



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

July 31, 2023

Ref: CPA-23-02 – Revised 90/10 Revenue Calculation Testing and Example Footnote

Dear Certified Public Accountant:

This letter amends the March 2023 Guide for Financial Statement Audits of Proprietary Schools and For Compliance Attestation Examination Engagements of Proprietary Schools and Third-Party Servicers Administering Title IV Programs (Guide) to address recent regulatory changes to the 90/10 Rule by:

- Replacing Section B.2 of Chapter 2 to revise the required testing of the school's 90/10 Revenue Calculation. ([Enclosure 1](#))
- Replacing Section D-3b of Chapter 2 to revise the example 90/10 Revenue Percentage footnote ([Enclosure 2](#))

The amendments are effective for all proprietary school financial statement audits of fiscal years beginning on or after January 1, 2023, that are conducted using the March 2023 Guide.

90/10 Rule Changes

On October 28, 2022, the U.S. Department of Education published final regulations in the Federal Register ([87 FR 65426](#)) amending 34 C.F.R. § 668.28, "Non-Federal revenue (90/10)." The final regulations implemented amendments to sections 487(a) and (d) of the Higher Education Act of 1965, as amended (HEA), made by the American Rescue Plan Act of 2021. Per section 487(a) of the HEA, proprietary schools must derive not less than 10 percent of their revenue from sources other than Federal education assistance funds that are disbursed or delivered to or on behalf of a student to attend the school. The statutory change requires that schools count all Federal education assistance funds as Federal revenue in their 90/10 calculation. The final regulations also amend which non-Federal funds can be counted when determining compliance with the 90/10 rule to align more closely with statutory intent.

The final 90/10 regulations apply to proprietary school fiscal years beginning on or after January 1, 2023, consistent with the effective date of the statutory changes to the 90/10 calculation.

Contact for Questions

Questions pertaining to this letter may be directed to the Office of Inspector General's Non-Federal Audit Team via email to OIGNon-FederalAudit@ed.gov.

Respectfully,

/s/

Bryon S. Gordon
Assistant Inspector General for Audit

Enclosures

...

cc:

...

Replace Chapter 2, Section B.2 of the Guide for Financial Statement Audits of Proprietary Schools and For Compliance Attestation Examination Engagements of Proprietary Schools and Third-Party Servicers Administering Title IV Programs (Pages 22-27)

B.2. 90/10 REVENUE PERCENTAGE

According to 34 C.F.R. § 668.28(c), if a school does not derive at least 10 percent of its revenue from sources other than Federal funds for two consecutive fiscal years, it loses its eligibility to participate in the Title IV programs for at least two fiscal years. For any fiscal year a school does not derive at least 10 percent of its revenue from sources other than Federal funds, it becomes provisionally certified under 34 C.F.R. § 668.13(c)(1)(ii) for two fiscal years after the fiscal year it fails to satisfy the revenue requirement. The school must notify ED no later than 45 days after the end of its fiscal year that it failed to meet the 90/10 revenue requirement.

The 90/10 revenue percentage must be calculated in accordance with 34 C.F.R. § 668.28, including using the cash basis of accounting in calculating its revenue percentage and following the disbursement rule in requesting and disbursing Title IV funds that students are eligible to receive by the end of the fiscal year. The Federal funds used to calculate the revenue percentage include Title IV funds and any other educational assistance funds provided by a Federal agency directly to the school or a student. ED identifies the Federal agency and the other educational assistance funds provided by that agency in a notice published in the Federal Register, which is updated as needed. ED published the first such notice in [87 FR 78096 \(December 21, 2022\)](#). As stated in the notice, if school is aware of Federal education assistance funds not included on this list that were provided either to the school or directly to a student to cover tuition and fees or other institutional charges, the school must obtain the necessary information to account for those funds in its 90/10 revenue calculation. For example, Higher Education Emergency Relief Fund (HEERF) is not included on the list, but to the extent that a school had remaining HEERF funds at January 1, 2023, and those funds were disbursed or delivered to or on behalf of a student to attend the school, the HEERF funds must be counted as Federal education assistance funds in the school's 90/10 revenue calculation.

In order to properly calculate the school's ratio, the amounts for Student Title IV Revenue, Federal Funds Paid Directly to the Student or to the Institution, and Student Non-Federal Revenue should be determined and summed on a student-by-student basis.

