

ETA Response to Draft Report

U.S. Department of Labor

Assistant Secretary for  
Employment and Training  
Washington, D.C. 20210



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MEMORANDUM FOR: ELLIOT P. LEWIS  
Assistant Inspector General for Audit

FROM: PORTIA WU *PW*  
Assistant Secretary for Employment and Training

SUBJECT: Job Corps Needs to Improve Enforcement and Oversight of  
Student Disciplinary Policies to Better Protect Student and Staff at  
Centers Draft Report No. 26-15-001-03-370

Thank you for the opportunity to review the report on enforcement and oversight of student disciplinary policies and to provide a response to its recommendations. The safety and security of Job Corps' students and employees is one of the Employment and Training Administration's (ETA) top priorities. ETA is committed to serving young people who are overcoming tremendous challenges in their home communities and providing them with education, job training and other opportunities to succeed in the workforce and in life.

ETA and Job Corps are deeply concerned about the well-being of students and the impact any misconduct has on them and their families. As the Office of Inspector General (OIG) acknowledged, ETA independently recognized the need to strengthen safety and discipline at Job Corps centers system-wide and has taken action to improve safety and security at all of our Job Corps Centers. These actions, which are described more fully in response to the OIG's specific recommendations, include directives from the Assistant Secretary of Employment and Training to Job Corps regions instructing them on how to deal with safety issues at centers; a directive to contractors reminding them of their contractual obligations to protect students; a broad national review of Job Corps' oversight and accountability systems; center risk assessments to identify those centers with indications of safety and/or security concerns; development of an internal risk management process; development of a Center Safety Guide for regional staff when conducting visits to assess a center's safety; comprehensive safety monitoring training for all Contracting Officer's Representatives (CORs); strengthening data validation and data integrity reviews; informing the U.S. Department of Agriculture (USDA) of student misconduct issues at their centers; and a memorandum from the National Director to the contractor community reminding operators and staff of the consequences of falsifying records.

ETA appreciates the feedback provided in the OIG's audit. We agree with the OIG's recommendations and take seriously our responsibility to quickly and effectively implement actions to address them. Our detailed responses to your recommendations are as follows:

**Recommendation 1: Require Job Corps centers and their respective operators to strengthen policies and procedures to ensure serious student misconduct is promptly reported, investigated, and resolved in accordance with Job Corps' disciplinary policies.**

ETA agrees that Job Corps centers must ensure that serious student misconduct is promptly reported, investigated, and resolved in accordance with Job Corps' disciplinary policies. Job Corps has already placed an increased programmatic focus on student misconduct issues, and has taken a number of actions that strengthen identification of centers where the reporting, investigation, and resolution of student misconduct may be a concern. ETA has also provided guidance to Job Corps federal staff and operators that clearly communicates that ETA expects Job Corps' Zero Tolerance policy to be enforced fairly and consistently in order to ensure student and staff safety and security at all times. ETA has identified procedures and tools that improve Job Corps' ability to provide oversight of student misconduct issues and take timely action to address issues when they occur.

As indicated above, on September 26, 2014, I issued a memorandum to all Job Corps center operators, outreach and admissions providers, and career transition service providers. This memorandum reinforced the responsibility of contractors to report significant incidents and maintain an environment where all students have the chance to learn and succeed, and reiterated the penalties for violation of these contractual requirements. At the same time, I issued a memorandum to all Job Corps regional office staff that underscored the importance of ongoing work in Job Corps to improve student safety, and informed Regional Directors and managers of a broader effort to improve accountability and outcomes in the program. The memorandum also instructed the regional office staff to immediately take several specific actions related to student safety, including conducting unannounced monitoring visits to centers with a focus on high-risk or low-performing centers.

ETA is also in the process of establishing a new centralized division in the Job Corps National Office to coordinate center oversight directly with the regional offices, strengthen quality assurance, and improve communication and coordination across the system. The division will be responsible for reviewing the results of all risk management data, Regional Office Center Assessments (ROCAs), Job Corps' response to safety and security deficiencies at individual centers, and other monitoring data and will work directly with the regions to address identified program deficiencies. In addition, this division will develop a standard operating procedure to ensure incoming issues, complaints and allegations are referred to the appropriate unit and

sufficiently addressed. The Fiscal Year 2016 President's Budget includes an increase of \$3.5 million in Job Corps Administration funds specifically to provide staff for this division.

