

# IMPROPER PAYMENTS IN THE FEDERAL GOVERNMENT: STUDENT AID

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JOINT HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
GOVERNMENT OPERATIONS  
AND THE  
SUBCOMMITTEE ON  
INTERGOVERNMENTAL AFFAIRS  
OF THE  
COMMITTEE ON OVERSIGHT  
AND GOVERNMENT REFORM  
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## IMPROPER PAYMENTS IN THE FEDERAL GOVERNMENT: STUDENT AID

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Thursday, May 25, 2017

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON GOVERNMENT OPERATIONS, JOINT  
WITH THE SUBCOMMITTEE ON INTERGOVERNMENTAL  
AFFAIRS,  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,  
*Washington, D.C.*

The subcommittees met, pursuant to call, at 10:02 a.m., in Room 2154, Rayburn House Office Building, Hon. Mark Meadows [chairman of the Subcommittee on Government Operations] presiding.

Present from Subcommittee on Government Operations: Representatives Meadows, Hice, Jordan, Ross, Blum, Connolly, Norton, Lawrence, and Watson Coleman.

Present from Subcommittee on Intergovernmental Affairs: Representatives Palmer, Grothman, Foxx, Walker, Demings, and DeSaulnier.

Mr. MEADOWS. The Subcommittee on Government Operations and the Subcommittee on Intergovernmental Affairs will come to order. And without objection, the chair is authorized to declare a recess at any time.

Good morning, and welcome to everybody to this joint subcommittee hearing on improper payments at the Department of Education. Today's hearing is a continuation of the committee's work to oversee improper payments throughout the government and also as a continuation of the committee's oversight of the Federal Student Aid program.

Improper payments is an important topic that doesn't get enough attention and is also critical for us to get it right. Addressing this area has been especially challenging at the Federal Student Aid, given the richness and complexity of the programming.

Student aid disbursements, which total nearly \$130 billion a year, are made in accordance with complex rules, some of which are too burdensome, and in conjunction with stakeholders at schools, contractors, and college access providers. Rightfully so, the inspector general, who we welcome today, has designated this area as a "management challenge," quote, for the agency. This has been a management challenge for FSA since 2012. Let's be clear, though. FSA has all the tools it needs to fix this problem.

When Congress created FSA as a performance-based organization in 1998, it gave the organization all the flexibility necessary to get the job done, and in return, the statutory expectation was

that FSA would be transparent and that Congress would hold it accountable.

When FSA testified before this committee not too long ago in November of 2015, I said that Congress created this PBO and then walked away. I said we, Congress, didn't uphold our end of the bargain and pledged to continue with that oversight, and we have.

Which brings me to my next point perhaps addressing the elephant in the room. We are looking forward to speaking with the head of FSA today, but regrettably, he resigned 24 hours ago. And that is too bad because under statute he was responsible to Congress for the operations of FSA, and we had questions.

It is also a slap in the face to the millions of taxpayers who provided this gentleman with over \$430,000, yes, \$430,000 in bonuses since 2010. With an investment like that, they deserve better.

That said, I am pleased to welcome FSA's chief financial officer here today. We sincerely appreciate you coming, and I recognize that you only had 24 hours to prepare.

I also look forward to working with Secretary DeVos to address the shortcomings of the student aid program, including improper payments. In fact, I spoke with her yesterday, and her commitment to getting this right was very reassuring. I am hopeful that as we look to swiftly appointing a new chief operating officer and a permanent one for the Federal Student Aid that we will be able to work very closely together and address some of the concerns the inspector general has pointed out.

Today, however, we are focused specifically on improper payments, and I look forward to figuring out how we will really fix this problem. We need a meaningful dialogue, and we need to identify real solutions.

And with that, I just again welcome all of you.

Mr. MEADOWS. I will now recognize the ranking member, Mrs. Demings, for her opening statement.

Mrs. DEMINGS. Thank you so much, Mr. Chairman, for holding this very important hearing on improper payments, and I also welcome our witnesses and thank you for being here with us today.

Loan services have had a lamentable record of taking advantage of the students who rely on them. For too long, they did this with few repercussions from the Department. But in 2015, President Obama's Department of Education, Treasury, and Consumer Financial Protection Bureau announced a joint statement of principles on student loan servicing. These principles were developed to address the poor customer service scores and rampant borrower abuse. This guidance instructed the Department to consider the past performance of its loan servicing contracts.

In one of her first official actions, Secretary DeVos rescinded that guidance. On May 19, Secretary DeVos announced her intention to hire a single loan servicer that will be solely responsible for managing the Nation's \$1.3 trillion-plus student loan portfolio and will be able to subcontract to other companies. Apparently, the Trump administration intends to hire a fox to guard the hen house.

The National Association of School Financial Aid Administrators serves 9 of every 10 undergraduates in the United States and has served the financial aid community for over 50 years. It recently



reported that within Federal Student Aid office strategic planning is not happening as Congress intended.

In May 2016 Government Accountability Office concluded that the Department of Education lacks comprehensive and comparable information on the nature of borrowers' complaints made to the Department and its contracted loan services, hindering its ability to track trends and address borrower concerns. In other words, the Department of Education was not capable of protecting student borrowers and preventing abuses by loan servicing companies.

In response to the GAO report, the Department agreed to evaluate existing and alternative performance metrics and compensation strategies as part of its ongoing student loan servicing procurement and reflect the results in future servicing contracts. Secretary DeVos seems to be retreating from that agreement and is moving the Department back to the bad old days.

I look forward to hearing from the witnesses about specific plans that are being developed and what actions should be undertaken to ensure that student borrowers are provided the best services and loan servicers are given notice that the Department will not tolerate further abuses.

Thank you so much, Mr. Chairman, and I yield back.

Mr. MEADOWS. I thank the gentlewoman for her opening statement.

I recognize the gentleman from Alabama, Mr. Palmer, for his opening statement.

Mr. PALMER. Thank you, Mr. Chairman. And I want to thank the witnesses for being here. This is an important issue. It was an important issue to President Obama in July of 2010. He signed a bill, the Improper Payments Elimination and Recovery Act, because it is a drain on our resources. Every dollar that we send out improper payments is not just a dollar; it is a dollar plus interest because we are operating in deficit so it puts a huge constrain on our ability to fund the legitimate functions of government.

It is a concept that is easy to understand. An improper payment is any payment that was made improperly, including payments made to the wrong person for the wrong amount to ineligible recipients and without supporting documentation. As a matter of fact, in the GAO's report, 54 percent of the improper payments that were made were because of insufficient documentation and inability to authenticate eligibility. That is not a heavy lift to correct that.

What is hard to understand is how the Federal Government reported \$144 billion of improper payments last year, \$11 billion of which was they didn't pay people enough, leaving \$134.7 billion in overpayments. Since reporting began in fiscal year 2004, the Federal Government has reported \$1.2 trillion in improper payments, and I would like to add again, Mr. Chairman, that would be plus interest.

Unfortunately, the Department of Education, specifically the Office of Federal Student Aid, has tended in the same direction as the rest of the Federal Government in regards to increasing improper payments and is a good place to start to dig into this growing problem. I would also like to point out that in 2016 GAO found several examples of contract mismanagement that have led to confusion among the student loan servicers. GAO has specifically highlighted

concerns over the quality of communications and unclear guidance from FSA to the services.

The Department of Education inspector general is here to report for the third straight year the Department is not in compliance with Improper Payments Elimination and Recovery Act of 2010, as I pointed out, legislation that the President signed in July of 2010. By law, agencies are required to conduct risk assessments to determine if programs are susceptible to significant improper payments. Susceptible programs must report a statistically valid estimate of improper payments and other details about the causes and corrective actions taken by the agency.

The IG has reported concerns about the methodology the Department uses to develop the estimate. The IG has also reported that the Department has not conducted effective risk assessments or used the risk assessments to appropriately designate programs. These failures are particularly concerning given the amount of money at risk.

Last year, the Department reported more than \$6 billion of improper payments from just two programs: Direct Loans and Pell Grants. The Office of Management and Budget has designed both programs as high-priority programs, which means they are among the 20 programs with the highest rates of improper payments in the Federal Government.

However, the estimate that the Department reports is based on flawed methodology. The Department admits as much in its annual financial report, which says, "The Department acknowledges that its alternative estimation methodology can lead to volatile improper payment estimates." How can we understand the risk and taxpayer dollars at stake when the Department is unable to provide effective estimates? The Department needs to take responsibility for the taxpayer dollars invested in the agency and do better.

The Department reports that the improper payments are primarily a result of a failure to verify financial data and administrative errors made outside of the Department. Correction: The problem is the Department. It is responsible for the money. The Department is responsible for developing effective processes. The Department is responsible for ensuring that the schools and the students understand the process and that the process is not overly burdensome.

We are here today to begin the process of helping the Department to assume this responsibility since it appears unable to do so on its own. We can't begin to fix the growing problem of improper payments across the government until agencies follow suit. And I look forward to working with my colleagues to do so.

Thank you, Mr. Chairman. I yield back.

Mr. MEADOWS. I thank the gentleman for his opening statement.

The chair recognizes the gentleman from Virginia, the ranking member of the Subcommittee on Government Operations, Mr. Connolly.

Mr. CONNOLLY. I thank you, Mr. Chairman, and welcome our witnesses today.

Today's hearing examines improper payments at the Department of Education, a very important topic, one that this committee has done a lot of work on, not only Department of Education but

throughout the Federal Government. And we have reason to be concerned for a lot of reasons.

The Department of Education inspector general has repeatedly reported on the Department's noncompliance with Improper Payments Information Act of 2002, the Improper Payment Elimination and Recovery Act of 2010, and the Improper Payments Elimination and Recovery Improvement Act of 2012. We must understand how the Department can improve its evaluation and targeting of improper payments and how it fails to comply with the law, in this case, three of them.

However, the more pressing issue at the Department of Education and the one facing most Americans' checkbooks is the unethical abusive and predatory actions of student loan companies themselves. The Department distributes \$125 billion in student assistance every year. With more than \$1.3 trillion in loans on the books, it is in fact one of the largest financial institutions in the country.

To manage the portfolio, the Department contracts with student loan companies. Last September, the OIG issued a report that found multiple student loan companies which were supposed to be assisting students were actually accessing and changing student log-on information as part of a predatory scheme to access their accounts, change their regular mail and email addresses, and even intercept correspondence.

Specifically, the IG reported that the process for logging onto the Federal Student Aid website was, quote, "being misused by commercial third parties to take over borrower accounts," unquote. It sounds like stealing to me. In one case, the IG warned that student loan companies changed the mailing address, phone number, and email address for borrowers so that it would be difficult for the borrowers to be contacted by their loan services.

Less than two months ago on April 20th, the staff of this committee conducted a transcribed interview with the special agent in charge of this investigation and the IG's Office. The special agent warned that these companies were, quote, "controlling thousands of accounts or creating thousands of accounts and controlling them." In other words, the very companies that were supposed to be helping students, as contracted by the Department of Education, were in fact abusing their trust in an egregious way.

In January of this year, the Consumer Financial Protection Bureau filed suit against Navient, one of the largest student loan servicing companies in the United States, alleging that it steered high-risk borrowers into plans designed for those with short-term financial hardships, misrepresented the consequences of non-renewal plans, and prevented some of the most financially vulnerable borrowers from securing the benefits of payment plans specifically intended for them.

In response to documented abuse by loan servicers in the default rate of one default for every 29 seconds, the previous administration issued a memorandum requiring the FSA to do more to help borrowers manage and discharge debt. The new guidance put protections in place for borrowers by reducing the possibility that new contracts would be given to companies that had misled or otherwise harmed debtors.

Unfortunately, the new Secretary of Education, Ms. DeVos, has rescinded those directives and instructed the FSA to move forward with awarding contracts to companies that have current lawsuits against them or have admitted in court to their abuses and have been fined millions of dollars. The elimination of these important protections by the Secretary herself allows student borrowers to be charged up to 16 percent of the principal and accrued interest owed on loans unless they enter the government's Loan Rehabilitation Program within 60 days of default.

The Secretary also intends to shift to contracting with one loan servicer, one, which will potentially have subcontractors along with them. This policy would eliminate direct government oversight of many loan servicers. I would like to know how this new policy will provide better customer service and reign in loan servicer abuse. From the announcement by the Secretary, it appears the Department will in fact have less oversight of the loan servicers, not more, in this new model.

The rollback of these vital protections and financial oversight, combined with recently announced budget by the President, represent a unilateral retreat from safeguarding the best interests of students and borrowers. Budget outlines a \$9.2 billion or 13.5 percent cut to the Department of Education. The administration would eliminate the Federal Student Loan Forgiveness Program for public service workers, limit student loan repayment options, and end federally subsidized student loans.

The actions of this administration constitute in my view an assault on education and economic opportunity. Education is an investment. The government has a return on that investment. When we shortchange that investment by leaving students to fend for themselves against unscrupulous loan services or withdraw Federal support for education, we diminish our expected return: the talented, well-educated workforce the United States so desperately needs in the 21st century as we move forward.

With that, I yield back.

Mr. MEADOWS. I thank the gentleman for his remarks.

I will hold the record open for five legislative days for any member who would like to submit a written statement.

I will now recognize our panel of witnesses. I am pleased to welcome Mr. Jay Hurt, chief financial officer for Federal Student Aid at the U.S. Department of Education; the Honorable Kathleen Tighe, inspector general of the U.S. Department of Education, welcome; and Mr. Justin Draeger, president of the National Association of Student Financial Aid Administrators. Welcome. Welcome back. Welcome to you all.

Pursuant to committee rules, all witnesses will be sworn in before they testify, so if you will please rise and raise your right hand.

[Witnesses sworn.]

Mr. MEADOWS. Thank you. Please be seated. Let the record reflect that the witnesses answered in the affirmative.

In order to allow time for discussion, we would appreciate if you would limit your oral testimony to five minutes. However, your entire written testimony will be made part of the record.

Mr. Hurt, you are recognized for five minutes.

**WITNESS STATEMENTS****STATEMENT OF JAY HURT**

Mr. HURT. Thank you, Chairmen Meadows and Palmer, Ranking Members Connolly and Demings, and members of the subcommittees, for the opportunity to join you today. My name is Jay Hurt, and as the FSA CFO, I am the accountable—program accountable official for improper payments at Federal Student Aid.

I am here to talk to you about improper payment estimates for the Pell Grant and Direct Loan Programs, the most recent audit of the Department's compliance with IPERA, and our work to minimize the level of improper payments in these two programs. As the largest source of student aid for postsecondary education in the United States, FSA delivered more than \$125 billion in aid to more than 13 million students attending more than 6,000 schools last year.

FSA must balance the simplicity and efficacy of the Federal student aid delivery process with the need to protect taxpayer dollars. This balance has led us to create a highly automated and integrated aid delivery process with hundreds of controls to combat improper payments.

We appreciate the partnership with our IG looking for opportunities to improve this process. In 2014, OMB approved our alternative improper payment estimation methodology for Pell Grant and Direct Loan Programs. This methodology leverages data collected through FSA program reviews, avoids significant costs that would otherwise be required for separate testing at schools if FSA were to use statistical sampling techniques and integrates the improper payment estimation into core FSA monitoring functions.

In June 2016, FSA submitted updates to the alternative sampling methodology to OMB in response to findings from the IG's fiscal year 2015 IPERA Compliance Audit Report. OMB approved the revised estimate methodology in October of 2016. As a result of the changes to the methodology, and as a likely result of the inherent variability of the methodology, the fiscal year 2016 estimated improper payment rate for the Pell Grant and Direct Loan Programs increased over the estimates produced in fiscal year 2015 and were higher than the targets set in fiscal year 2015.

The improper payment rates are primarily based on the assessment of completed program reviews. Schools are selected for a program review based on risk-based criteria. Only a small set of schools are selected for review randomly, typically less-risky schools. Because all schools are not randomly selected for review, the extrapolation of findings from these reviews does not produce an estimate that is representative of the full population of payments. In order to eliminate the variability of the estimate to the tolerance level prescribed by current OMB guidance, FSA would need to spend millions more on its improper payment estimation process and impose significant burdens on roughly 1,000 schools. If FSA were to divert resources from the higher-risk program reviews to the randomly selected reviews, we would essentially be giving up the identification and recovery of improper payments in order to improve our estimates.

Although fiscal year 2016 IPERA Compliance Audit Report identified the Department as noncompliant with IPERA due to missing its improper payment reduction targets, the IG found that the Department's improper payment reporting, estimates, and methodology were generally accurate and complete. FSA has developed robust internal controls to prevent, detect, and, where appropriate, recover improper payments. In designing controls, FSA strives to strike the right balance between providing timely and accurate payments to students and ensuring that controls are not overly costly and burdensome.

