

October 23, 2020

Major General Mark A. Brown, USAF (Ret.)  
Chief Operating Officer  
Office of Federal Student Aid  
830 First Street, NE  
Washington, DC 20202

**Re: Comments on FSA's Approach to Oversight Issues in its Draft Strategic Plan**

To Whom It May Concern:

These comments are submitted on behalf of the 15 undersigned organizations representing and advocating on behalf of students, taxpayers, veterans, and consumers.

**Strategic Goals and Objectives**

Our comments address strategic goals 1, 3, and 5, including on pages 40-43, 50-53, and 57-62 of the [draft strategic plan](#).

We appreciate FSA's interest in ensuring a strong organization, as adequate staffing and capabilities are necessary to ensure the effectiveness of the agency. However, we believe that the goals as currently outlined are not specific enough to ensure that FSA has not just enough people, but also the right people in the right jobs. We propose adding a new Strategic Objective 1.3: Ensure FSA Has Necessary Staff to Conduct Appropriate Oversight of Institutions, Vendors, and Other Partners. This strategic objective would align with related objectives that fall under other strategic goals (particularly Strategic Goal 3, Increase Partner Engagement and Oversight Effectiveness), and would incorporate more of the agency's mission into its existing goals.

We support the ideas in Strategic Goal 3 of increasing the use of risk-based reviews. As part of this section of the strategic plan, we recommend clarifying that the definition of risk will be consistently revisited in light of findings that FSA has made and information that it has gleaned from its analyses. For instance, Strategic Objective 5.1 refers to conducting analyses to help identify risks, including shifts in borrowers in non-repayment status; those risks should help to inform FSA's definitions of risk for institutions and vendors.

As a piece of Strategic Objective 3.1, we recommend that FSA consider a more proactive and outward-facing approach to its oversight work. For instance, FSA could issue bulletins to warn colleges of inappropriate, misleading or illegal behavior it identifies in other reviews, deterring other colleges from engaging in that behavior and setting the tone for FSA's enforcement efforts.

We propose that Strategic Objective 3.2: Strengthen Partner Engagement and Provide Effective Outreach and Assistance be moved to Goal 1, as a new Strategic Objective 1.4 (after the proposed 1.3 above). While partner engagement is an important part of FSA's work, it should be considered independently of FSA's obligations as a regulator that oversees institutions and vendors and is responsible for holding them accountable.

With respect to Strategic Goal 5, we propose adding a new Strategic Objective 5.5: Improve Insights Into and Understanding of Variations in Student Aid by Race/Ethnicity. Recent analyses have mined data from other sources (including NCES sample surveys) to demonstrate that loan outcomes, in particular, vary considerably by race/ethnicity — even after accounting for factors like completion status. Yet FSA analyses do not take race into account. A greater focus on the effects of race, particularly for Black students, is critical. While we recognize that FSA's current data systems do not currently collect race data, FSA should include in its goals beginning to collect those data, such as through a question on the FAFSA about race/ethnicity. Until those data become available, FSA should consider other ways to estimate borrowers' race/ethnicity, such as using address data or conducting data matches with other federal agencies.

### **Performance Measures**

This section of our comments addresses the specific performance measures for strategic goals 1, 2, 3, and 5. Those measures are discussed on pages 65-70 of the [draft strategic plan](#).

We propose adding two new performance metrics to align with our proposed new Strategic Objective 1.3: Ensure FSA Has Necessary Staff to Conduct Extensive Oversight of Institutions, Vendors, and Other Partners. The first, (A), is to increase staffing in FSA's enforcement group. More support, with specialized capacity available for the most complicated reviews, will ensure FSA is able to meet its goals for oversight of institutions and vendors. The second, (B), is to increase training to program review staff and managers as to how to consider higher-order violations of federal rules and laws, such as systemic errors, lack of administrative capability, insufficient safeguards to ensure compliance with the statute and regulations including the ban on incentive compensation, and the misrepresentation regulation, violations of the statute and regulations and fraud. Better training will help reviewers to spot problems earlier identify systemic practices and take action, reducing taxpayer liabilities.

Within current Strategic Objective 3.1, we propose several improvements and several new performance metrics. On Performance Metric (A), we are concerned that the goal of auditing every college or partner within five years is likely overly ambitious, given the scale of oversight work FSA must conduct each year. This metric also works against the goals FSA articulated in the draft strategic plan for risk-based reviews. Instead, we recommend revising this language to focus on ensuring reviews are more thoughtful, strategic, and targeted at higher-order violations as the top priority, rather than focusing on the number of institutions reviewed. Those should include replacing current Performance Metric (A) with ones that measure:

- The number of unscheduled risk-based reviews;
- The number of precipitous institutional closures;
- The number of reviews undertaken to identify whether there are violations of key accountability and consumer protection rules (such as incentive compensation rules, misrepresentation, and possible cohort default rate manipulation) at high-risk institutions;
- The share of higher-order findings (such as systemic errors, lack of administrative capability, misrepresentation, or fraud) that result in enforcement actions against an institution;
- The number of risk based reviews of multi-state institutions operating primarily online
- The number of secret shopper programs undertaken to identify whether there are higher-order violations at high-risk institutions; and
- The amount by which taxpayer liabilities are reduced through dollars returned to the federal government by institutions and/or letters of credit or other financial protection drawn down by FSA.