In accordance with 34 C.F.R. § 668.23(d)(3), a proprietary school must disclose in a footnote to the audited financial statements the percentage of its revenues derived from Federal funds that it received during the fiscal year covered by the audit. The note must report the dollar amount of the numerator and denominator of its 90/10 ratio as well as the individual revenue amounts identified in Section 2 of Appendix C to Subpart B of Part 668 of the regulations. The required format of the 90/10 Revenue Percentage footnote is illustrated in Example D-3b of this chapter. The example is based on Section 2 of Appendix C to Subpart B of Part 668, which is intended to generally outline how schools calculate 90/10 by providing an example. This example cannot reflect every situation. Schools may need to add other refund or adjustment categories that are not included in the example to calculate their own compliance but should not provide less detail than is included in Appendix C and Example D-3b.

The 90/10 eligibility compliance issue requires reporting at the eligible school level (a school having a unique six-digit OPEID with a two-digit extension of “00”), regardless of whether the school is a single school or is a member of a school group.

The calculation presented in the notes to the financial statements must be made by the school, not the audit firm or sole practitioner conducting the audit. If the school is incapable of making the calculation, the client should engage a person or firm other than their financial statement or compliance auditor to perform the calculation.

You should review the accuracy of the calculation and its component parts. In determining the level of testing required for evaluating transactions and accounts affecting the calculation, consider that a school’s failure to meet the test will render it provisionally certified to participate in the Title IV programs for one year and ineligible after two consecutive years. For example, a small error in accounting for cash could be immaterial to the financial statements taken as a whole but could be the difference between a school meeting or not meeting the 90/10 revenue percentage test. This consideration becomes increasingly significant if the calculation indicates that the ratio of Title IV program funds to overall school cash revenues is close to 90 percent.

You should be alert to schemes used to manipulate the 90/10 calculation. In particular, you should be alert to the validity of transactions at the end of a fiscal year, especially those that may be inconsistent with disbursement rules for Title IV funds specified in 34 C.F.R.

§ 668.28(a)(2)(ii). Additionally, you should be alert to efforts to have students use private loans when Title IV funds are available. Quality Control Reviews frequently cite auditors for not determining whether revenue included in the school’s calculation was from an allowable revenue source.

If you determine the school’s calculation is misstated by any amount, regardless of materiality, disclose this as a finding in the Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*. The finding should explain why the reported calculation is incorrect, and your opinion of what it should be. If the school agrees with your finding and accepts your determination of the corrected calculation, then the school should correct the misstated 90/10 calculation and the corrected calculation should be presented in the notes to the financial statements. (*Note: Relevant guidance for the evaluation of misstatements identified during the audit is provided in AU-C § 450.*)

If you are unable to make a determination on whether the school calculated the 90/10 revenue percentage in compliance with 34 C.F.R. § 668.28 (*e.g.*, the school does not have sufficiently detailed records or did not determine and sum revenues on a student-by-student basis), you should report the matter as a finding in the Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*, with an explanation of the facts, issues and dollar amounts in question.

Audit Objective:

Determine if the school’s 90/10 revenue percentage was calculated in accordance with 34 C.F.R. § 668.28 and disclosed in accordance with 34 C.F.R. § 668.23.

- Criteria:* 34 C.F.R. § 668.28
34 C.F.R. § 668.23(d)(3)
[87 FR 78096 \(December 21, 2022\)](#)
- Guidance:* FSA Handbook, Volume 2, Chapter 4
[90-10 - Questions and Answers](#)

Required Procedures:

- B.2.a. Obtain the school's 90/10 revenue percentage footnote and determine if it is presented in accordance with 34 C.F.R. § 668.23(d)(3) and Example D-3b of this Guide.
Determine whether the footnote includes:
- B.2.a.1. The calculated percentage of revenues derived from Federal funds that the school received during the fiscal year.
 - B.2.a.2. The dollar amount of the numerator and denominator of its 90/10 ratio.
 - B.2.a.3. The individual revenue amounts identified in Section 2 of Appendix C to Subpart B of Part 668 of the regulations and in Example D-3b of this Guide.
- B.2.b. Identify all records used by the school to determine the elements of and to perform the calculations required for the 90/10 revenue percentage.
- B.2.b.1. Determine whether the amounts included in the 90/10 calculation for Student Title IV Revenue, Federal Funds Paid Directly to the Student, Federal Funds Paid Directly to Institution, and Student Non-Federal Revenue are determined and summed on a student-by-student basis.
 - B.2.b.2. Determine whether the school used the cash basis of accounting in calculating its revenue percentage by testing whether the school counted the Title IV and other Federal funds the school received to pay tuition, fees, and other institutional charges of eligible students during its fiscal year.
 - B.2.b.3. Determine whether the school complied with the disbursement rule in 34 C.F.R. § 668.28(a)(2) by selecting a sample of students who were enrolled in the last month of the fiscal year and testing whether those students were eligible for and received a disbursement by the end of the fiscal year, unless there is evidence that the disbursement was not made due to factors outside of the school's control (e.g., the student declined the disbursement or the school was impacted by a natural disaster).
 - B.2.b.4. Test the reliability and accuracy of the data used, tracing to source records as needed.