In fiscal year 2016, FSA documented and assessed 328 controls to detect and prevent improper payments and found that 97 percent were designed and operating effectively. FSA has also identified corrective actions to address the root causes of improper payments. For example, FSA annually reviews verification procedures that require schools to verify specific information reported on the FAFSA form by student aid applicants. These school verification procedures are an effective control, avoiding hundreds of millions annually in actual improper payments.

Despite our continuous efforts to reduce improper payments, it would be misleading for us to leave Congress and the public with the impression that zero percent improper payment rate is feasible. In its 2016 Global Fraud Study, the Association of Certified Fraud Examiners found that the typical organization loses 5 percent of revenues in a given year as a result of fraud. As currently defined by OMB, improper payments include much more than fraud. Using this definition, FSA's estimated combined fiscal year 2016 improper payment rate is 4.85 percent.

I appreciate the opportunity to provide you with this information, and I welcome any questions you have.

[Prepared statement of Mr. Hurt follows:]

Written Testimony  
Jay Hurt  
Chief Financial Officer  
Federal Student Aid  
U.S. Department of Education

**"Improper Payments in the Federal Government: Student Aid"**  
**Before the U.S. House of Representatives Committee on Oversight and Government Reform,**  
**Subcommittees on Government Operations**  
**and Intergovernmental Affairs**

May 25, 2017

Thank you, Chairmen Meadows and Palmer, Ranking Members Connolly and Butler Demings, and members of the Subcommittees, for the opportunity to join you today. I am here to talk to you about improper payment estimates for the Federal Pell Grant (Pell Grant) and William D. Ford Direct Loan (Direct Loan) programs, the most recent audit of the Department's compliance with the *Improper Payments Elimination and Recovery Act of 2010* (IPERA), and our work to minimize the level of improper payments in these two programs.

FSA remains the largest source of Federal student aid for postsecondary education in the United States. In Fiscal Year 2016, FSA delivered nearly \$125 billion in aid, including Pell Grant funds and Direct Loans, to nearly 12 million students attending more than 6,000 postsecondary institutions.

FSA must balance the need to make the Federal student aid delivery process simple and efficient for students and their families with the need to protect taxpayer dollars. This balance has led us to create a highly-automated and integrated aid delivery process—that includes schools, Federal loan servicers, and others—with hundreds of controls to combat improper payments. We appreciate our partnership with the Department's Office of the Inspector General (OIG) in constantly searching for opportunities to improve this process. I also welcome the opportunity to discuss our work with you today.

**Pell Grant and Direct Loan Improper Payment Estimation Methodology**

The Office of Management and Budget (OMB) Circular A-123, Appendix C, Requirements for Effective Estimation and Remediation of Improper Payments, implements the provisions of the *Improper Payments Information Act of 2002* (IPIA), as amended by IPERA and the *Improper Payments Elimination and Recovery Improvement Act of 2012* (IPERIA). According to Appendix C, an improper payment is any payment that should not have been made or was made in an incorrect amount (i.e., too high or too low) under statutory, contractual, administrative, or other legally applicable requirements. An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services that were not received. In addition, when, as a result of insufficient or lack of documentation, an agency's review is unable to discern whether a payment was proper, this

payment must also be considered an improper payment. Therefore, not all improper payments result in assessed liabilities to the Federal Government, and in the case of student aid, not all improper payments reflect students receiving more or less aid than they should.

ED programs susceptible to significant improper payments, as defined by IPERA, that are administered by FSA include the Pell Grant and Direct Loan programs, both of which were designated as “high priority” by OMB. Because these programs are susceptible to significant improper payments, FSA is required to calculate an estimated improper payment rate for each program, and publish the rate and future target rates in its AFR.

In 2014, FSA obtained approval from OMB to use an alternative methodology for estimating improper payments for the Pell Grant and Direct Loan programs. The alternative methodology leverages data collected through FSA program reviews, which include procedures such as determining whether schools properly performed verification of students’ self-reported income, identified conflicting applicant data, confirmed student satisfactory academic progress, and verified eligibility for the disbursed funds for a sample of students in each review.

This alternative approach avoids significant costs that would otherwise be required for separate testing at schools if FSA were to use statistical sampling techniques. The alternative methodology also provides for a more efficient allocation of resources by integrating the improper payment estimation into core FSA monitoring functions.

In June 2016, FSA submitted updates to the alternative sampling plan and estimation methodology to OMB for approval in response to findings from the OIG’s FY 2015 IPERA Compliance Audit Report. OMB conditionally approved FSA’s updates to the alternative sampling plan and estimation methodology in for FY 2016 reporting in October 2016, noting the need for continued improvement of the methodology in future years.

The FY 2015 OIG report identified possible sources of improper payments that FSA’s previous methodology did not fully account for in the estimate. In response, ED modified its estimation methodology for FY 2016 to better account for those sources, including improper payments resulting from: (1) schools disbursing funds to students enrolled in ineligible programs/locations; and (2) inaccurately self-reported income by recipients who were not selected for income verification and who did not use the Internal Revenue Service Data Retrieval Tool (IRS DRT) to transfer tax data into the online *Free Application for Federal Student Aid* (FAFSA®) form. In normal circumstances, FSA encourages applicants to use the IRS DRT to help ensure the accuracy of applicants’ income—and as applicable, their parents’ income—to determine how much federal student aid they are eligible to receive. As you know, IRS DRT currently is unavailable while extra security and privacy protections are being added, thereby increasing the risk of inaccurately entered information, which could increase improper payment rates. The IRS DRT is scheduled to return on October 1, 2017, for the 2018–19 FAFSA form.

#### **Non-Compliance with IPERA Due to Missed Improper Payment Rate Estimate Targets**

In its report issued May 17, 2017, “Government Efficiency and Effectiveness: Opportunities to Address Pervasive Management Risks and Challenges while Reducing Federal Costs,” the



Government Accountability Office (GAO) noted that “IGs at 15 of the 24 CFO Act agencies found their respective agencies to be noncompliant under IPERA for fiscal years 2014 and 2015, the highest total since IGs began their annual compliance reviews.” Many of those agencies, including the Department of Education, were found to be non-compliant because of missed reduction targets.

The FY 2016 estimated improper payment rates for the Pell Grant and Direct Loan programs increased above the FY 2015 estimated rates and the FY 2016 reduction targets. Below is a table of the estimated FY 2015 rates, FY 2016 target rates set in FY 2015, and estimated FY 2016 rates.

	<b>Pell Grant</b>	<b>Direct Loan</b>
FY 2015 Rates (revised rates as reported in the FY 2016 AFR, based on the FY 2015 estimation methodology)	1.52%	2.63%
FY 2016 Reduction Targets (as reported in the FY 2015 AFR, based on the FY 2015 estimation methodology)	1.87%	1.29%
FY 2016 Rates (as reported in the FY 2016 AFR, based on the FY 2016 estimation methodology)	7.85%	3.98%
Compliant with IPERA?	No	No

The increase in the improper payment rates is due, in part, to the change in methodology; it is also potentially attributable to inherent variability in the current improper payment estimation methodology. The improper payment rate estimates are primarily based on the assessment of completed program reviews, which are carried out as part of FSA’s monitoring function. Schools are selected for program review based on the results of an annual risk assessment, and other risk triggers. FSA also selects a small set of schools for review randomly – typically schools that are at lower risk of improper payments. Because schools are not selected for program reviews based on statistically valid sampling methods, the extrapolation of the findings from these reviews does not produce an estimate that is representative of the full population of payments.

In order to reduce the variability of the estimate to a tolerance level of 0.1 percent, which is the percentage points above a set reduction target that a program can be to still be considered to have met a set reduction target, FSA would need to expand significantly the pool of lower-risk schools it selects for program reviews every year, requiring FSA to spend millions more on its program review process, which would require additional staffing and impose significant burdens on roughly 1,000 schools. FSA might have to divert its resources to these randomly selected lower-risk schools away from the higher-risk program reviews. Such a shift to improve our estimate would be at the expense of the identification and recovery of improper payments and adherence with other Title IV requirements at the higher risk schools. Based on the inherent variability of the estimation methodology, the 90 percent confidence interval for the FY 2016 Pell Grant improper payment rate is between 4.19 and 11.51 percent and for the FY 2016 Direct Loan rate is between 0.00 and 10.83 percent.

IPERA does not allow us to update our rate targets, even though we updated our methodology to capture some additional sources of improper payments.

Although the FY 2016 IPERA Compliance Audit Report issued by the OIG on May 12, 2017 identified the Department as noncompliant with IPERA due to missing its improper payment reduction targets, the OIG found that the Department's improper payment reporting, estimates, and methodologies were "generally accurate and complete."

#### **Work to Minimize Improper Payments in the Pell Grant and Direct Loan Programs**

FSA has developed robust internal controls to prevent, detect, and, where appropriate, recover improper payments. In designing controls, FSA strives to strike the right balance between providing timely and accurate payments to students and ensuring that the controls are not too costly and burdensome for students, families, and institutions. Having performed risk assessments, FSA finds that some of the root causes of improper payments are the student's ineligibility for Pell Grant funds or a Direct Loan, incorrect self-reporting of an applicant's income, incorrect processing of student data by institutions, student account data changes not applied or processed correctly, the school's failure to apply the satisfactory academic progress policy, and incorrectly calculating the amount of Title IV student aid funds that need to be returned to the Department. Additionally, examples of Direct Loan consolidation and refund improper payment root causes include insufficient document to support the payments, loan verification certificate processing errors, and refunds made to an ineligible party or for an ineligible purpose. In FY 2016, approximately 93 percent of estimated improper payments were attributable to administrative or process errors made by other parties, which, in this case, may often be students and schools.

In FY 2016, FSA documented and assessed 328 controls to detect and prevent improper payments and found that 99.7 percent (327 out of 328) of the controls tested were designed effectively, and 96.6 percent (172 out of 178) were operating effectively. Examples of some of FSA's improper payment controls include:

- Under normal circumstances, promoting use of the IRS DRT, which allows eligible FAFSA filers (approximately 10 million each year) to electronically transfer IRS tax return information;
- Requiring school verification of applicant data on the FAFSA form, and updating that selection criteria annually;
- Conducting annual program risk assessments and reviews of program participants, including schools, lenders, guaranty agencies, and contractors;
- Comparing data on the FAFSA form to the Social Security Administration's Death Master File to ensure that an identity thief is not attempting to use the process to steal Federal funds;
- Using the Federal excluded parties list database to ensure that schools and school officials that participate in the Federal student aid process were not previously barred from receiving Federal funds;
- Using Unusual Enrollment History flags to identify persons who are receiving aid at multiple schools over a short period of time;
- Conducting annual training for more than 6,000 postsecondary institutions on how to properly administering federal student aid and manage Federal funds; and

- Analyzing nearly 30,000 referrals from the OIG about potential student-level fraud, and driving each referral to a final, conclusive action.

Additionally, FSA has identified corrective actions to address the root causes of improper payments. These corrective actions include, but are not limited to

- Promoting the use of the IRS DRT (scheduled to return for the 2018–19 FAFSA form on October 1, 2017), which enables FAFSA filers and, as needed, parents of filers, to transfer certain tax return information from an IRS website directly to the online FAFSA form. Although FSA encourages use of the IRS DRT, in order to require use of the DRT for all eligible applicants, Congress would need to change the law pertaining to consent to sharing taxpayer information;
- Continuing to use data-based statistical analysis to enhance verification selection of the FAFSA filers with the highest statistical probability of error and the impact of such error on award amounts. Enhancement to verification procedures is a continuous process that is reviewed annually;
- Beginning on October 1, 2016, for the 2017–18 award year, FAFSA filers completed their FAFSA form using “prior-prior” year tax return information. For the 2017–18 award year, students and families provided tax return information from calendar year 2015 (not from calendar year 2016). This is in contrast with the “prior year” process previously employed, where many filers submitted their FAFSA forms before their tax returns were completed. The “prior year” process resulted in the need for some filers to estimate tax return information that, subsequently, would need to be corrected once the tax return was filed; or worse, was never corrected. The FAFSA form changes enacted for Award Year 2017–18 reduced the proportion of filers who had to use estimated tax information.;
- Coordinating with our contracted loan servicers to develop and implement corrective action plans to address consolidation errors, such as funds returned due to duplicate funding or multiple Loan Verification Certificates, inclusion of student loans that the borrower desired to exclude or were determined to be ineligible, and payoffs sent to the wrong address; and
- Coordinating with our contracted loan servicers to develop and implement corrective action plans to address refund errors, such as refunds made to ineligible lenders and borrowers, made for ineligible purposes, made in the incorrect amount, and/or sent to the incorrect payee.

FSA is continuously working to identify new controls to combat improper payments. In addition, existing controls—such as the regression analyses used to choose applicants for school verification—are continuously updated to improve our ability to detect and prevent improper payments. Despite our vigilance and our continuous efforts to reduce improper payments and protect taxpayer dollars, it would be irresponsible for us to leave Congress and the American public with the impression that a zero-percent improper payment rate is feasible. In its 2016 Global Fraud Study, the Association of Certified Fraud Examiners found that its members who participated in the survey estimated that the typical organization loses five percent of revenues in a given year as a result of fraud. As currently defined by IPERA and OMB, improper payments include much more than fraud, such as unintentional inaccurate reporting and insufficient

documentation by applicants and schools. FSA's estimated improper payment rate in FY 2016—when aggregating the Pell Grant and Direct Loan rates—was 4.85 percent.

**Conclusion**

I appreciate the opportunity today to describe to you our improper payment estimation methodology, the cause of our non-compliance with IPERA, and our robust set of controls over improper payments. We will continue to work with our partners to further simplify the process to deliver aid to students and their families, to make our programs more effective, and to protect taxpayer dollars.

I welcome any questions you may have today.

Mr. MEADOWS. I thank you, Mr. Hurt.  
We now recognize you, Ms. Tighe, for five minutes.

**STATEMENT OF KATHLEEN S. TIGHE**

Ms. TIGHE. Thank you very much. I apologize for my voice this morning. I'll try to speak loud.

Thank you for inviting me here today to discuss the work of the Department of Education Office of Inspector General involving improper payments. Our work related to improper payments has evolved and increased over the years with the passage of several statutes, including the Improper Payments Elimination and Recovery Act of 2010. In these efforts, where we have identified instances of noncompliance with IPERA by the Department and weaknesses in the Department's efforts to measure, estimate, and report on improper payments, we have provided recommendations for improvement.

In our recent improper payments audit covering fiscal year 2016, we found for the third year in a row that the Department did not comply with IPERA. Like the previous two years, the Department did not meet the annual reduction target for the Direct Loan Program. This year, it also did not meet the annual reduction target for the Pell Program. The improper payment estimate for the Pell Program was 7.85 percent, or \$2.21 billion, which exceeded the reduction target of 1.87 percent. The improper payment rate for the Direct Loan Program was 3.98 percent, or \$3.86 billion, which exceeded the reduction target of 1.29 percent.

This was not unexpected. As in response to my office's recommendations, the Department had revised its estimation methodologies for both the Direct Loan and Pell Programs to include estimates of inaccurate self-reported income and improper payments associated with ineligible programs and locations. The Department also expanded the number of program reviews it used.

Although these revisions to its methodologies caused a significant increase in improper payments for both programs, tripling the estimate for the Direct Loan Program and quadrupling the estimate for the Pell Program, the increased rates show the progress the Department has made in its estimates and provide a more realistic picture where these programs are in terms of improper payments. This should result in better information for the Department to use when designing appropriate corrective action.

Our recent audit also found for the first time that the Department did not conduct risk assessments that confirmed with the appropriate requirements to determine whether Department-managed grant programs and FSA-managed contracting activities may be susceptible to significant improper payments.

Through its own risk assessment, the Department identified the rehabilitation services Administration Vocational Rehabilitation State Grants Program as a program that exceeded the established improper payments threshold. Single audits reviewed by the Department had identified questioned costs for the voc rehab program ranging from \$31 million to \$44 million, which are between 1.56 percent and 1.81 percent of program outlays all over the threshold. Yet despite these findings, the Department did not conclude the voc rehab program may be susceptible to significant improper pay-

ments and did not report the program in its fiscal year 2016 annual financial report, as it was required to do.

Further, for FSA-managed contracting activities, the Department did not consider seven of the nine required risk factors. FSA-managed contracting activities accounted for 76 percent of the Department's active contracts in 2016. For the Department-managed grant programs, the Department did not consider two of nine risk factors. As a result, these risk assessments did not comply with IPERA.

