, and allocated additional resource time to perform quality review. As a result, the Compliance Office expects to issue over 200 additional investigation initiation letters by the end of October.

- Formed a customer service work team in early 2018 that is developing standard operating procedures and the tools necessary to communicate with complainants in a timely and customer friendly manner. The work team submitted proposed amendments to the FPCO SOPs in September 2018 and FPCO anticipates finalization of these new procedures by December 2018.

- Included in the specifications for the new complaint tracking system are requirements that complainants will be able to check the status of their complaints online. The system will also facilitate communication by allowing for the automation of issuance of letters. This will be completed during FY2019.

RECOMMENDATION 1.7: *Design and implement a risk-based approach to processing and resolving FERPA complaints, where complaints deemed highest risk are prioritized. Risk can be evaluated based on the subject matter of the complaint, the severity of risk to student privacy, the number of students affected, or other relevant factors.*

RESPONSE (1.7): OM agrees that a risk-based approach to processing and resolving FERPA complaints should be designed and implemented. Efforts are currently underway to prioritize complaints (using a risk analysis) according to their severity, the sensitivity of the records involved, their likelihood of impacting a large number of individuals, and other relevant factors.

RECOMMENDATION 1.8: *Review and evaluate its current policies and procedures for processing FERPA complaints to ensure they are complete and appropriate.*

RESPONSE (1.8): OM agrees that having SOPs that are complete and appropriate are critical to having a well-functioning operation with effective internal controls. As noted in the draft report, beginning in FY 2017 the Compliance Office began a significant redesign and overhaul of its complaint resolution processes. The Compliance Office explained to the audit team that as part of this initiative, the Compliance Office reviewed the backlog of all open complaints to determine the appropriate action for each complaint, modified and improved its complaint tracking processes, developed standard templates for letters it commonly issued during complaint resolution, and developed written policies and procedures. Although the Compliance Office provided the audit team a copy of recently developed written policies and procedures, auditors did not consider them as they were not fully implemented during the period of the audit.

While the Compliance Office did have written policies and procedures prior to the most recent policies and procedures, the Compliance Office management found them not to be effective or consistent with their vision to modernize operations in a way that maximized the office's resources. The Compliance Office relayed to the audit team that, in FY 2014, the Compliance Office management team began the systematic process of working with staff to develop new operating procedures that maximize available resources and technology, improve workflow efficiency, and enhance internal controls. The draft report noted that the Compliance Office was utilizing flow charts as its written procedures. As the Compliance

Office director explained during the exit conference and in written response, the flow charts were not static documents, but were an integral part of their strategy to test procedures and revise processes as the staff identified more efficient ways to do the work. The Compliance Office provided the audit team a chronology of flow charts demonstrating this on-going process and how the staff continually performed analysis for effectiveness and made improvements to its procedures. The Compliance Office was then able to complete new written policies and procedures to reflect the procedures included in its early 2017 flow charts. Although the Compliance Office did not have a final written version of its new SOPs during the audit period, it had begun implementing changes to its procedures during the period of the audit. The procedures were predicated upon its workflow diagram and "draft" SOPs. Further, as part of its ongoing improvement strategies, the Compliance Office formulated a SOP working team in early 2018 consisting of representatives of the intake staff, caseworkers, and management team that meet on a monthly basis to review the Compliance Office's policies and procedures, assess their efficacy, and recommend or make changes to their processes. During the Compliance Office's September 2018 retreat, employees were presented with the new updated written SOPs for review and discussion. The Compliance Office will continue the practice of a monthly meeting of the SOP working team and continue to identify and make appropriate changes to its policies and procedures as necessary. Furthermore, in October 2018, the new acting director and deputy director of the Compliance Office have made additional process changes to streamline the review and processing of complaints that will be reflected in the SOPs, and are committed to identifying and implementing additional process improvements on an ongoing basis over the coming months.

Other Matter: *The Privacy Office should conduct self-initiated investigations when warranted.*

RESPONSE: OM agrees that the Compliance Office should conduct self-initiated investigations when warranted. As you note in your report, the Department amended the FERPA regulations in 2008 to clarify that the Department's enforcement responsibilities include the authority to conduct self-initiated investigations of possible FERPA violations. The Compliance Office agrees that self-initiating investigations could be an important part of its statutory responsibility to enforce FERPA. As noted by the OIG in the draft report, the Compliance Office director reported that the Compliance Office had recently initiated its first self-initiated investigation and intends to conduct self-initiated investigations in the future when warranted. The Compliance Office is optimistic that as process improvements are implemented (including those discussed in our response to Recommendation 1.7), it will conduct more self-initiated investigations. OM will work with the Compliance Office to set criteria for self-initiating investigations of violations of FERPA.