We also recommend each of these metrics be disaggregated by institutional control. We also propose revising Performance Metric (B). The current metric states that future years of the borrower defense backlog will be measured against previous year performance. However, once FSA currently adjudicates the outstanding backlog of applications, it should be cautious not to allow the backlog to grow again. For FYs 22-24, we propose clarifying that the backlog shall not exceed 5,000 applications in a given year. Additionally, to align with our proposed addition to Strategic Objective 3.1 that FSA provide bulletins to institutions of unwanted behavior it has identified with respect to other institutions, we propose a new performance metric that would count the number of bulletins issued. This is a critical part of FSA's work to not only identify issues after the fact, but to prevent illegal or inappropriate behavior by institutions.

We propose several changes to the performance metrics for Strategic Objective 5.1. Performance Metric (A), monthly reporting through the FSA Data Center, is a welcome change. However, we encourage FSA to release data on a schedule that will not require significant revisions after being posted (as often happens with quarterly data), even if that means posting monthly information on a lag. For Performance Metrics (C), (D), and (E), we recommend disaggregating such data by borrower characteristics and by institutional control/sector. FSA should add a new metric (F) to publish the Chief Operating Officer performance agreement, a key element of the FSA performance-based organization structure that has not been released since fiscal year 2015. Another new metric (G) should measure FSA's progress in beginning to produce the data needed for the College Scorecard via NSLDS, ensuring that transparency is a routinized part of FSA's broader transparency work.

For Strategic Objective 5.2, we recommend adding a new Performance Metric (D) that will measure FSA's progress in increasing researcher access to FSA data, whether by releasing a privacy-protected version of microdata from NSLDS or through a research partnership program along the lines of the previously announced FSA "Advancing Insights Through Data" pilot program, which is still not broadly accessible to researchers.

For Strategic Objective 5.3, we appreciate and agree with FSA's focus on default and delinquency. However, we propose that the goal in Performance Metric (A), rather than measuring the engagement of defaulted borrowers, focus instead on those borrowers' ultimate outcomes. To that end, we suggest the Department (instead or in addition to (A)) set a bold goal of reducing the size of the defaulted loan portfolio, by increasing use of income-driven repayment and/or returning them to good standing, by at least half within five years. Additionally, we propose disaggregating the data for Performance Metrics (B), (C), and (D) by borrower characteristics and by institutional control/sector.

For Strategic Objective 5.4, we propose adding a new performance indicator focused on how FSA holds its vendors accountable when it identifies issues (which is the focus of Performance Metric (A)). Specifically, we propose a new Performance Metric (B) that measures the share of instances in which identified findings result in an enforcement action against the vendor (such as money returned). This will ensure follow-through in FSA's oversight of vendors, and will begin to change vendor behavior by deterring such impermissible activities.

For our proposed new Strategic Objective 5.5 on race/ethnicity, we propose adding a Performance Metric that would measure FSA's progress in developing opportunities to analyze the racial impact of student loans. Within five years, FSA should be regularly producing analyses that measure the impact of the federal student aid programs by estimated or actual race/ethnicity of aid recipients.

### **Additional Comments**

We believe FSA should remove its proposal on page 34 to consider a governing board of directors. FSA's governance structure should be rooted in its status as a governmental agency running taxpayer-funded programs, and should reflect the need for accountability of the agency's goals. FSA should be accountable directly to the Education Secretary, enforced through a clear, measurable, and transparent performance agreement, entered into by the Secretary and the COO. That agreement must ensure the COO's compensation and employment is based on their effectiveness in addressing many of the long-identified problems in the organization: effective and independent oversight of institutions and vendors; transparency into the management of the federal financial aid programs; and quality, consistent customer service for the students and families FSA finances.

Sincerely,

American Association of University Women (AAUW)  
Association of Young Americans (AYA)  
Center for American Progress  
Consumer Action  
Higher Learning Advocates  
National Association for College Admission Counseling  
New America Higher Education Program

Seldin/Haring-Smith Foundation

Student Veterans of America

The Education Trust

The Institute for College Access & Success (TICAS)

U. S. Public Interest Research Group (PIRG)

Veterans Education Success

Yan Cao, Fellow, The Century Foundation

Young Invincibles