Based on our findings, we made 10 recommendations to help the Department comply with IPERA and improve its improper payments reporting, estimates, and methodologies. With the exception of our recommendation pertaining to the voc rehab program, the Department indicated it will take action to respond to our recommendations.

This concludes my testimony. I'm very happy to answer questions.

[Prepared statement of Ms. Tighe follows:]

**Statement of Kathleen S. Tighe, Inspector General  
U.S. Department of Education Office of Inspector General  
Before the Subcommittee on Government Operations and  
the Subcommittee on Intergovernmental Affairs of the  
Committee on Oversight and Government Reform  
United States House of Representatives  
May 25, 2017**

Chairman Meadows, Chairman Palmer, Ranking Member Connolly,  
Ranking Member Butler Demings, and Members of the Subcommittees:

Thank you for inviting me here today to discuss the work of the U.S. Department of Education (Department) Office of Inspector General (OIG) involving improper payments. For more than 35 years, the OIG has worked to promote the efficiency, effectiveness, and integrity of Federal education programs and operations. We aggressively identify and pursue fraud, waste, and abuse involving the Department's programs and operations. Our work related to improper payments has evolved and increased over the years with passage of the Improper Payments Information Act of 2002, the Improper Payments Elimination and Recovery Act of 2010, and the Improper Payments Elimination and Recovery Improvement Act of 2012 (collectively referred to in this testimony as IPERA). In these efforts, we have identified instances of noncompliance with IPERA by the Department and weaknesses in the Department's efforts to measure, estimate, and report on improper payments and have provided recommendations for improvement. Last year, the Department made progress addressing these recommendations and in its efforts to measure improper payments, a fact that I highlighted in recent testimony before the U.S. House of Representatives Committee on Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies. Today, I will discuss the findings of our recent IPERA audits and the Department's response to those findings.

The Department must be able to ensure that the billions of dollars entrusted to it are reaching the intended recipients. Perhaps nowhere is this more critical than in the area of Federal student aid, as the Department disburses about \$125 billion in student aid annually and manages an outstanding loan portfolio of nearly \$1.3 trillion—making it one of the largest financial institutions in the country. Specific to this area, the Department has identified the Federal Pell Grant (Pell) and the William D. Ford Federal Direct Loan (Direct Loan) programs as susceptible to significant improper payments. In addition, the Office of Management and Budget (OMB) has designated these programs as high-priority programs, which are subject to greater levels of oversight.

IPERA requires each agency, in accordance with guidance prescribed by OMB, to periodically review all programs and activities that the agency administers and identify all programs and activities that may be susceptible to significant improper payments. For each program and activity identified, the agency is required to produce an estimate of the improper payments made and include those estimates in the agency's annual financial report (AFR). IPERA also requires each agency's Inspector General to determine the agency's compliance with the statute for each fiscal year (FY). Compliance with IPERA means that the agency has met six specific requirements. If an agency does not meet one or more of these requirements, then it is not compliant with IPERA.

#### **FY 2014 and FY 2015 Results**

Our IPERA audits for FY 2014 and FY 2015 found that for both years, the Department did not comply with IPERA because it failed to meet one of the six compliance requirements: it reported



an improper payment rate that did not meet its reduction target for the Direct Loan program. In both years, we also found the Department's improper payment estimates and estimation methodologies for the Pell and Direct Loan programs were inaccurate, incomplete, and unreliable, and the estimates deviated from the OMB-approved methodologies. We found that they relied on program reviews as the sole or primary source of improper payments but did not take into account all program reviews that could identify improper payments and did not include all improper payments from ineligible programs or locations identified in program reviews. In addition, the Department excluded other sources of improper payments, such as applicants with inaccurate self-reported income on the Free Application for Federal Student Aid (FAFSA). As a result, the Department was limited in both its ability to address root causes of improper payments and its ability to assess its progress in reducing improper payments over time.

As a result of these findings, we made a series of recommendations for the Department to address in order to comply with IPERA and improve its improper payment estimates. In response to these recommendations, the Department revised its estimation methodologies for both the Direct Loan and Pell programs for FY 2016. Among the changes was, for the Pell program, the inclusion of estimates of inaccurate self-reported income (both over- and under-reporting) by applicants on the FAFSA. In addition, for both the Pell and Direct Loan programs, the estimates were revised to include improper payments associated with schools with ineligible programs or locations; and the Department expanded the number of program reviews included in the estimates. This revision resulted in about 400 program reviews being included in the FY 2016 estimates, a significant increase over the 130 or so program reviews included in the

FY 2015 estimates. The revised estimation methodologies resulted in significant increases in the FY 2016 improper payment estimates for these programs. The estimate for the Direct Loan program increased from \$1.28 billion in FY 2015 to \$3.86 billion in FY 2016 and the estimate for the Pell program increased from \$562 million to \$2.21 billion. Although the OIG believes that the revised estimates are more realistic, the significant increases emphasize the need for the Department to use a more stable estimation methodology and intensify its efforts to identify and address internal controls and oversight to address the root causes.

#### **FY 2016 IPERA Results**

For the third year in a row we found that the Department did not comply with IPERA because it did not meet two of IPERA's six compliance requirements. Like the previous two years, the Department did not meet the annual reduction target for the Direct Loan program, and for the first time, it also did not meet the annual reduction target for the Pell program. The Department also did not conduct risk assessments that conformed with the requirements in the Improper Payments Information Act of 2002 (IPIA) or OMB guidance to determine whether Department-managed grant programs and FSA-managed contracting activities may be susceptible to significant improper payments. In addition, the Department failed to identify and report the Rehabilitation Services Administration-Vocational Rehabilitation State Grants program as a program that may be susceptible to significant improper payments. We found that the Department's improper payment reporting, estimates, and methodologies were generally accurate and complete; however, as discussed below, we identified issues in all three areas.

**Direct Loan and Pell Programs**

The Department reported improper payment rates for the Pell and Direct Loan programs that did not meet the FY 2016 reduction targets established in its FY 2015 AFR.

The improper payment rate for the Pell program was 7.85 percent (\$2.21 billion), which exceeded the reduction target of 1.87 percent; and the improper payment rate for the Direct Loan program was 3.98 percent (\$3.86 billion), which exceeded the reduction target of 1.29 percent. The Department stated in its most recent AFR that its failure to meet reduction targets was not due to a control failure or increase in actual improper payments in the Direct Loan and Pell programs, but due to changes made to its estimation methodologies.

We found that the Department's improper payment reporting, estimates, and methodologies were generally accurate and complete; however, we identified issues in all three areas. First, the Department needs to improve its policies and procedures for its Direct Loan and Pell programs improper payment calculations, as we found that despite having a quality control process, it did not identify and correct two errors in its improper payment calculations. Second, the Department needs to clarify its estimation methodologies to explicitly address improper payments that are applicable to one award year that were identified through a sample of recipients drawn from another award year. Third, the Department's AFR did not include the results of all of the corrective actions implemented to address the root causes of the identified improper payments.

**Risk Assessment – Rehabilitation Services Administration-Vocational  
Rehabilitation (VR) State Grants**

Under IPERA, an agency is required to conduct a program specific risk assessment for each program or activity that conforms to requirements in the IPIA. If improper payments in a program may have exceeded (i) \$10 million of all program payments made during the FY reported and 1.5 percent of program outlays or (ii) \$100,000,000, the program may be susceptible to significant improper payments. During FY 2016, the Department conducted an improper payment risk assessment of grant programs managed by several Department offices using questioned costs identified in single audits and in OIG audits for FYs 2013, 2014, and 2015. The Department identified the VR program as the only program that exceeded the threshold—single audits identified questioned costs for the VR program ranging from \$31.1 million to \$44.6 million, which was between 1.56 percent and 1.81 percent of program outlays for FYs 2013, 2014, and 2015.

Yet despite these findings, the Department did not conclude that the VR program may be susceptible to significant improper payments and did not report the program as such in its FY 2016 AFR. The Department stated that it did not consider the VR program to be a program susceptible to significant improper payments because “(1) most of the grant program’s questioned costs were related to a single auditee which had a history of unresolved questioned costs, (2) questioned costs of this type are rarely sustained through the audit resolution process, and (3) the program exceeded the 1.5 percent threshold by only a small margin.” Further, it stated that the questioned costs for the VR program identified in FYs 2013, 2014, and 2015 single audits are just a proxy for improper payments and that the Department is not able to determine whether these questioned costs really exist until these single audits are resolved. The Department’s justification,

however, omitted the following important facts: (1) questioned costs were related to two auditees, not one auditee; (2) although the audit resolution process may not have sustained the VR program questioned costs for FY 2013, the questioned costs for FY 2014 were fully sustained, and the Department could not assume that the FY 2015 questioned costs would not be sustained; (3) IPIA does not provide exclusions or exceptions for programs that exceed a threshold by only a “small margin;” and (4) questioned costs are an appropriate component of an improper payments risk assessment or calculation.

**Risk Assessments – Required Risk Factors Not Used**

IPIA and OMB guidance together require agencies to consider a minimum of nine risk factors in their risk assessments. For FSA-managed contracting activities, the Department did not consider seven of the nine risk factors and therefore it did not comply with IPERA. FSA-managed contracting activities accounted for \$1.88 billion (76 percent) of the Department’s \$2.46 billion in active contracts in FY 2016. For the Department-managed grant programs, the Department did not consider two of the nine risk factors. As a result, the risk assessments for Department-managed grant programs did not comply with IPERA. However, we found that the Department’s conclusion that these grant programs, with the exception of the VR program, were not susceptible to significant improper payments was appropriate because the Department’s quantitative risk assessments showed that none of these grant programs had questioned costs that exceeded the thresholds for programs that may be susceptible to significant improper payments and the two risk factors not considered by the Department likely would not identify additional questioned costs or improper payments.

**OIG Recommendations**

In our report, we made 10 recommendations to help the Department comply with IPERA and improve its improper payment reporting, estimates, and methodologies. With the exception of the recommendation below pertaining to the VR program, the Department indicated that it will take actions to respond to our recommendations. Our recommendations included that the Department do the following:

1. As required by IPERA, submit to Congress proposed statutory changes necessary to bring the Direct Loan program into compliance as it did not meet improper payment reduction targets for the Direct Loan program for 3 consecutive years. The Department must submit its proposal by June 12, 2017.
2. Also as required by IPERA, submit to Congress a plan describing actions the Department will take to bring the Pell program into compliance and actions the Department will take to ensure that its risk assessments conform to requirements in the IPIA and OMB guidance. The plan is due to Congress by August 10, 2017.
3. Identify the VR program in the FY 2017 AFR as a program that may be susceptible to significant improper payments and produce and report an improper payment estimate for the program.
4. Ensure that risk assessments conform with requirements of the IPIA and OMB guidance when determining whether programs may be susceptible to significant improper payments. Specifically, develop improper payment risk assessment models that include all nine required risk factors and other factors, if appropriate, and identify all programs that may be susceptible to significant improper payments.

**Internal Revenue Service Data Retrieval Tool**

The Department reports that one of the root causes of improper payments in Pell and Direct Loan programs in FY 2016 was inaccurate self-reporting of an applicant's income on the FAFSA that leads to incorrect awards. One of the Department's prior corrective actions to address this root cause is to promote the usage of the Internal Revenue Service (IRS) Data Retrieval Tool (DRT), which allows applicants to have the IRS transfer tax return data from an IRS website directly to their online FAFSA. However, as you know, the DRT was disabled in March due to fraudulent activity. At the hearing on this issue held by the full Committee on May 3, 2017, the Deputy Inspector General of the Treasury Inspector General for Tax Administration (TIGTA) testified that identity thieves appear to have used the personal information of individuals that they obtained outside the tax system to start the FAFSA application process in order to secure individuals' adjusted gross income through the IRS DRT. The thieves then used this information to file fraudulent tax returns. The OIG is presently conducting a criminal investigation into this matter with TIGTA and the IRS Criminal Investigations Division.

**Closing**

You will find more details on the issues presented here today in our improper payments audits, all of which are available on our web site. We are seeing that the Department is making progress in its efforts to measure improper payments and we remain committed to identifying improper payments and recommending corrective actions.

I would like to thank this Committee for continuing to shine a spotlight on an issue that is such a vital part of good government. This concludes my remarks. I am happy to answer your questions.

Mr. MEADOWS. Thank you.

Mr. Draeger, you are recognized for five minutes.

#### STATEMENT OF JUSTIN DRAEGER

Mr. DRAEGER. Mr. Meadows, Mr. Palmer, Mrs. Demings, Mr. Connolly, thank you for the invitation to testify today. As has been pointed out, NASFAA represents financial aid administrators at 3,000 public, private colleges, universities, and trade schools across the United States.

Financial aid administrators really sit at the nexus between policy and practice, and so we like to believe that our perspective can add value as how things that emanate from Washington, D.C., affect students on the ground.

An improper payment can be the result of fraud or it can be the result of error, and from an institutional perspective, we've made some progress on both of those fronts in recent years. Concerning fraud, some of the most recent institutional practices that have been implemented to combat fraud include more stringent academic progress monitoring to make sure students are moving through their program; with help from the Department of Education, tracking students who are attending multiple institutions; smaller disbursements made to students on an ongoing basis; more in-depth one-on-one counseling; and more faculty involvement to track attendance to make sure students are actually attending the courses they are taking financial aid for.

But one of the greatest challenges in dealing with improper payments within the student aid programs is really in our efforts to drive down improper payments, we don't want to simultaneously and sometimes inadvertently drive out the very students that we're trying to help. So I want to offer two real-life contrasting examples of—that have come up in recent years.

First, as has been pointed out by the other folks on the panel, one of the root causes of improper payments is unverified financial data from an applicant that is put on their financial aid application. To correct this issue, the Department of Education, the IRS several years ago implemented an IRS data retrieval tool, which was really a win-win because it allowed students to automatically import their data automatically verified by the IRS into their application, lowered barriers for students, and decreased improper payments.

As the folks on the subcommittees are aware, though, in an unfortunate twist, that tool was taken down in March because it detected fraud. And without that tool being operational and securely operational, improper payments will likely increase and students will have larger-than-necessary barriers in completing their applications. Still, though, the DRT is a good example of a tool that automated a process to lower improper payments and serve students and families.

On the other hand, sometimes when we try to drive down improper payments, students and schools are subjected to very burdensome regulations and requirements that have pretty questionable outcomes and results. For example, the Department found that 15 percent of all financial aid applicants who said they did not



file a tax return actually did end up filing a tax return. And on the face of it, that sort of error is disconcerting.

So the Department began requiring students to provide documentation from the IRS that they did not file a tax return. As it turned out, that process was ridiculously complex and archaic and required 10 business days for students to request a transcript from the IRS through the U.S. Postal Service. In 2015, 2016, 2017, that sort of archaic process can at best delay financial aid and at worst, as schools reported, disrupt enrollment.

And the one unanswered question in all of this is did any of the changes that resulted from this requirement actually reduce improper payments? That question was not answered, at least publicly to the institutions that had to implement this for students.

Unfortunately, a solution that was under consideration where the IRS and the Department would, just behind the scenes through a database match, automatically determine whether somebody had filed a tax return has since been scrapped.

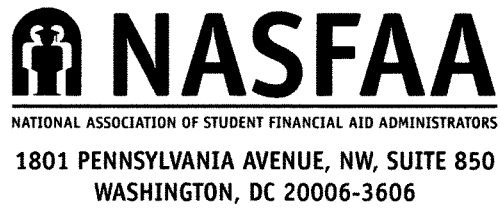
I want to offer in my last minute here just a few suggestions. One is that we would like to encourage the Department to continue to leverage technology whenever possible, to take the burden off the students and rely on other Federal or State databases as much as possible to verify student eligibility. This has to be done, of course, securely.

Second, we need a better partnership with the Department of Education to work closely together so that any new requirements or data collection requirements go through some sort of testing first so that we understand the impact on students and schools. Audit and program reviews must be issued in a timely way, and the Department should consider a voluntary program where schools can come forward with errors without fear of reprisal, fines, and liabilities in the spirit of partnership to fix improper payments.

And finally, we need congressional help to simplify everything from the application to the formula determining student eligibility.

Thank you for your time and schools stand with you in wanting to ensure the right dollars are going to the right students.

[Prepared statement of Mr. Draeger follows:]



Testimony of  
Justin Draeger  
NASFAA President

Presented to the  
Subcommittee on Government Operations and the  
Subcommittee on Intergovernmental Affairs of the House  
Committee on Oversight and Government Reform focused on  
“Improper Payments in the Federal Government: Student Aid.”