- B.2.c. Determine whether Federal revenue was included in or excluded from the calculation in accordance with 34 C.F.R. § 668.28.
 - B.2.c.1. Compare the Student Title IV Revenue included in the calculation to the school's G5 External Award Activity Report and reconcile any differences. Ensure that funds drawn during the audited period, including funds drawn from prior award years, were included in the amounts disbursed.
 - B.2.c.2. Review the process by which the school identifies and accounts for all Federal education assistance funds identified in a list issued by ED that are disbursed directly to the school or students. Perform tests to ascertain that the school's process is operating to effectively include all Federal education assistance funds in the school's 90/10 calculation.
 - B.2.c.3. If funds from Federal programs subject to matching requirements are included as Student Federal Revenue, determine whether the *Adjusted Amount* represents only the Federal share, and not the institutional match.
 - B.2.c.4. If FWS funds are included as Student Federal Revenue, determine whether the amount represents only FWS funds credited to student accounts, and not wages paid directly to the student.
 - B.2.c.5. For a sample of students, determine whether the school followed the application of funds requirement at 34 C.F.R. § 668.28(a)(4) to determine the adjustments to Student Federal Revenue for the amount of Funds Applied First plus Student Federal Revenue that is in excess of Tuition and Fees.
 - B.2.c.6. Determine whether the school appropriately excluded funds held as credit balances from the calculation and accurately identified Title IV and non-Title IV credit balance amounts remaining at the end of the prior fiscal year to include in the current fiscal year calculation.
 - B.2.c.7. Determine whether the school reduced Student Federal Revenue by the amount of Federal education assistance funds returned for students that withdrew or required to be returned under the applicable program.
- B.2.d. Determine whether non-Federal revenue was included in or excluded from the calculation in accordance with 34 C.F.R. § 668.28.
 - B.2.d.1. If institutional scholarships in the form of monetary aid and based on the academic achievement or financial need of its students are included as Student Non-Federal Revenue in the school's calculation, determine that (a) only amounts disbursed to students during the fiscal year are included as revenue, (b) the scholarships were disbursed from an established restricted account, and (c) the funds in the restricted account represent designated funds from an outside source that is unrelated to the school, its owners, or its affiliates or income earned on those funds.

- B.2.d.2. If student cash payments are included as Student Non-Federal Revenue in the school's calculation, determine that the school included as revenue only the amount received during the fiscal year that is needed to cover Tuition and Fees that are not paid by Funds Applied First and Student Federal Revenue.
- B.2.d.3. If revenue generated by the school from activities conducted by the school that are necessary for the education and training of its students are included as Revenue from Other Sources in the school's calculation, determine that they are from qualified activities (a) conducted on campus or at a facility under the school's control; (b) performed under the supervision of a member of the school's faculty; (c) required to be performed by all students in a specific educational program at the school; and (d) related directly to services performed by students.
- B.2.d.4. If revenue generated by the school from funds paid by a student, or on behalf of a student by a party unrelated to the school, its owners, or affiliates, for education and training in non-Title IV eligible programs are included as Revenue from Other Sources in the school's calculation, determine that they are from a qualified non-Title IV eligible program that (a) does not include any courses offered in an eligible program; (b) is provided by the school and taught by one of the school's instructors at its main campus, an approved additional location, another school facility approved by the State agency or accrediting agency, or an employer facility; and (c) either (i) is approved or licensed by the appropriate State agency, (ii) is accredited by an accrediting agency recognized by the Secretary under 34 C.F.R. part 602, (iii) provides an industry-recognized credential or certification, (iv) provides training needed for students to maintain State licensing requirements, or (v) provides training needed for students to meet additional licensing requirements for specialized training for practitioners that already meet the general licensing requirements in that field.
- B.2.d.5. If student payments on loans or income share agreements issued by the school or a third-party related to the school are included as Revenue from Other Sources in the school's calculation, determine that (a) the *Adjusted Amount* represents only principal payments and payment amounts that represent a return of capital and (b) proceeds from the sale of those loans or income share agreements are not included as revenue in the calculation.