May 25, 2017

Testimony: Justin Draeger, NASFAA

## Introduction

On behalf of the National Association of Student Financial Aid Administrators (NASFAA), we submit the following statement for the record with respect to improper payments of Higher Education Act (HEA), Title IV student financial aid. The cost of college is the barrier most cited by students and families as they pursue higher education, and financial aid lowers that barrier. NASFAA represents financial aid administrators at 3,000 public and private colleges, universities, and trade schools across our nation who pull together federal, state, and institutional aid programs to help families pay for college. Collectively, NASFAA members serve 90 percent of undergraduate students studying in the United States.

Improper payments within the federal Title IV student financial aid programs take various forms, but of most concern to NASFAA members are those that occur when federal student financial aid goes to an ineligible individual, or when an eligible student receives an incorrect amount as an overpayment or underpayment. The programs identified by the Department of Education (ED)<sup>1</sup> as susceptible to significant improper payments are the Pell Grant Program and the Direct Loan Program. Significant improper payments are considered those that exceed both 1.5 percent of program payments and \$10 million annually, or that exceed \$100 million.<sup>2</sup>

The Pell Grant Program is targeted to the poorest of America's students, who are, by nature, among the most disadvantaged and underrepresented in higher education. Higher education represents a proven path of escape from poverty and Pell Grants are key to providing access to higher education for America's neediest students<sup>3</sup>. In 2014-15, 66 percent of Pell Grant recipients had an expected family contribution towards educational costs of zero under the Congressionally-mandated federal need analysis formula.<sup>4</sup> These students and families are generally the most sensitive to barriers that can arise when measures intended to safeguard program integrity are introduced into the Title IV student aid application and delivery processes.

The Direct Loan Program is the largest source of federal student aid, with \$97.1 billion in outlays for FY 2016, compared to \$28.2 billion for Pell Grant.<sup>5</sup> Low-cost student loans with borrower protections and, for financially needy students, up-front subsidies, enable choice as well as access, allowing low- and middle-income students the option to borrow to cover the higher costs of more selective colleges. Back-end repayment assistance such as income-driven repayment plans, deferment of payment when the borrower encounters hardship, and the opportunity for cancellation of repayment obligations under certain conditions are safeguards and benefits that only government loans provide.

Improper payments threaten these vital programs. They are a disservice to all stakeholders, most prominently eligible students, schools, and taxpayers, as well as the federal government. Both ED and financial aid administrators strive to eliminate improper payments. Acknowledging the fact that no system or individual is perfect, we still share a common desire

<sup>1</sup> US Department of Education, [FY 2016 Agency Financial Report](#)

<sup>2</sup> US Department of Education Office of Inspector General, [FY 2017 Management Challenges](#)

<sup>3</sup> College Board, [Education Pays 2016](#)

<sup>4</sup> College Board, [Trends in Student Aid 2016](#)

<sup>5</sup> US Department of Education, [FY 2016 Agency Financial Report](#)

Testimony: Justin Draeger, NASFAA

to drive the rate of improper payments as low as possible.

The challenge is to do so without also driving out the very students these aid programs have been designed to help.

### **Causes of Improper Payments**

An improper payment can be the result of fraud (perpetrated by individuals or organized rings), or error (caused by individual human error or systemic shortcomings).

The threat of fraud comes primarily from individuals who enroll solely to obtain funds illicitly. While fraud can be committed by students who are in fact pursuing an education, or by institutional employees working from within the system, we hear the greatest concerns about organized fraud rings. Detection of any source of fraud is difficult, and prevention requires a concerted effort by numerous entities, especially in the realms of cybersecurity and distance education. The Department of Education's Office of Inspector General (OIG) stated in a Management Information Report issued in 2013 that student aid fraud ring activity had increased 82 percent from award year 2009 to 2013; an OIG Investigative Program Advisory Report issued in 2011 had also warned of increasing fraud activity. ED's response to the Management Information Report included steps beginning in 2013 to combat fraud as part of the aid application process: establishing an "unusual enrollment history" edit that schools must resolve before disbursing federal aid, and requiring a more rigorous check of high school diploma credentials (which may require additional examination by the school if ED's initial check raises suspicion). These steps are highly individual and resolution requires case-by-case attention. ED also began to collect and scrutinize email and IP address information as part of the FAFSA on the Web application process, both to detect possible fraud and to establish an enhanced risk model to aid in the selection of applicants for verification by the school.

Schools have also been concerned with fraud for decades. As far back as 1998, NASFAA's own professional magazine, *Student Aid Transcript*, published a detailed article on detecting and reporting fraud at all stages of aid application and management. A 2012 meeting of various practitioners in higher education held by the American Association of Community Colleges specifically to examine issues of financial aid abuse resulted in a report that emphasized prevention of fraud, and shared strategies and practices that community colleges were employing to prevent abuse of student aid.<sup>6</sup> The report identified campus-wide efforts that schools were making to involve all offices in fraud detection and prevention, many of which were similar to the steps that ED subsequently took, as well as other avenues, such as increased satisfactory academic progress monitoring, smaller financial aid disbursements at more frequent intervals and other disbursement limitations (within regulatory parameters), more in-person counseling, more faculty involvement and awareness, better assessment of prior attendance at other schools, and better identification requirements for out-of-state students. This forum demonstrated a high level of concern and proactive measures on the part of schools to prevent fraud and abuse.

However, a more sustained and broad-based national effort is needed to combat fraud. ED

<sup>6</sup> Baime, D. S., & Mullin, C. M. (2012, April). *Preventing abuse in federal student aid: Community college practices*. Washington, DC: American Association of Community Colleges.

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and schools can contribute, but neither can do it alone, nor are ED and schools the only essential participants in the war against fraud. Other government agencies and many private corporations have had unfortunate experiences with fraud. We need more frequent and wide-range sharing of successful strategies developed by schools, industry, and government for fraud detection and prevention.

Error, unlike fraud, occurs solely from inside the financial aid system; ED and schools should be able to detect and reduce error more easily than fraud. Indeed, a great deal of progress has been made over the years, as various database matches (Appendix A) at the government agency level were developed to ensure compliance with general student eligibility criteria, such as citizenship requirements and default restrictions. Nonetheless, problems with error still exist.

According to the Department of Education's FY 2016 Agency Financial Report (AFR), a major root cause of improper payments in today's environment is unverified, self-reported financial data provided by aid applicants. For the past several years, ED and the Internal Revenue Service (IRS) have cooperatively made strides towards improving the integrity of financial data provided on the Free Application for Federal Student Aid (FAFSA) through the Data Retrieval Tool (DRT), which allows an applicant to transfer tax return information from IRS records directly to the FAFSA. This tool virtually eliminates error in the financial data of families able to use it. Its use, however, was restricted by timing issues, in cases where students had to apply for aid before the required tax year data was available in IRS records, and by certain filing statuses.

Beginning with award year 2017-18, ED made a major change to the FAFSA, asking for income and tax information from two years before the year of attendance (prior prior year) rather than the immediate prior year (for example, 2015 financial data for the 2017-18 award year FAFSA rather than 2016 data). This change makes the DRT available to many more applicants for use in completing the FAFSA. Since ED considers data obtained through the DRT to be by definition accurate, further verification by the family to the school is not needed. This tool therefore allows easier completion of the FAFSA, eliminates error, and removes the barrier to completion of the application process that extra steps such as school verification of financial data often caused, especially for low-income and disadvantaged students.

In both its FY 2016 Agency Financial Report and its responses to Office of Inspector General reports<sup>7</sup>, ED cited the IRS DRT and the move to prior-prior year income and consequent increased use of the DRT as major steps towards eliminating improper payments caused by erroneous financial data.

In an unfortunate and ironic twist, the IRS took the DRT down in March because it detected a fraud incursion to obtain taxpayer information to file fraudulent tax returns. As a result, an action to prevent fraud has deprived the financial aid system of a major tool to prevent error. Schools had no prior warning that this outage would occur, and did not learn for weeks that the outage would last for many months.

<sup>7</sup> US Department of Education Office of Inspector General, Compliance With Improper Payment Reporting Requirements for Fiscal Year 2015, Final Audit Report and US Department of Education Office of Inspector General, FY 2017 Management Challenges

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NASFAA member institutions have reported that the loss of the DRT has resulted in more required verification of FAFSA data, a cumbersome and manual process for students and schools. Manual data entry by applicants and manual verification by schools in lieu of automated data transfer increases the chance of error—and potentially improper payments—twice. It is essential that the DRT be operational and secure to reduce improper payments.

### **Improper Payment Estimation Methodology**

The improper payment rates reported by ED for FY 2016 are significantly higher than prior years. The total 2016 rate for both the Pell Grant and Direct Loan programs was reported as 4.85%<sup>8</sup>, slightly higher than the government-wide FY 2016 rate of 4.67%. However, the 2016 increase is at least in part due to the estimation methodology, and changes made to the methodology over the past couple of years. It does not appear possible to identify trends accurately or to identify root causes reliably because of the changes to the methodology, as ED has deviated from using Office of Management and Budget (OMB)-approved methodologies. These changes and the resultant reasons for inaccurate and unreliable estimates of the extent of improper payments and their root causes have been identified by OIG as described in the following paragraphs.

In an audit report issued in 2016<sup>9</sup>, the Office of Inspector General found that for FY 2015 rates, “the Department’s reported improper payment estimates for both the Pell and Direct Loan programs were inaccurate and unreliable because it used incorrect formulas in performing calculations and deviated from OMB-approved methodologies.”<sup>10</sup> OIG had previously found that “improper payment methodologies and estimates in the Department’s FY 2014 Agency Financial Report for both the Pell and Direct Loan programs were inaccurate, incomplete, and unreliable.”<sup>11</sup>

ED’s current methodology relies on program review results, rather than statistical sampling techniques. OIG’s *U.S. Department of Education FY 2017 Management Challenges* reported that ED believed this methodology “provided for a more efficient allocation of resources by integrating the estimation methodology into core FSA [Federal Student Aid] monitoring functions.” Program reviews are selectively conducted at higher-risk schools, and few lower-risk schools, likely resulting in skewed estimates of overall improper payments.

According to OIG<sup>12</sup>:

The disproportionate impact of the few program reviews at lower risk schools included in the estimates was compounded by the relatively small sample sizes of students tested for program reviews at each school. ... Therefore, student-level test results for a

<sup>8</sup> From US Department of Education’s FY 2016 Agency Financial Report:

- Direct Loan Program: ~\$97.1 billion outlays in FY 2016 with IP rate of 3.98%; FY 2015 IP rate was 2.63%

- Pell Grant Program: ~\$28.2 billion outlays in FY 2016 with IP rate of 7.85%; FY 2015 IP rate was 1.88%

<sup>9</sup> US Department of Education Office of Inspector General, *U.S. Department of Education’s Compliance With Improper Payment Reporting Requirements for Fiscal Year 2015, Final Audit Report*

<sup>10</sup> ED’s originally reported FY 2015 Direct Loan improper payment rate of 1.30% was recalculated to 2.63% to correct for formula execution errors identified by OIG

<sup>11</sup> US Department of Education Office of Inspector General, *FY 2017 Management Challenges*

<sup>12</sup> US Department of Education Office of Inspector General, *FY 2017 Management Challenges*

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small number of students, or even one student, can influence the improper payment estimates and introduce the volatility in the estimates, particularly when few program reviews are extrapolated to the majority of disbursed dollars for a program.

As an example of the volatility introduced by this methodology, we found that the Direct Loan program's improper payment rate was heavily influenced by the results of one program review, and in particular 1 of the 22 students sampled at that school. That student was associated with an improper payment of \$4,703. To assess the single student's impact on the Direct Loan program's improper payment rate, we recalculated the improper payment rate after removing that student from the sample. As a result of removing this one student, the estimated improper payment rate would decrease from 2.63 percent to 1.51 percent, and the estimated total improper payment amount would decrease from \$2.60 billion to \$1.49 billion—a difference of \$1.1 billion.

In the opposite direction, OIG:

...identified program reviews at two schools that were included in the Department's improper payment estimates that identified improper payments associated with findings of an ineligible location or an ineligible program. However, the Department did not include the improper payments associated with ineligible locations or ineligible programs in its calculations of the improper payment estimates for the Pell and Direct Loan programs because none of the sampled students reviewed were enrolled in the ineligible program or at an ineligible location.

Because of ED's estimation methodology flaws, OIG "could not conclude whether the Department actually met its [improper payment] reduction target for the Pell program or whether the Department reduced or increased improper payments."

OIG concluded that "the Department's ability to address the root causes of improper payments is limited because it relies on program reviews. These reviews lead to root causes that vary from year to year and as a result, the Department is limited in its ability to assess progress over time."

Further, ED "needs to continue to explore additional opportunities for preventing improper payments. This includes effectively addressing root causes of improper payments that span multiple years of improper payment reporting.... Overall, the Department needs to develop estimation methodologies that are accurate, complete, and reliable and adequately address recommendations made in our audit work."

In its FY 2016 Agency Financial Report, ED agreed with OIG's conclusions, stating that it:

...acknowledges that its alternative estimation methodology can lead to volatile improper payment estimates. Although the sample size has increased year-over-year, there continues to be variability in the improper payment estimates. This is largely due to fewer program reviews being conducted at lower-risk schools. This category of schools accounts for a large portion of the Direct Loan and Pell Grant program disbursements. As a result, the potential exists for student-level test results of a single observation (such as a single student or school) at lower-risk schools to significantly influence the improper payment estimates, resulting in volatility of the model.

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With those caveats in place, ED stated in the AFR that its:

...analysis indicated that the underlying root cause of improper payments for the Pell Grant and Direct Loan program in FY 2016 was failure to verify financial data and administrative or process errors made by other parties.... Specific root causes associated with the 'Failure to Verify – Financial Data' category include, but are not limited to, ineligibility for a Pell Grant or Direct Loan and incorrect self-reporting of an applicant's income that leads to incorrect awards based on Expected Family Contribution. Specific root causes associated with the 'Administrative or Process Errors Made by – Other Party' category include, but are not limited to, incorrect processing of student data by institutions during normal operations; student account data changes not applied or processed correctly; satisfactory academic progress not achieved; incorrectly calculated return records by institutions returning Title IV student aid funds; and processing errors at the servicer level.

Regarding corrective actions for the root cause "Administrative or Process Errors by Other Party," ED states that "Final Program Review Determinations indicate the action(s) the institution is required to take in order to make the Title IV, HEA programs, or the recipients whole for any funds that were improperly managed and to prevent the same problems from recurring." This corrective action does little to actually address root causes of improper payments arising from error since the action is taken at the individual school level only, and at an admittedly small sampling of institutions.

Institutions are very motivated to stamp out improper payments and wholeheartedly accept increases in administrative requirements to that end, *when they are proven effective*. The problem today is that institutions are required to implement new rules to reduce improper payments without reliable data from ED to show these new rules will actually get at the cause of improper payments.

For example: this last year, if students or parents indicated they did not file a tax return, they were required to provide paper documentation to their school from the IRS to verify that claim. This burdensome process is one of the most often cited barriers in the entire verification process by schools, counselors, and students because it often requires families to mail a request to the IRS that may or may not be answered within 10 business days. ED cited data that showed up to 16.51 percent of FAFSA filers who indicated they did not file a tax return had, in fact, filed. However, ED did not take the next step, or at least did not share with the public, whether verifying those 16.51 percent led to any change in financial aid awards after correction. Meanwhile, this verification requirement created, at best, headaches for low-income students and families and, at worst, financial aid delays and enrollment disruption.

Even if data supported the claim that misreporting of filing status is a significant source of improper payments, the best solution is for the IRS to conduct a database match in real time when a student completes the FAFSA, a solution once under consideration but which has since been scrapped by the IRS.

The most recent source of information that we have, OIG's 2017 management challenges report, acknowledges some promising signs but addresses ED's responsibilities for "other parties" as well:



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The Department's effort to revise its estimation methodology is a good step forward to better identifying improper payments so that corrective actions can be developed and tracked. The OIG will continue to review the Department's efforts, with a focus on assessing how the new methodology is functioning to identify potential sources of improper payments. Ultimately, the ability of the Department to address this management challenge hinges on its ability to identify root causes, develop corrective actions, and demonstrate that its efforts have resulted in reductions in improper payments. While the Department correctly acknowledges that it relies on the internal controls of fund recipients who make payments on behalf of the Department, it is important that the Department's efforts to reduce improper payments includes processes to identify high-risk recipients and ensure that those recipients have effective systems of internal control.<sup>13</sup>

### Observations

Institutions are committed to well-targeted student financial aid programs that balance access to higher education against efforts to reduce improper payments resulting from both fraud and errors. As evidenced above, this is a difficult goal to achieve absent reliable analyses of root causes of improper payments. However, we offer the following observations:

- Fraud prevention should not come at the cost of an increase in errors: student financial aid may not be IRS's primary *raison d'être*, but the DRT is so essential for access to a higher education and to the integrity of the federal student aid programs that it must be given the attention and resources necessary to fix and securely restore it as soon as possible. The DRT is a critical key to mitigating error in self-reported FAFSA information, which is identified by ED as a root cause of improper payments. We also need to ensure that authentication procedures do not make it too difficult to access the DRT, or put its use out of reach of our neediest students who may not have the authentication credentials required to obtain access. Last year's FSA ID implementation is a good and comparable example of what happens when fraud prevention efforts go so far as to limit legitimate access to federal student aid. In the first month following FSA ID implementation the percentage point gap between submitted and completed FAFSAs grew to 5%<sup>14</sup>. While some gap always exists, the fact that the increased gap coincided with the launch of the new FSA ID points to it as a likely culprit since the FSA ID is the final step in completing the FAFSA. As complaints about the FSA ID continued through April 2017, ED announced enhancements to the FSA ID process to improve the user experience, "[b]ased on feedback from users and financial aid professionals"<sup>15</sup>. ED's willingness to revisit the FSA ID process is commendable, but it is far preferable to implement new fraud prevention tools properly from the start.
- Minimizing improper payments must be balanced against creating barriers for the students the programs were created to serve; ED should rigorously consult with

<sup>13</sup> US Department of Education Office of Inspector General, FY 2017 Management Challenges

<sup>14</sup> NCAN, FAFSA Completions for High Schoolers Down Nationwide

<sup>15</sup> US Department of Education Electronic Announcement 2017-04-18, Upcoming Implementation of FSA ID Enhancements

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schools and other stakeholders to ensure that preventing risk does not prevent or delay access, as noted in the FSA ID example above.

- ED should rigorously test any data collection changes with schools. We saw significant data collection issues arise when ED instituted certain reporting requirements related to gainful employment programs in 2015. Although ED willingly worked with schools to resolve those issues, better consultation and testing could have prevented some of them in the first place. The new reporting did, however, reveal areas where schools as well as ED had problems with errors in their records or in the accuracy of prior reporting. The errors did not necessarily result in any improper payments up to that point, but the new data requirements and uses of that data will have future ramifications for program eligibility. Nevertheless, it showed a need for better quality control of records, which should be achieved as a cooperative effort.
- Simplification of the formula used to determine financial need for Title IV funds is needed to simplify the FAFSA; simplification could reduce error as well as lower barriers. NASFAA has proposed a simplification scheme based on income tax filing characteristics.<sup>16</sup>
- Commit more resources to investigating fraud. When institutions report instances of fraud discovered on their own campuses to ED's OIG, they find the reports are often not pursued. We understand that limited resources necessitate the prioritizing of larger fraud rings over individual cases of fraud. However, institutions often dedicate significant resources documenting suspected fraud and it is frustrating and disheartening to learn that they are rarely investigated.
- Financial aid regulations are voluminous and complex. We question whether it is humanly possible for any institution to be in 100 percent compliance any more. For example, improper calculations of the return of funds for withdrawn students is consistently one of the top ten audit and program review findings, and it is cited by ED as another root cause of improper payments.<sup>17</sup> The need for over 200 pages of guidance devoted to this topic in ED's *Student Financial Aid Handbook* demonstrates the degree of complexity of this one topic in the administration of federal student aid, and makes the chance for error seem almost inevitable. NASFAA has proposed Reauthorization recommendations to simplify the return of funds.<sup>18</sup>
- Audit and program review final reports to schools must be issued in a timely manner, not only for purposes of improper payment estimates, but also to eliminate accrual of errors and liabilities due to improper payments that occur while schools continue to operate pending final determinations. NASFAA has heard from member institutions of waiting periods of several months to years. In a survey that NASFAA conducted in 2013, over one thousand NASFAA members replied to questions about selection and resolution of program reviews by ED. Of those, 279 had experienced program reviews in the preceding 5 years. Sixty-nine schools reported that it took ED more than a year to release a final report; 55 reported that it took 6 months to a year. One respondent noted: "Have not actually received the final report. It took 16 months to get our initial

<sup>16</sup> NASFAA, [FAFSA Simplification - NASFAA FAFSA Working Group Report, July 2015](#)

<sup>17</sup> US Department of Education, [FY 2016 Agency Financial Report](#)

<sup>18</sup> NASFAA, [Updated Report of the NASFAA Reauthorization Task Force, July 2016](#)

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report. It has been 4 months since we responded to the initial report.”

In some cases delays are the result of reviewer requests for ED policy clarifications or rulings; if existing rules and guidance are unclear or insufficient enough to cause the program reviewer to seek further guidance, it is no wonder that the school may have erred. The root cause of improper payments in that case may well be out of the school's control. One of NASFAA's Reauthorization recommendations is to mandate a timeframe for issuance of final program review reports.<sup>19</sup> OIG also noted that a number of old audits still require resolution, including one from 2008 and one from 2012.<sup>20</sup>

- In addition to risk-based selection for full audits and program reviews, ED should institute and support voluntary reviews that do not subject schools to fines or liability assessments, as a way of ensuring good and correct practices. In a 2016 survey of financial aid administrators asked to use one word to describe their relationship with ED, of the 28 most frequently-appearing words only three were positive. “Frustrated” was the most-used word, with “adversarial” included among the other most used words. Partnering with schools has the potential not only to reduce improper payments, but to also repair and foster a relationship between ED and financial aid offices that has been historically strained. There is little doubt that the combined expertise of ED and the thousands of financial aid offices across the country could make great strides toward reducing improper payments.
- Accessible training on correcting the root causes of improper payments is essential. An effective means of identifying the root causes that are common to most schools, not just high-risk schools, should underlie training efforts.
- If failure to achieve satisfactory academic progress is a root cause of improper payments, it would be helpful to have an analysis that shows why. Satisfactory academic progress is well-regulated, but has inherent timing issues that make implementation challenging. Is it an issue for improper payments because institutional policies are not compliant, or because those policies are not properly applied, or because inherent challenges are not realistically addressed by the rules, or because more training is needed to understand the rules? For example, there is a very small window of time to get final grades resolved and applied to progress requirements between terms; is this fact realistically addressed by regulations and expectations of timely assessments? This particular analysis might make a good case study for discovering how ED and schools could work together to eliminate root causes of improper payments.

## Conclusion

Improper payments divert millions of dollars annually from needy and deserving students for whom the federal student aid programs are essential for college enrollment and success. All parties involved in the administration of the federal student aid programs agree that the incidence of improper payments, whether arising from fraud or error, should be reduced to the greatest extent possible. Reliable data regarding the nature, types, and root causes of

<sup>19</sup> NASFAA, Updated Report of the NASFAA Reauthorization Task Force, July 2016

<sup>20</sup> US Department of Education, FY 2017 Management Challenges

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improper payments is essential to achieving that goal, and existing data is inadequate. Without useful data, efforts at reducing improper payments are, at best, ineffective and, at worst, counterproductive. ED should work cooperatively with schools, in a non-punitive environment, both to increase the sample sizes used for calculating improper payment estimates beyond just those schools chosen for program review and to assess a school's Title IV administration on a voluntary basis. In developing mechanisms to prevent improper payments, ED should carefully balance the equally important but frequently at odds goals of simplicity and accuracy. Stakeholder feedback should be carefully considered to ensure that any new measures aimed toward reducing improper payments do not limit access to federal student aid funds for those seeking to use those funds for legitimate purposes. The Data Retrieval Tool is a model for that important balance. The DRT should be expanded to allow for the most users possible and should serve as a model for future efforts to reduce improper payments.

Testimony: Justin Draeger, NASFAA

## **Appendix A- Database Matches**

### **U.S. citizenship match with Social Security Administration (SSA)**

Verifies citizenship status of U.S. citizens

### **Eligible noncitizen match with Department of Homeland Security (DHS)**

Verifies the immigration status of permanent residents and other eligible noncitizens

### **National Student Loan Data System (NSLDS) match**

Identifies:

- Prior federal student loan defaults
- Federal student aid overpayments
- Prior subsidized or unsubsidized loans borrowed in excess of aggregate limits
- Unusual Enrollment History (UEH): students whose pattern of enrollment and/ or award history for either Federal Pell Grants or Direct Loans is identified as unusual

#### **Also used to track:**

- Pell Grant Lifetime Eligibility Used (LEU)
- 150% Direct Subsidized Loan Limit

### **Social Security Number (SSN) Match with SSA**

Verifies that the name and birth date associated with the SSN in SSA records match the name and birth date on the FAFSA. Also captures and flags situations where more than one student are using the same SSN or if there is a date of death associated with the SSN reported on the FAFSA.

### **Social Security Administration Death Master File match**

FAFSA Central Processing System (CPS) compares student SSNs against a master death file the Department obtains from the SSA.

### **Selective Service System (SSS) registration match**

Verifies whether applicants are registered with SSS

### **Department of Justice (DOJ) judicial denial of aid under Drug Abuse Act match**

The Anti-Drug Abuse Act of 1988 includes provisions that authorize federal and state judges to deny certain federal benefits, including student aid, to persons convicted of drug trafficking or possession. The Central Processing System maintains a hold file of individuals who have received such a judgment. All applicants are checked against this file to determine if they should be denied aid. This is separate from the check for a drug conviction via question 23.

### **Veteran's Administration (VA) match**

Confirms applicant's veteran status if applicant indicated on the FAFSA that he or she is a veteran of the US Armed Forces.

### **Department of Defense (DOD) match**

CPS matches applications against a file provided by DOD to confirm whether an applicant's parent or guardian was a member of the U.S. armed forces and died as a result of service in Iraq or Afghanistan after September 11, 2001 (only for applicants who indicate this on the FAFSA).

Mr. MEADOWS. Thank you all for your testimony.

The chair recognizes the gentlewoman from North Carolina, a leader in educational issues, Dr. Foxx, for five minutes.

Ms. FOXX. Thank you very much, Mr. Chairman. And I want to thank our witnesses for being here today and providing testimony on this very, very important issue to all Americans. When you hear about \$3.86 billion in fraud, that affects every person in this country, not just the people who are applying for financial aid.

Mr. Hurt, FSA testified before this committee earlier this month on the suspension of the FAFSA's IRS data retrieval tool, the DRT, which Mr. Draeger referred to. That tool is touted for curbing improper payments by providing for more accurate financial data reporting by applicants.

In response to the DRT being down, new flexibilities were announced by the Department on April 24 for borrowers, including removing the requirement for institutions to collect documentation for verification of non-filing applicants. How is the Department balancing these flexibilities while also attempting to improve its improper payment rate management? And do you expect improper payments to rise given the Department's reliance on manual reporting and backend verification during the DRT suspension?

Mr. HURT. Thank you, Congresswoman Foxx. Yes, we do—during the—the DRT actually assisted—it was a win-win situation. It assisted with the reduction of improper payments, it reduced burdens on schools, and it reduced burden to applicants. While we are working on the security of the tool, we are providing alternative means—information about alternative means to obtain your tax information. We're also—we did provide some relief to schools around the verification requirements. And we do expect that there will be some impact on improper payments. That is—that's a given. That's what the DRT was meant to do. But we are trying to balance—to your point and the point of Mr. Draeger, we're attempting to balance the burden on schools and the denial of service to the most needy with the—offsetting the improper payments that come.

Ms. FOXX. Thank you. You know, you said earlier that zero mistakes is unrealistic. That is not what the American people expect out of their government, especially, again, when you are dealing with the money of hardworking taxpayers. And so I find it very, very frustrating when you say we can't have a program—I don't use an ATM card but the banks have ATM machines. I bet their improper payments are a whole lot lower than the improper payments of the Department of Education. And I think we should strive for zero mistakes.

You are not dealing with your own money, you are dealing with somebody else's money, and I want the people in the Department to remember that every day.

So going back to that, the inspector general has flagged improper payments as a management challenge every year since 2012, but during that time, OMB has designated the programs as highly susceptible for significant improper payments. What concrete steps have you taken to reverse this trend, whether it be combatting fraud or reducing human or systemic errors? Why haven't they worked? And what is so wrong with your office that you can't move in a more timely fashion?

Mr. HURT. For the past three years, we have been noncompliant with IPERA. The noncompliance is based on the fact that we have missed our estimates, our targets, and there's a number of reasons for that. One of them is the fact that we've been changing the methodology to address the findings from the IG. The IG has given us in '14 and '15—fiscal year 2014 and 2015 they gave us 19 recommendations, and we did implement all 19 to improve our estimates.

Part of the issue is, though, the variability of the issue—of the estimates and the need to increase cost to the taxpayer and burden on schools to be able to improve on the estimate. We—it would be a significant burden on schools and cost to taxpayers simply for the improvement of the estimate. Instead, we spend more effort and money on an annual basis on the actual improvement of the controls themselves.

So, for example, this past year we implemented early—what was referred to as Early FAFSA and Prior-Prior. That was a change to the FAFSA that it was done earlier and it allowed applicants to utilize prior-prior—tax payment information that was already complete. Both of those things allowed them to be more accurate in their filing and didn't require them to come back and file kind of corrections. So what that did was improved our improper payment as—it—actually, the controls over real improper payments as opposed to just the estimate.

Ms. FOXX. Thank you. Mr. Chairman, I know my time has expired, but I would like to say I will be submitting some questions to some of the panelists for their response. Thank you, Mr. Chairman, for your indulgence.

Mr. MEADOWS. I thank the gentlewoman. And as we have those questions, we will give each of you 30 days to respond to those and get it back to the committee.

The chair recognizes the gentleman from Virginia, Mr. Connolly, for five minutes.

Mr. CONNOLLY. I thank the chair. I thank our panel for being here. And I certainly agree with my friend Ms. Foxx that the goal should be to strive to move to zero in terms of improper payments. Depending on how one counts their \$150 billion of improper payments, Federal Government-wide every year, that sound right to you Inspector General Tighe, around that?

Ms. TIGHE. Yes, it's quite large.

Mr. CONNOLLY. But if you were to stretch it out over a 10-year period and if we could ever get it close to zero and dedicated just, you know, the savings to deficit reduction, it would be a good down payment.

Ms. TIGHE. It would be.

Mr. CONNOLLY. And it wouldn't cut any programs and it wouldn't raise any taxes. So the more efficient we can get, the better off we are going to be from a fiscal point of view and the discipline of efficiency. So I agree with Ms. Foxx in making that point.

Ms. Tighe, I began by citing your report that consistently the Department of Education has failed to comply fully with the Improper Payments Information Act of 2002, the Improper Payments Elimination and Recovery Act of 2010, and the Improper Payments

Elimination and Recovery Improvement Act of 2012. Is that accurate?

Ms. TIGHE. That is accurate.

Mr. CONNOLLY. Mr. Hurt, why is that the case? These are the laws?

Mr. HURT. We—over the years, we have taken the recommendations from the IG and modified the methodology. That's one of the reasons why the rate differs from the actual target. We—the way the IPERA works, we cannot go back and modify the target when the methodology changes. So as we've become more inclusive of our estimates, our estimates include looking for more risks in the estimates, and they grow. The targets don't grow. Therefore, when we miss the targets, by definition, we're noncompliant. So that's one reason they—we've been noncompliant.

And the other is just the nature of the estimate is—it is—we base it on existing work and monitoring work within the Federal Student Aid, so that monitoring work is a targeted—most of our work is targeted to high-risk areas, and it's not randomly selected. And we do that because we want to find improper payments. We want to get—find opportunities to fix.

Mr. CONNOLLY. Ms. Tighe—I am sorry, because I am running out of time. Ms. Tighe do you agree with Mr. Hurt's explanation for why the Department is not in compliance?

Ms. TIGHE. Well, yes, for the most part. I would say that until this past year our recommendations made in our peer reports weren't always necessarily followed by the Federal Student Aid. That changed this past year when they did take our recommendations from our '14 and '15 reports, which were very similar in findings and decided to I think do better root-cause analyses and then also then plot out a strategy for dealing with those. I do think Federal Student Aid is in a better place right now than it was a couple of years ago.

Mr. CONNOLLY. Okay. I am going to run out of time, so let me get to—that is good to hear. Let me get to this issue, though, of private companies engaging in clearly unethical if not illegal behavior. How widespread is that, and what is the relationship between that behavior and improper payments?