Replace Chapter 2, Section D-3b of the Guide for Financial Statement Audits of Proprietary Schools and For Compliance Attestation Examination Engagements of Proprietary Schools and Third-Party Servicers Administering Title IV Programs (Pages 43-44)

D-3b. Example Note Disclosures – 90/10 Revenue Percentage

[School] derives a substantial portion of its revenues from Federal educational assistance received directly by the school or by its students. To continue to participate in the programs authorized by Title IV of the HEA, [School] must comply with the regulations promulgated under the HEA. The regulations require a proprietary school to derive at least 10 percent of its cash basis revenues for each fiscal year from sources other than Federal funds. If a school receives more than 90 percent of its cash basis revenues from Federal funds during its fiscal year, the school becomes provisionally certified for the next two fiscal years. If a school fails to satisfy this 90/10 requirement for two consecutive years, the school will lose its ability to participate in Title IV programs. The below information is required by the U.S. Department of Education and is presented for purposes of additional analysis and is not a required part of the basic financial statements.

For the fiscal year ended [date], [School's] cash basis calculation is:

<u>Adjusted Student Federal Revenue</u>	<u>\$ 3,517,050</u>	86.27%
Adjusted Student Federal Revenue + Sum of Non-Federal Revenue and Revenue from Other Sources	\$ 4,076,550	

Revenue Category	Amount Disbursed	Adjusted Amount
Student Title IV Revenue	-	-
Title IV Credit Balance Carried Over from Prior Year	45,000	45,000
Federal Direct Loan	1,500,000	1,500,000
Federal Pell Grant	400,700	400,700
FSEOG (subject to matching reduction)	11,500	8,625
Total Student Title IV Revenue	1,957,200	1,954,325
Refunds Paid to Students	-	- 35,500
Student/Other Federal Funds Paid Directly to Student	-	-
Federal Funds 3	50,000	50,000
Federal Funds 4	3,700	3,700
Total Student/Other Federal Funds Paid Directly to Student	53,700	53,700
Refunds Paid to Students	-	-200
Adjusted Student/Other Federal Funds Paid Directly to Student	53,700	<u>53,500</u>
Adjusted Student Federal Revenue	3,575,625	3,517,050
Adjusted Student Title IV Revenue	1,957,200	1,918,825

Revenue Category	Amount Disbursed	Adjusted Amount
Student/Other Federal Funds Paid Directly to the Institution	-	-
Federal Funds 1	200,000	200,000
Federal Funds 2	1,355,725	1,355,725
Federal Portion of Other Funds	9,000	9,000
Total Student/Other Federal Funds Paid Directly to the Institution	1,564,725	1,564,725
Refunds Paid to Students	-	20,000
Adjusted Student/Other Federal Funds Paid Directly to the Institution	1,564,725	1,544,725
Revenue from Other Sources (Totals for the Fiscal Year)	-	-
Activities conducted by the institution that are necessary for education and training	25,000	25,000
Funds paid by the institution by, or on behalf of, students for education and training in qualified non-Title IV eligible programs	143,000	143,000
Revenue from Other Sources	168,000	168,000
Adjusted Student Non-Federal Revenue and Revenue from Other Sources	587,800	559,500
Total Federal and Non-Federal Revenue	4,163,425	4,076,550

Revenue Category	Amount Disbursed	Adjusted Amount
Student Non-Federal Revenue	-	-
Grant funds for the student from non-Federal public agencies or private sources independent of the institution	-	-
- Grant Funds 1	99,500	90,500
- Grant Funds 2	500	500
Funds provided for the student under a contractual arrangement with a Federal, State, or local government agency for the purpose of providing job training to low-income individuals	-	-
Funds used by a student from savings plans for educational expenses established by or on behalf of the student that qualify for special tax treatment under the Internal Revenue Code	-	-
Qualified institutional scholarships disbursed to students	500	500

Revenue Category	Amount Disbursed	Adjusted Amount
Student payments	-	-
- Third Party Loans	50,000	50,000
- Third Party Loans-rated Party/Institutional Loans	107,000	100,000
- ISA Institutional or Related Party	37,000	25,000
- ISA	75,000	75,000
- Student Cash	50,300	50,300
Student Non-Federal Revenue	419,800	391,800
Refunds Paid to Students	-	-300
Adjusted Student Non-Federal Revenue	419,800	391,500