Ms. TIGHE. Well, I think the—we've certainly seen the issue—you saw the—you mentioned the report that we did last summer. We consider it to be a problem that keeps reoccurring. I think the relationship to improper payments is not all that clear. It's certainly bad behavior, and what I would worry about, it's really for the borrowers' accounts who are taken over. And I think there could be a relationship between—which do not affect the Direct Loan and Pell Programs directly, but the fact that they're cut off sometimes from their own servicer and not able to make good choices on their loans is a problem.

Mr. CONNOLLY. Mr. Hurt, why wouldn't the Department just cut off any company that engages in that kind of behavior?

Mr. HURT. We —

Mr. CONNOLLY. Why would we continue to contract with a company that is clearly behaving I would argue illegally?

Mr. HURT. The—I probably should draw a distinction between that activity, which is done by third-party providers, and our—the



loan servicing companies that contract with the Department of Education. The findings around third-party providers are not our loan servicing companies. They are—they can be unscrupulous actors, and we are cooperating fully—actually collaborating with our IG colleagues to identify bad actors in those scenarios and take actions and put in controls to avoid that from happening.

Mr. CONNOLLY. My time is up but I see Ms. Tighe wanted to comment on that and then I will —

Mr. MEADOWS. And I want you to comment on that.

Mr. CONNOLLY. Yes. Thank you.

Ms. TIGHE. Thank you. I—Mr. Hurt is correct is that we are talking about in our report and what I was just talking about are third-party—they're really people pretending to be—companies pretending to be loan consolidators. The loan services who the Department contracts with are different than that. But nevertheless, these bad actors need to be dealt with. And we did our report and we made really two major recommendations because we'd like to be able to prosecute some of these people. And one of those things was simple—very simple fix of changing the banner—the log-in banner on the website. And we made that recommendation a while ago now, and I'm happy to say I think FSA just implemented it I think last week, and that's a good thing. But —

Mr. MEADOWS. When did you make that recommendation?

Ms. TIGHE. It was September a year ago I think. And I could be wrong on that, so let me check on that.

Mr. CONNOLLY. No need to rush into these things, Mr. Chairman.

Ms. TIGHE. Yes.

Mr. CONNOLLY. Okay. Well, this whole area of the topic we are going to pursue perhaps in some subsequent questioning, but I thank you all for your testimony, and thank you for your indulgence, Mr. Chairman.

Mr. MEADOWS. I thank the gentleman for his insightful questions.

Before I recognize the chairman of the subcommittee, I want to recognize a delegation that came in from the European Parliament Committee on Budgetary Control. I want to welcome you from across the pond and say thank you for being here and certainly for your willingness to share your ideas and allow us to share ours. So welcome.

And with that, I recognize the chairman of the subcommittee, the gentleman from Alabama, Mr. Palmer.

Mr. PALMER. I would like to welcome the members of the European Parliament as well.

Now to get back to business, FSA did not meet three of its performance goals, Mr. Hurt, two of which specifically related to customer service. There are only two performance metrics that evaluate customer service, so FSA did not meet either of its customer service goals. What is causing this failure?

Mr. HURT. So the goals that you referenced, one was the American Customer Satisfaction Index. That is the—it's a way that we can measure customer satisfaction that is consistent with what many —

Mr. PALMER. My question is what caused the failures. So I don't need a description.

Mr. HURT. Sorry.

Mr. PALMER. Not to be rude, but just for sake of time, please.

Mr. HURT. So the causes were twofold for the ACSI score. One was there was a methodology change. We—to be more consistent with the way the score is calculated with others in the industry, we switched to—it was either from phone to an email interaction. I think that's the way it went. That was one way—one cause. Another cause was most likely things associated with changes to the way we work. For example, we implemented FSAID to improve security, and that more than likely had an impact on satisfaction as well. So we had to—back to that tradeoff of ensure some security for our applicants and the folks—our customers that use our service, but it was at the detriment to some extent to the satisfaction and ease with which those good actors can use it.

Mr. PALMER. To what extent do you consider how you can improve service to help reduce administrative errors by others that cause improper payments? So when I look at the GAO report where most of these improper payments occur, and this may or may not apply in this situation, but it is just insufficient documentation, inability to authenticate, process errors. I think that is what we are talking about now.

Mr. HURT. The bulk of the errors or the—probably the most significant is around errors of eligibility. So it's misreported income or misreported other aspects on the application. We do do—that's what the DRT helps us greatly with. It does help us with the misreporting of income. In addition to DRT, school verification can be very helpful in identifying mistakes in eligibility. So that's where a lot of our focus is on that, but there's —

Mr. PALMER. When you talk about misreported income, Mr. Draeger, how much of that is fraud? In your testimony you mentioned that student fraud ring activity had increased 82 percent from 2009 to 2013. How much of that is fraud and how much of an ability do we have to catch that?

Mr. DRAEGER. It's difficult for me to give an exact percentage of how much is fraud versus just honest mistakes. What we will say—what we see on campuses are that those who are interested in committing fraud have a very specific and targeted way that they pursue their fraudulent activities. And in recent years, schools have found ways to then defend against that sort of fraud. A lot of times when it comes to improper payments with income reporting, it's—it appears to be honest mistakes, confusion about which tax years students or families should be using. So to the extent that this can be automated and we can get a secure IRS data retrieval tool back working, that seems to be one of the best solutions —

Mr. PALMER. General Tighe, you want to comment on that?

Ms. TIGHE. Yes, I do. I would just point out one thing we need to keep in mind is the DRT is a fine tool, and we would totally agree with that. It is not going to catch fraud because people who want to defraud the government, the fraud rings we were talking about, based on—usually representing your income to be zero, they aren't using the DRT so it's not going to help with that.

Mr. PALMER. So the checks go directly to the fraudsters and not to the schools?

Ms. TIGHE. Well, the checks, yes, will go to the credit balance—the balance that doesn't cover tuition and room and board will go to the students and to the—and the students really aren't students; they're fraudsters.

Mr. PALMER. Getting off maybe just a little bit if the chairman will indulge me, is there instances of fraud where there are fake institutions? I mean, we have had this with Medicaid where there are people filing for Medicaid reimbursements and they were non-existent entities. Does that happen in this case, General Tighe? Do we know of any of that?

Ms. TIGHE. I'm not aware.

Mr. PALMER. Okay. Let me ask you one other quick question. In your fiscal year 2016 audit finds issues in the Department's report in estimates and methodology. What did you specifically find with regard to challenges with the estimates?

Ms. TIGHE. Specifically, we found a couple of things, which were that they didn't—they included some program reviews that weren't geared toward finding improper payments. So they would deal—like there was one that dealt with a cohort default rate, so that should have been excluded from the sample of program reviews, and there were issues like that. We did recalculate the improper payments rate estimate, and those—correcting for those mistakes really only made a marginal increase in the improper payment rate, so we did not consider them to be hugely significant errors, but they were errors that they need to deal with.

Mr. PALMER. Thank you. I yield back.

Mr. MEADOWS. I thank the gentleman.

The chair recognizes the ranking member, Mrs. Demings, for a generous five minutes.

Mrs. DEMINGS. Thank you so much, Mr. Chairman.

Inspector General Tighe, back to your report from March of 2016, I believe the report pretty much found that the Department knowingly misled the public, that they misled the public about the findings in its own review of loan services and potential widespread abuses, including charging active-duty servicemembers high interest rates on student loans. Your poll found that one of these companies, Navient, charged nearly 78,000 members of the military interest in excess of the 6 percent cap permitted by a law specifically designed for servicemembers. Is that pretty much correct?

Ms. TIGHE. That's correct.

Mrs. DEMINGS. Navient continues to service loans for the Department today. Is that correct?

Ms. TIGHE. Yes, that's correct.

Mrs. DEMINGS. I am wondering if this company, considering its history, may be too big to fail. I am wondering if no matter what the abuses, the Department of Education will continue to contract with them. Last week, Secretary DeVos laid out her vision of the loan servicer model. As we all know, the loan servicer model allows the one prime contractor to subcontract out portions of the portfolio or manage the whole itself.

Mr. Hurt, currently, four loan servicers have submitted proposals for the opening bidding process: Navient, FedLoan Servicing, and a combination of Nelnet and Great Lakes Educational Loan Services. Is that correct to your understanding?

Mr. HURT. It is.

Mrs. DEMINGS. Can you explain the separation between the procurement arm of FSA and the management side, and who is going to make the determination as to the award of the contract?

Mr. HURT. It's my understanding that ultimately the contracting officer is the one with the warrant so they make—they will make the final decision, but it'll be based on a recommendation from a technical evaluation panel and a cost evaluation panel.

Mrs. DEMINGS. Can you explain the separation between the procurement arm of FSA and the management side?

Mr. HURT. The procurement—the acquisitions office is an office within Federal Student Aid, so they report—the head of acquisitions reports directly to the chief operating officer.

Mrs. DEMINGS. Reports directly to them?

Mr. HURT. Yes, ma'am.

Mrs. DEMINGS. Okay. It seems that one loan servicer under contract managing the entire portfolio, the Department would have no recourse if the servicer commits any number of abuses we have spoken to today. It will be maybe too big to fail. How will this huge—excuse me. In fact, it appears that there are subcontractors under the loan prime contractor. The subcontractors will be only accountable to the prime, leaving the Department with even less oversight than it has today. Would you agree with that or no?

Mr. HURT. No, ma'am. We have—the rerelease of the modification for the procurement has thousands of requirements and has performance metrics that we'll use to hold the—any new servicer accountable for their role. Any subcontractors that report to the prime, that is a relationship between the prime and the sub, but we will hold the prime accountable for all metrics and all service that they provide for borrowers.

Mrs. DEMINGS. Okay. Check my time. President Trump proposed a \$9.2 billion or 13.5 percent cut to the Department of Education. How will this huge cut affect the Department's ability to oversee these services?

Mr. HURT. The Department just issued their budget a few days ago. That's something that we will—we have yet to analyze from an operational perspective.

Mrs. DEMINGS. So you are not sure how the cuts, the 13.5 percent cut will affect your ability to oversee this process, not yet?

Mr. HURT. I'll have to take that question and get back to you.

Mrs. DEMINGS. Okay. Ms. Tighe, given your experience over the last seven years, are you confident that the Department can cut its funding and simultaneously improve the management of its largest contract in the history of the Department?

Ms. TIGHE. Well, I think budget cuts that would cut resources—let me back up. One of our management challenges historically has been oversight and management of the various entities that the Department has to oversee and manage, whether it's contractors or grantees, and I think that it's going to be a challenge for the Department if resources are cut in those areas to maintain a level of sufficient monitoring and oversight that is needed.

Mrs. DEMINGS. Thank you so much.

And, Mr. Chairman, thank you for your generous five minutes. I yield back.

Mr. MEADOWS. I thank the gentlewoman.

The chair recognizes the gentleman from North Carolina, Mr. Walker, for five minutes.

Mr. WALKER. Thank you, Mr. Chairman.

Again, welcome to our guests across the Atlantic Ocean. We are always happy to see you guys.

Mr. Hurt, as the chief financial officer now, I know you haven't had a lot of time to prepare, but I have got a few questions specifically on the data retrieval tool. It has been offline since March the 3rd, 2017. Do you expect it to be offline for financial aid filing purposes until October or when?

Mr. HURT. The data retrieval tool will come up with a mass encrypted solution for the '18/'19 FAFSA on October 1. That's the—that's when the cycle starts for '18/'19.

Mr. WALKER. Okay. And how does the outage affect improper payments for calendar year 2017, this year?

Mr. HURT. For calendar year 2017, we would expect that the improper payments will increase related to the lack of DRT being—or DRT not being available.

Mr. WALKER. So, I mean, your best word on record is that these improper payments will continue to increase until basically this is back online. Is that correct?

Mr. HURT. They will—the portion of improper payments that the DRT was actually helping us to avoid will for that period of time until October 1 for—well, for 2017/'18, unfortunately, the improper payments will increase.

Mr. WALKER. So yes. That is painful to hear. The Department announced new flexibilities for schools working with students given the data retrieval tool outage. Can you talk about these new flexibilities? What were they?

Mr. HURT. For schools they—specifically, I believe the school verification on income, the—it was—the old requirement—or the requirement normally is to get a specific tax transcript from the IRS and now we will require a signed tax form essentially.

Mr. WALKER. Okay. What do you propose or how will the Office of Federal Student Aid ensure that improper payments do not suffer during the DRT outage? Do you have any advice? I mean, what are we to do in the meantime?

Mr. HURT. We are—one of the things we can do and we're—we've been working on is to increase our communication through our numerous channels to the applicant to help them use these alternative ways to get their tax information. We do that through our StudentAid.gov. We do that through social media. We do that through our communication and coordination with student advocacy groups. So we're using multiple avenues to attempt to train or assist the applicants in this period.

Mr. WALKER. I guess time will tell how successful those options are.

Inspector General Tighe, first of all, thank you for being here. You are probably not feeling your best today but —

Ms. TIGHE. No.

Mr. WALKER.—I am glad you are being such a trooper today. This week, news broke that the data retrieval tool was misused in a criminal personal manner in September of 2016 by a Louisiana

man who was targeting personal information on Donald Trump. Can you confirm this reporting?

Ms. TIGHE. Yes.

Mr. WALKER. Okay. The data retrieval tool is clearly a valuable tool to Federal Student Aid to assist with ease of processing for students—we know that—and also to program integrity measures such as curbing improper payments. However, the data retrieval tool is without a doubt also a high-value target for cybercriminals. How do we strike that balance, the right balance between program integrity, efficient service to students and schools, and then also the cybersecurity concerns?

Ms. TIGHE. I should point out that the—in the matter you talked—you spoke about with the criminal case involving the misuse of the DRT to get—try to get the President's information, it was—they were unsuccessful in achieving that. They did not have enough information to trigger access of the AGI available. And I'm also happy to say that it was noticed by the IRS and they immediately brought it back to us. And we have—and that resulted in somebody's arrest and then prosecution, which is a good thing.

Mr. WALKER. Sure thing.

Ms. TIGHE. But I think it's an important tool, but I do think it's good that the Department and the FSA is—are looking at ways of keeping the tool viable but still protecting it against its misuse. I mean, the masking will help the DRT misuse problem, but we also have to stay one step ahead of the bad guys, right —

Mr. WALKER. Yes.

Ms. TIGHE.—because, you know, they're always thinking of things. And we would also like to see the Department, who has a recommendation that was in our report that Ranking Member Demings noted was—they need to do more proactive analytics related to usage on the FAFSA online and—because there were patterns that I think they could have seen of bad guys.

Mr. WALKER. Thank you, General Tighe. I appreciate your work.

Mr. Chairman, I yield back.

Mr. MEADOWS. I thank the gentleman.

The chair recognizes the gentlewoman from the District of Columbia, Ms. Eleanor Holmes Norton.

Ms. NORTON. I thank the chairman for this hearing.

And I am interested in the issue of accountability because we are not dealing with a new issue, although the inspector general report came out in September about the misuse of the Department's own systems to take advantage of students. Now, the students are going to be under a lot of pressure because of substantial cuts to subsidized student loan programs that at least are being proposed. I certainly hope the appropriators do the right thing, though.

The inspector general's report was fairly emphatic that the systems were taken advantage of, Department systems were taken advantage of. Then, the Consumer Financial Protection Bureau and I believe jointly with the Department did a public inquiry and found a plethora, a huge number of complaints regarding loan servicers. I do want to quote the finding. They found a huge number of complaints, the Department itself. It already had the inspector general's report, but the finding was, "Current saving practices may not meet the needs of borrowers or loan-holders." What does

that mean? It seems a modest way to frame what has been under discussion at this hearing. What does that mean, “may not meet the needs of borrowers or loan-holders”? Mr. Hurt?

Mr. HURT. I’m not sure—Congresswoman Norton, I can speculate what the—about the meaning of that particular phrase —

Ms. NORTON. Well, it was a joint inquiry by the Consumer Financial Protection Bureau and the Department so that is why I am asking you what you meant to say. I am interested in accountability here.

Mr. HURT. As for—if it relates to the servicer practices and the work to improve servicer practices, the modification that just came out for the loan servicing competition, again, it includes requirements, many of which are requirements or suggestions that have been made to us to improve borrower outcomes. So we expect that the outcome of this procurement will, in fact, have significant improvements to borrower outcomes while still balancing the cost to taxpayers.

Ms. NORTON. Thank you, Mr. Hurt. Now, the Consumer Financial Protection Bureau has filed a suit against your largest services, Navient, with rather strong and serious allegations that it withheld information about income-based programs and then that they could have lowered borrowers’ monthly payments, then pushed borrowers into forbearance while of course they were continuing to accrue interest. Are you familiar with the allegations of the Navient lawsuit?

Mr. HURT. I am familiar with the allegations.

Ms. NORTON. The reason I ask because I don’t expect you to comment on those allegations—the reason I ask is that apparently you had nine borrowers before, and there is a proposal to have only one borrower now. Why would you want to go down to one borrower? And that that could be Navient, which is of course the biggest of them and the one that is now ensconced in litigation.

Mr. HURT. We’re looking at this—the new modifications to the procurement are looking at one loan servicer so that with a more robust set of requirements and performance metrics that we can hold that servicer accountable. So the procurement is actually meant to improve service. But part of the issue of having multiple servicers is it also spreads the oversight out a bit thinner. It —

Ms. NORTON. Was there any competition among them?

Mr. HURT. The incentives structure for the previous—for the four—or for the previous servicers, there was based on—there was competition associated with—or allocations were made based on metrics, allocation of new servicers. So there were incentives in that previous procurement.

In the one we’re looking for, we also were—are looking to have metrics and adjust metrics to address many of the borrower outcomes that we’re seeking and were recommended to us.

Ms. NORTON. Well, I recognize that there are a number of—there is a competition and that there are a number of applicants for this role, but I think the Department will be under very severe pressure if Navient, in the scone of being involved in a lawsuit, is made in charge essentially as the prime contractor of all the subcontractors.

And I thank you, Mr. Chairman.

Mr. MEADOWS. I thank the gentlewoman.

The chair recognizes the gentleman from Ohio.

Mr. JORDAN. Thank you, Mr. Chairman.

Today's hearing highlights exactly what American taxpayers hate about the Federal Government. Ms. Tighe, isn't it true that last year there were \$144 billion in improper payments across the government? Isn't that accurate?

Ms. TIGHE. That sounds accurate.

Mr. JORDAN. Yes, and the trend is up, right? So that number has been growing?

Ms. TIGHE. Yes.

Mr. JORDAN. Growing over the last four years?

Ms. TIGHE. Yes.

Mr. JORDAN. And one of the most egregious agencies that is part of that overall number is the guy sitting beside you, the Department of Education, is that correct?

Ms. TIGHE. Well, it's not actually —

Mr. JORDAN. It's in the top five, right?

Ms. TIGHE. I think top five.

Mr. JORDAN. Yes, top five. And the trend is the same with them. Overpayments have been increasing over the last several years. Is that right?

Ms. TIGHE. Yes.

Mr. JORDAN. And —

Ms. TIGHE. Certainly this past year.

Mr. JORDAN. Yes. In the Direct Loan and the Pell Grant areas, they have both been trending up. And you sent them a letter where you said something like it was a management—they had improper payments at the Department were a management challenge. Is that right? You sent a letter to them?

Ms. TIGHE. That's correct.

Mr. JORDAN. Yes. And it basically said they weren't complying with the law, right, this IPERA law?

Ms. TIGHE. Correct.

Mr. JORDAN. Yes. So \$144 billion across government, one of the most egregious agencies within that \$144 billion is the Department of Education. Their trend is up. You sent them a letter saying, hey, get your act together; you are not even complying with the law, right?

Ms. TIGHE. Yes.

Mr. JORDAN. All that is true?

Ms. TIGHE. Yes.

Mr. JORDAN. And three weeks ago, we had a hearing and we find out that in the Direct Loan program they had to shut down their DRT on the FAFSA issue, and they failed to comply with another law there to notify Congress in the proper way and at the proper time. Is that true?

Ms. TIGHE. Well, the notification I think may be a more ambiguous issue, but —

Mr. JORDAN. Exactly. Yes. I mean, we had that hearing—so this is now two hearings in a row this committee has had with the Department of Education has not complied with two Federal laws. And, oh, by the way, the increase in improper payments continues to rise.



And here is the kicker. Mr. Hurt, your boss, the guy we asked to come, Mr. Runcie. You know Mr. Runcie, Mr. Hurt? Do you know a Mr. Runcie?

Mr. HURT. Yes, sir.

Mr. JORDAN. Yes, and he was your boss?

Mr. HURT. Yes, sir.

Mr. JORDAN. Yes. And he was asked several times to come in front of this committee and talk about this situation. Is that true?

Mr. HURT. Yes.

Mr. JORDAN. Yes. And instead of coming in front of this committee, what did Mr. Runcie decide to do? Do you know?

Mr. HURT. Mr. Runcie resigned.

Mr. JORDAN. Resigned, yes, the night before, right, he is supposed to come. It is the night before we were going to send him a subpoena he decided to resign. Do you know why he would do that, Mr. Hurt?

Mr. HURT. I can't speculate for Mr. Runcie.

Mr. JORDAN. How about you, Ms. Tighe? Do you know why he might do that?

Ms. TIGHE. I do not know.

Mr. JORDAN. Mr. Hurt, did Mr. Runcie receive any bonus payments over the last few years for his stellar job of not complying with two Federal laws, improper payments that continue to increase and have increased over the last three years? Did he receive any bonus payments for his job performance?

Mr. HURT. I think the chairman referenced bonus payments. I personally don't have—I'm not involved in Mr. Runcie's bonuses.

Mr. JORDAN. Yes. Ms. Tighe, did he get some bonus payments?

Ms. TIGHE. I'm not aware of Mr. Runcie's bonus payments either. I'm sorry.

Mr. JORDAN. Yes. Well, it is our understanding that there were several thousand—last year alone \$75,000 bonus. Ms. Tighe, do you know if Mr. Runcie was at the top of the Federal pay scale?

Ms. TIGHE. I do not know that.

Mr. JORDAN. Yes. My guess he was at the top of the Federal pay scale, got his \$75,000 bonus last year, and over the last six years, bonuses totaling \$432,815 for a guy who can't comply with two laws, it asked to come testify in front of this committee, and instead of coming to testify in this committee to answer for what took place at the Department of Education, one of the most egregious agencies in overpayments or improper payments, instead of doing all that, he just decides to resign on the spot. Man, no wonder the American taxpayers are fed up with our Federal Government and the way this place operates.

I think, Mr. Chairman, we should have Mr. Runcie in here. I think we should go ahead and subpoena the guy and bring him in here to answer some of these questions. I mean, again, you just walk through it, \$144 billion across government, the agency that is maybe one of the most egregious offenders of overpayments is the Department of Education, two laws they don't comply with. That trend is going up. The who is responsible is asked several times to come in front of this committee, and instead of coming in front of this committee, he up and resigns. And to add insult to injury, he has been receiving bonus payments the last six years that

total \$432,815. This is amazing. This is why we have this committee, to get to the bottom of these kind of things. But Mr. Runcie should be in front of the committee.

And frankly, whoever was responsible—my guess it was Mr. Duncan who was responsible ultimately, the former Secretary of Education, in allowing these bonus payments to be given to Mr. Runcie, should be in front of this committee as well and say why was he given this kind of bonus, taxpayer dollars, when there is billions of taxpayer dollars that go unaccounted for that are under his watch.

So, Mr. Chairman, with that, I would yield back the balance of my time.

Mr. MEADOWS. I thank the gentleman.

Mr. Hurt, let me follow up one quick question. I mean, don't you think Mr. Runcie could have illuminated some of the questions that you have been unable to answer today? Do you think he would be the appropriate person to answer some of these questions?

Mr. HURT. Chairman Meadows, I can't speak to —

Mr. MEADOWS. But don't you work for him?

Mr. HURT. I did.

Mr. MEADOWS. Okay. So wouldn't he have some knowledge of improper payments?

Mr. HURT. He would have some knowledge.

Mr. MEADOWS. It is a softball question, Mr. Hurt.

Mr. HURT. Yes, sir.

Mr. MEADOWS. I am not trying to trap you.

Mr. HURT. He would have some knowledge of improper payments.

Mr. MEADOWS. And so shouldn't he have some I guess responsibility to come before Congress and help us understand why the record is so deplorable?

Mr. HURT. That's for Mr. Runcie to answer, not me.

Mr. MEADOWS. No, I am asking you. You are the sworn witness. Don't you think he could have helped?

Mr. HURT. That's for Mr. Runcie to answer, Mr. Chairman.

Mr. JORDAN. Mr. Chairman?

Mr. MEADOWS. Yes?

Mr. JORDAN. Mr. Runcie has been able to go out and talk to the press. He can't talk to a congressional committee with oversight responsibilities for the very fact he is allowed all kinds of billions of dollars of improper payments —

Mr. MEADOWS. Well —

Mr. JORDAN.—to go out but he can talk to the press. He can't come talk to us? That is why we need to subpoena the guy.

Mr. MEADOWS. Well, we have votes, and so I am going to give you about 30 minutes to think of a better answer, Mr. Hurt, okay, because I am going to come back to that. We were going to adjourn, but at this point we are going to just recess subject to the call of the chair. And for planning purposes so you can get some additional tea, Ms. Tighe, we are looking at about 30 minutes. So the committee stands in recess.

[Recess.]

Mr. MEADOWS. The subcommittees will come back to order. Thank you so much for your flexibility. I appreciate you coming here.

The chair recognizes the gentleman from Wisconsin, Mr. Grothman, for five minutes.

Mr. GROTHMAN. Thanks. Mr. Hurt, I would like to ask you a couple questions. Your annual financial report stated, "Recovery audits to recapture improper payments would not be cost-effective." Why did you decide to exclude these audits from your payment recapture program? It would seem to be fairly obviously you would want to use them. Do you have a comment on that?

Mr. HURT. A few years ago, Congressman Grothman, we did actually—the Department actually used a recovery audit, attempted a recovery audit, and we eventually—the Department abandoned it because it was finding so little. It was focused on the contract, contract management or contract management activities.

Mr. GROTHMAN. When there are overpayments, give me a typical example of an overpayment. How is an overpayment made? Give me a —

Mr. HURT. Overpayments might occur in, let's say, the loan consolidation process. So when someone—when I say I want to consolidate my loans, I'm going to consolidate them on the 10th of March. If I end up consolidating on the 12th of March, then I will have—but if I don't consolidate on the exact day, I could—that could result in an overpayment or an underpayment based on the timing of when the actual consolidation occurred.

Mr. GROTHMAN. We are talking about \$120 million a year. I would think that is a relatively small amount. When I look at this graph here that says \$120 million a year in overpayments, give me a typical example of how you work your way up to \$120 million. Or, Mrs. Tighe, you can weigh in if the answer is not satisfactory.

Mr. HURT. Most of the overpayments—the most significant root cause for overpayments is actually issues around eligibility. That could be misreported income on the FAFSA or misreported data on the FAFSA. That's usually the—probably the most impactful or the biggest root cause for improper payments.

Mr. GROTHMAN. And right now, looking—by the way, Ms. Tighe, do you agree with that or do you have anything to add?

Ms. TIGHE. I'm sorry. Excuse me?

Mr. GROTHMAN. Do you agree with that or do you have anything to add?

Ms. TIGHE. No. Well, I agree that the largest—or one of the two largest drivers of improper payments for Federal Student Aid is eligibility issues, misreported income. And that's why we made a recommendation that they needed to include information related to that in the improper payments calculation.

Mr. GROTHMAN. Do you ever catch people who are getting, you know, two different forms of aid, you are not supposed to get them both at the same time? Is that ever a problem?

Ms. TIGHE. Well, we catch people getting all sorts of aid they shouldn't be getting. That's been looking at issues like our fraud rings where people are getting Pell Grants and student—and Direct Loan disbursements that they are not entitled to has been an active part of our criminal caseload.

Mr. GROTHMAN. Did you ever convict anybody?

Ms. TIGHE. Yes, we do.

Mr. GROTHMAN. What happens to them?

Ms. TIGHE. Well, they go to jail.

Mr. GROTHMAN. Oh, wow. Okay.

Ms. TIGHE. And sometimes pay the money back.

Mr. GROTHMAN. Okay. Good. I notice here, you know, it varies from year to year but usually the amount paid back from the amount identified is, you know, not that great. I mean, one year we did better but it seems a lot of times most recently it is under 20 percent. Do you want to comment on that? I mean, is there a way you can dial that up a little bit or what is your opinion on that, getting less than 20 percent of what we identify—and I assume we identify only a fraction of what is done.

Mr. HURT. I think you are referring to the \$120 million in the AFR of assessed liability. Is that—if that's true, then these are actual improper payments we identified during our program reviews, our compliance audits, or the IG's audits. We will assess a liability to whomever the bad actor—or the individual or school in some cases that is due to pay us back, and then we'll collect on that.

Mr. GROTHMAN. Is it usually the school or the student? Probably usually the student?

Mr. HURT. I don't have the data —

Mr. GROTHMAN. Or sometimes the school? Sometimes the school, too, is at fault?

Mr. HURT. There are times when the—I better let the inspector general speak to school.

Ms. TIGHE. Well, we do audits sometimes on compliance with the title IV requirements, and we do see schools that may not be complying with the regulations properly and disbursing money properly or returning the money properly, and that incurs a liability to the Department.

Mr. GROTHMAN. Okay. And I will go back. The most recent year here you say identified \$119 million and recovered \$20 million, 17 percent recovery rate. Do you just want to comment on that? I mean, are you just with young people who don't have money? What do you do to put a lien on them or what is going on there?

Mr. HURT. It's treated as a receivable, and we will employ many tools to collect. And it will—that's how much has been recovered thus far is another way to look at that, too. So we will employ a number of Treasury—alternatives would be treasury offset against their—whatever—any payments that are coming out of Treasury. That could be IRS tax refunds, things like that. We will employ administrative wage garnishment, other tools mostly through Treasury to collect on that money.

Mr. GROTHMAN. Okay. Thank you very much.

Mr. MEADOWS. I thank the gentleman.

The chair recognizes himself for a series of questions.

So, Ms. Tighe, let me come back to you. You had talked about how people need to be prosecuted earlier, you know, in terms of when we find these things. I mean, how do we go about this? I mean, have we prosecuted many?

Ms. TIGHE. Well, I mean, we have prosecutions all the time. I mean, we have right now about 250—over 250 active criminal investigations.

Mr. MEADOWS. Right.

Ms. TIGHE. About 60 percent of those relate to the Federal Student Aid operations and programs. I think that we certainly see, you know, the big areas for us within that. The fraud rings, we talked about that and we do see prosecutions. But sometimes the dollar levels on those don't justify me spending the resources, so we end up referring those to the Federal Student Aid to take administrative action. But we do see prosecutions —

Mr. MEADOWS. So do they take the appropriate action?

Ms. TIGHE. I know that they have been following up on some. I would—I am not —

Mr. MEADOWS. On a scale of 1 to 10 with 10 being the most appropriate, how would you rate their actions?

Ms. TIGHE. Well, I think I'd have to give a different scale because I'm not sure what they're doing with our referrals, and I think it's something —

Mr. MEADOWS. Well, since we are talking about education —

Ms. TIGHE.—we need to sit down with —

Mr. MEADOWS. If you are going to talk about education, give them a letter grade A through F.

Ms. TIGHE. Well, I will give them the grade of I am not sure. I know that they have taken some action on some of the —

Mr. MEADOWS. So do you not see it being a problem if the inspector general is not sure? Does that mean that you don't have enough information —

Ms. TIGHE. I don't have enough information. It's actually an area I've been wanting to sit down and talk to FSA about.

Mr. MEADOWS. All right. So if it is an area that you want to talk to FSA about, and since it was made very clear earlier today that all of these problems apparently are the problems of Ms. DeVos, would you agree with that?

Ms. TIGHE. Well, no, this is—I think the issues related to referrals of —

Mr. MEADOWS. Didn't they happen before she was even confirmed —

Ms. TIGHE. Yes.

Mr. MEADOWS.—into her position. All right. Let's be clear about what it is and what it is not because it is very easy for us to start to go after a new Secretary who—all of these things that you are talking about I don't know that even we had President Trump in the White House at that point when you were identifying these areas of concern, did we?

Ms. TIGHE. No.

Mr. MEADOWS. All right. So if we are looking backwards and we are looking at these issues, tell me about program review and where we are in terms of you being able to make a good analysis. Do we have good audits? Do we have what we need there?

Ms. TIGHE. We did do a review a couple of years ago, I believe in 2015, that found a number of issues related to the program review process.

Mr. MEADOWS. And Mr. Runcie got right on those and fixed them all, did he not?

Ms. TIGHE. Well, they did do a couple of things. They did implement a quality kind of assurance process where they reviewed—the program reviews themselves —

Mr. MEADOWS. All right. So they did quality assurance —

Ms. TIGHE. The problem was —

Mr. MEADOWS. Since we are talking about improper payments —

Ms. TIGHE. Yes.

Mr. MEADOWS.—quality assurance, I guess that is why the Direct Loan Program went from \$1.28 billion up to \$3.86 billion in improper payments, and the Pell Grant Program went from \$562 million to \$2.2 billion because we put in additional quality assurance.

Ms. TIGHE. Well, no, I don't think that's the reason. The issue we had, which I should explain, with the quality assurance process was that they had recommendations for improvement but they didn't require the managers to take action. And that was one of the findings in our report.

Mr. MEADOWS. So they would make recommendations but they wouldn't have to act on those recommendations?

Ms. TIGHE. Well, at that point we were looking at it they did not have a process in place to act on them, no.

Mr. MEADOWS. Do they now?

Ms. TIGHE. I would have to get back and check on that. As part of our audit resolution process, I am not sure what the status of that recommendation is.

Mr. MEADOWS. Would you say that as part of your audits there is a whole lot of outstanding issues that still need to be made?

Ms. TIGHE. Yes, that's fair to say.

Mr. MEADOWS. All right. So on a scale of 1 to 10—I will give you a different one. On a scale of 1 to 10, how much work is left to be done to satisfy those outstanding issues with 10 being the most amount of work and 1 being hardly any?

Ms. TIGHE. Well, I'd say, you know, they're at a 5. They've done some work to—trying to resolve some of our audits in the past year, but there are still some ways to go.

Mr. MEADOWS. All right. So this is a performance-based organization, is it not, a PBO?

Ms. TIGHE. Yes, it is.

Mr. MEADOWS. All right. So that means compensation is directly related to performance?

Ms. TIGHE. As I understand it, yes.

Mr. MEADOWS. Okay. So let me ask it a different way. Compensation should be directly related to performance?

Ms. TIGHE. Yes.

Mr. MEADOWS. So have you seen any correlation between the compensation and the performance? Because I cannot find any. And so I am just trying to get to the facts here.

Ms. TIGHE. I am not privy to compensation, knowledge about the senior leadership of those —

Mr. MEADOWS. So if you are not, how do you properly oversee—if we are a performance-based organization, how would you properly oversee whether we are actually doing that or not?

Ms. TIGHE. Well, we do look at a number of issues related to FSA, and we've made a number of recommendations —

Mr. MEADOWS. So who is overseeing that?

Ms. TIGHE.—for improvement.

Mr. MEADOWS. Is that you, Mr. Hurt? Are you overseeing whether people get the proper compensation based on performance?

Mr. HURT. No. Performance —

Mr. MEADOWS. I didn't think so. So who is?

Mr. HURT. The performance evaluations for the chief operating officer would be determined by the Department senior leadership, and then within the Federal Student Aid, performance is evaluated and awarded based on a process consistent with the Department's award process but done by the operating committee essentially —

Mr. MEADOWS. All right.

Mr. HURT.—at FSA.

Mr. MEADOWS. Maybe I am confused, but what the heck does that mean? I mean, I don't understand how—if I am going to explain that to the American people, when you say "consistent with other things," why would a COO get a bonus of \$75K last year when your improper payments went through the roof?

Mr. HURT. I can't speak towards the —

Mr. MEADOWS. Did you get a bonus?

Mr. HURT. I did, sir.

Mr. MEADOWS. Performance bonus?

Mr. HURT. Yes.

Mr. MEADOWS. So Mr. Runcie said that improper payments are all your responsibility. Is he accurate with that?

Mr. HURT. I am the program accountable official for improper payments related to —

Mr. MEADOWS. So why did you get a bonus then paid to you based on these what I would call abysmal results?

Mr. HURT. I think the results are based on the—it's an estimate that's based—that's published in the AFR, and the estimate is—it essentially went up because of a changed methodology, inclusion of more root causes in the methodology —

Mr. MEADOWS. So you are saying it is just we started reporting it better and it is not really any worse?

Mr. HURT. I'd say we're —

Mr. MEADOWS. You are under sworn testimony. And let me tell you, you are talking to a guy that looks at the numbers and I am going to go back and look at them. So are you saying the improper payments are no worse today in fiscal year 2016 than they were in fiscal year 2015?

Mr. HURT. I'm saying the rates went up based on a change to methodology and based on the inherent variability of the methodology. So the methodology—because we focus our funds and our resources on high-risk program reviews, we don't have sufficient randomly sampled numbers of reviews and audits to be able to produce a statistically valid estimate. We would have to make a management decision to divert our resources from going after improper payments and assessing liabilities to coming up with a better estimate to do that.

Mr. MEADOWS. So what you are saying is you would have to take time to figure out how to measure if you are doing a good job or not?

Mr. HURT. We'd have to take money away from finding improper payments to be able to produce a better estimate.

Mr. MEADOWS. All right. And so would you say that having 7.85 percent of improper payments in the Pell Grant program is a good job?

Mr. HURT. I say 7.85 percent improper—improper payment rate, anything above zero is something we should be striving to bring down.

Mr. MEADOWS. Great answer to a question I didn't ask. I am asking you is 7.85 improper payment rate a good job, Mr. Hurt?

Mr. HURT. The blended rate, if you look at both Pell and Direct Loan, was 4.85.

Mr. MEADOWS. And so are you saying 4.85 is good?

Mr. HURT. Four-point-eight-five compared to the—the industry estimates they lose about 5 percent to fraud, which is a much narrower —

Mr. MEADOWS. What industry?

Mr. HURT. Private industry. So the American Certified Fraud

Mr. MEADOWS. Mr. Hurt, let me just tell you, I told you I would try to go easy on you and I am going to go easy on you, but you are going to have to answer my question. Are you willing to answer my question?

Mr. HURT. Yes, sir.

Mr. MEADOWS. All right. Is 7.85 a good number or a bad number, yes or no? Just tell me what it is, good or bad?

Mr. HURT. It's a number we need to address for sure.

Mr. MEADOWS. We are going to wait until you answer it. Is it a good number or a bad number?

Mr. HURT. It's a bad number.

Mr. MEADOWS. All right. If it is a bad number, at what point is it a good number where Inspector General Tighe can applaud you and say this is great?

Mr. HURT. The only way to produce a statistically accurate number is to divert our resources from finding—actually finding improper payment and bringing down the real amount of improper payments to producing a more valid estimate.

Mr. MEADOWS. All right. Justin, will you—maybe you can help me see how the PBO is working or not working, Mr. Draeger, if you can help us maybe have a little clarity here.

Mr. DRAEGER. So from our perspective, Mr. Palmer asked earlier about the metrics that FSA did not meet when it laid out its strategic objectives. And I would say the answer is pretty simple. The objectives they did not meet, at least two of the three were focused solely on customer service and stakeholder engagement.

And so I think one of the underlying issues with a performance-based organization—and FSA was the first performance-based organization in 1998—we benchmarked other performance-based organizations that have been created since then, and they have a unique quality that is just lacking at FSA which are a specific oversight board. And if you are going to give a Federal agency private



sector flexibility, then some of the private sector oversight needs to be there. And when you look at the other Federal PBOs, they have that in place. So I think it's a lot easier when you have a board in place that's helping align your strategic objectives to overall strategy to determine whether you're successful or not.

Mr. MEADOWS. So what is wrong with what he said, Mr. Hurt?

Mr. HURT. FSA currently has oversight from many oversight bodies.

Mr. MEADOWS. Apparently not enough, but go ahead.

Mr. HURT. We have oversight from the senior—Department senior management, from Office of Management and Budget, from Domestic Policy Council, from the inspector general, from multiple congressional oversight committees. So adding another layer of oversight would actually further—well, it would further confuse the oversight picture relative to private companies.

Mr. MEADOWS. Mr. Hurt, so let me be clear. We are going to get to the bottom of this, and we are going to get it right. The American taxpayer and quite frankly students all across this country deserve to get it right. And, you know, you are sitting here today and Mr. Draeger just pointed out some things and I think there are two customer service matrices that are out there, and you are failing on both of them. So, I mean, when we really look at it—so your sworn testimony here today is that these abysmal reviews and the fact that you are not doing enough about improper payments are all a result of too much oversight?

Mr. HURT. No.

Mr. MEADOWS. Well, I mean, that is kind of where you were going. You said you got all this oversight, and so are you suggesting that we just need to pull back on a little bit of oversight so the improper payments go down?

Mr. HURT. No, Chairman Meadows. My statement was in response to do we need another oversight board. That was the question I was answering.

Mr. MEADOWS. All right. So at what point do you find Mr. Draeger's constituency satisfied from a customer service point of view? I mean, does it matter whether they are satisfied from a customer service point of view?

Mr. HURT. It matters that our partners in delivering financial aid to our student and borrower customers and taxpayer customers

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Mr. MEADOWS. So his constituency would give you what kind of a grade?

Mr. HURT. I believe actually that was one of our failing metrics out of three was —

Mr. MEADOWS. So he gave you an F?

Mr. HURT. The—I don't—it's a number based—it wasn't necessarily an F. It was a number-based metric, sir.

Mr. MEADOWS. Okay. Was it below 60?

Mr. HURT. Specifically, it was—our goal was to have a 74.3 to 77.3 ease of doing business, and we received a 72.3.

Mr. MEADOWS. Okay. So a C minus depending on which grade scale you get to. So how are you going to get it up to where it needs to be?

Mr. HURT. We have numerous ways to interact with our consumer advocacy groups and our schools. We—a great example is the FAFSA Advisory Board that we—every year we're doing —

Mr. MEADOWS. So you are saying that that interrelationship is going pretty well?

Mr. HURT. I'm saying we have mechanisms to continue and then improve upon our relationship.

Mr. MEADOWS. Okay. So, Mr. Draeger, would you say that the program reviews are going well, or do you consider those adversarial?

Mr. DRAEGER. We asked our members that question a year ago in a survey. We received 1,000 institutional responses. Of those who had had a program review in the last five years, 30 percent had reported that when—from the time they had their program reviewed, they did not have a final report in hand 12 months later. So if the goal is to correct improper payments but these just continue to hang out there and hang out there, schools feel like they're under tremendous pressure with this perpetually hanging ax over institutional eligibility.

We asked our members also in one word to describe their relationship with the Department of Education at the time, and I know that this wasn't under Mr. Hurt's leadership, but the words most cited were adversarial, adversarial, complicated, and 90 percent of the words that they provided were negative, not positive. And again, not under Mr. Hurt's leadership, but I do want to point out that since that hearing in October —

Mr. MEADOWS. November of 2015.

Mr. DRAEGER.—of 2015 —

Mr. MEADOWS. I was here.

Mr. DRAEGER.—Mr. Runcie refused to take meetings with myself or my board of directors who are acting financial aid administrators.

Mr. MEADOWS. Hold on. You are saying that he left a hearing where he said that he was willing to address this and that he has refused to take any meetings with you? Is that your sworn testimony?

Mr. DRAEGER. While the career staff at FSA have continued to enter dialogues, the Secretary's office in both administrations continued dialogue, the Under Secretary's Office continued dialogue, we specifically requested meetings with the chief operating officer, which —

Mr. MEADOWS. Well, I appreciate you sharing that because, Mr. Hurt, this is only partially on your watch. And I talked to Secretary DeVos yesterday because I was real concerned about students and making sure that students have what they need because really that is what this is all about. You don't even exist if we are not providing the kind of service to students that they deserve. And really, your having to come here in the last 24 hours with very little notice is a disservice to you, it is a disservice to those students.

And what I guess is more appalling to me is that Mr. Runcie decided to not come back, has not met with Mr. Draeger when you have Secretaries of both administrations willing to do that, and then wants to avoid follow-up questions, some of which I know I asked personally of him back in November of 2015, some of which

Inspector General Tighe has identified over and over and over again, and for him to suggest that it is all your fault or all Secretary DeVos' fault, you can't agree with that statement, do you, that it is all your fault or Secretary DeVos' fault?

Mr. HURT. I couldn't speak for what Mr. —

Mr. MEADOWS. Now, I have given you 40 minutes to come up with a better answer, Mr. Hurt, and I am sure you have talked to counsel, I am sure you have talked to everybody else, and they may not want you to say anything, but I would remind you you are under sworn testimony. We can compel you to answer the questions. So at this point is it totally your responsibility for what has happened on improper payments, totally and completely?

Mr. HURT. I am the program accountable official for direct —

Mr. MEADOWS. Great answer to a question I didn't ask again, Mr. Hurt. You are making this more difficult than you need to be. Is 100 percent of the responsibility yours, Mr. Hurt?

Mr. HURT. No, sir.

Mr. MEADOWS. All right. Is 100 percent of it Secretary DeVos'?

Mr. HURT. No, sir.

Mr. MEADOWS. So if that is the case, and we understand—and I agree with that—that 100 percent of it is not your fault, how do we fix it? How do we fix this problem where I am not coming back here with unbelievable billions of dollars, customer service reports that are not there, an inspector general's request for a number of things—which I understand she gave you a little bit of a pass because apparently in the last few days you have agreed to do that so I would assume that there is a new sheriff in town and so they are going to get it done. How do we make sure that this doesn't happen?

Mr. HURT. We stay vigilant on oversight, sir.

Mr. MEADOWS. All right. So what is success going forward? So let me put it more bluntly. If you are going to get a performance bonus, at what number do we peg that to?

Mr. HURT. It's hard to peg it for improper payments to a number of —

Mr. MEADOWS. Well, it is not hard for the American people. The American people said if you lose over \$3 billion, they would think that you should get a zero performance bonus. And I know that you don't agree with that, but at some point we are going to have to get to the bottom line, you know, and figure this out. So what is the number?

Mr. HURT. The estimate is variable based on the methodology so I can't come up with —

Mr. MEADOWS. Okay. Here is —

Mr. HURT.—a number, sir.

Mr. MEADOWS. Since we do have oversight capability, here is what I need from you, and I need you to take this back to the Secretary and make sure that we get it. We need to know the matrix for what performance, good performance, excellence performance, and poor performance is going to be for your senior management, for the new COO, whomever that maybe, for yourself, for the others, and we need to understand what the matrix is. We need to understand where customer services comes in and what it factors in with that as well. And if I ever hear about government officials not

being willing to meet with key stakeholders because they are too busy collecting their check—you know, there was a song in the '70s. You know, I am dating myself. But it seems like that Mr. Runcie could be singing a song "Take the Money and Run" because that is what he has done and that is what the American taxpayers have seen it as, as an irresponsible way to hold government accountable for their actions.

Now, I am not asking you to comment on that, but here is what I am asking you to do. We need to know when you are going to get the inspector general's recommendations done, a time frame, a specific time frame on what you are going to accomplish and how you are going to accomplish it. What is a reasonable amount of time to get that plan back to this committee?

Mr. HURT. The—I think there is a specific amount of time for us to develop our corrective action. I think that is coming due within a few months.

Mr. MEADOWS. That is with her. I am saying a plan of action to this committee. Is 45 days enough to get a plan of action on how you are going to address that back to this committee?

Mr. HURT. Yes, sir.

Mr. MEADOWS. All right. I see heads nodding in the back. I don't want to make a request that is too difficult, okay? All right. So we are going to do that.

Mr. MEADOWS. The other part of that is is that—and I don't think you are going to get much resistance on this. We need to know what the performance matrices are and how we know when we are doing a great job, a good job, a mediocre job, and a poor job. And we need to make sure that compensation, since it is a PBO, is tied to that.

And then lastly, I want to see how you pull in some of the comments. The next time I don't want to have 90 percent of the comments coming back negative. You don't either, do you, Mr. Hurt?

Mr. HURT. No, sir.

Mr. MEADOWS. I didn't think so. All right. So Inspector General Tighe, I am going to close with this. I need you to help prioritize the recommendations you have made in terms of those open issues that are there from previous reports. It is critically important that we communicate those at the very top level with the Secretary and those that are going to implement it.

Any change of administration there can be a drop of a baton so to speak. I don't want that to happen so I am asking you if you would get that to this committee as well.

Ms. TIGHE. Yes, we will.

Mr. MEADOWS. Is 45 days enough for you?

Ms. TIGHE. Yes, it is.

Mr. MEADOWS. Okay. We will do that and go there.

Mr. MEADOWS. Lastly, I think it is appropriate for me to say, Mr. Hurt, I am not blaming you for this, but you are partially responsible. And in doing that, I am going to be myopically focused on results, all right? My favorite quote is "No matter how beautiful the strategy, we must occasionally look at the results." So I don't want to hear about the great plan. I want to see about the results because I don't want to have another hearing like this, or if we have another hearing, I want us to be talking about and celebrating the

successes that we have. Does that make sense to all of you? Do you think we can do that? Do I have your commitment to work diligently to do that?

Yes. Let the record reflect that all witnesses answered in the affirmative.

That being said, thank you so much. The committee stands adjourned.

[Whereupon, at 12:35 p.m., the subcommittees were adjourned.]