**Recommendation 2: Clearly define all student misconduct infraction categories to ensure the infractions are properly classified, zero tolerance infractions include all significant violent offenses, and all infractions are appropriately addressed. This includes providing specific definitions and/or examples for serious infractions such as physical assault with bodily harm, fighting, physical assault with intent to harm, threat of assault with intent to intimidate or coerce, and sexual harassment.**

ETA concurs that Job Corps' disciplinary infraction levels must be updated and clarified, and ETA is presently updating its policies. The revisions will provide clarity and make it easier for students, operators and staff performing monitoring and oversight to distinguish among infractions and identify the appropriate sanction.

The program's primary guidance related to oversight of student misconduct is contained in the Policy and Requirements Handbook (PRH), which Job Corps is in the process of modernizing. As part of this process, Job Corps is reviewing all of its operational policies and procedures, many of which impact personal safety and quality control on centers. Job Corps will prioritize conducting a complete review of infraction levels and corresponding sanctions. Student misconduct infractions will be clearly defined and the administrative actions that follow serious infractions will be sufficiently detailed to eliminate confusion. Various terms used to classify misconduct infractions are also defined within the Significant Incident Reporting System Incident Coding Definitions, and corresponding changes will be made to this system as well. This effort is targeted for completion in September 2015.

**Recommendation 3: Require regular monitoring and prompt investigation of significant increases in reported serious student misconduct.**

ETA agrees that we must require regular monitoring and prompt investigation of significant increases in reported serious student misconduct. Recognizing the need to strengthen the performance and accountability of the Job Corps program and particularly to ensure serious student misconduct is promptly reported, investigated, and resolved, in late 2014 ETA convened a team of senior federal staff and experts to conduct a broad national review of the Job Corps' oversight and accountability systems. The effort was led by an ETA Deputy Assistant Secretary, along with a team of senior managers and consultants familiar with the ETA programs. To assess regional office and National Office quality assurance operations, the team reviewed National Office policies and procedures and had intensive discussions with more than 80 of the 124 Job Corps staff at both the regional and national levels, visited every regional office, and toured a Job

Corps center in each region. The team met with center management, staff and students to discuss program quality, student safety, and general center operations.

The goal of the national review was two-fold: 1) to ensure that Job Corps center operators, both contract and USDA, are operating effective and efficient Job Corps centers on behalf of the government; and 2) to assess the extent to which Job Corps' oversight and monitoring of operators results in contract compliance, high performance, strong student outcomes, and safe and secure Job Corps centers. As a result, ETA is implementing systemic process improvements in a number of areas to greatly strengthen oversight and accountability and ensure serious student misconduct is promptly reported, investigated, and resolved.

Based on communication with the OIG and OJC's own internal quality assurance review, Job Corps developed an internal risk management process that identifies key indicators and is designed to predict the emergence of student misconduct and safety issues at Job Corps centers. The process considers numerous risk factors, including significant increases in reported serious student misconduct, and identifies leading indicators of potential security and safety issues at a center. This process will help Job Corps' monitoring staff identify specific centers that are not providing a safe environment for students and focus resources on those centers, before more serious concerns surface on safety, outcomes and academic metrics.

Job Corps is also intensifying monitoring by its Regional Office staff, developing corrective action plans for individual centers as needed, and following up more aggressively in monitoring student misconduct issues. Job Corps is conducting comprehensive safety monitoring training for all CORs. The first phase began in December 2014, with webinars for staff on the topic of risk management. Job Corps is also strengthening data validation and data integrity reviews to monitor the integrity of safety and security data.

On August 13, 2014, the Job Corps then-Acting National Director issued a memorandum instructing Job Corps regions to conduct immediate reviews of applicable data to identify centers that may have problems in applying the Zero Tolerance policy. In response to the memorandum, Job Corps regions conducted data and file reviews of indicator data (total terminations, Zero Tolerance terminations, Serious Incident Report data, Student Satisfaction survey results, average On-Board Strength, ROCAs, complaints, and other information) in order to perform a center risk assessment. The risk assessments identified centers that have indications of potential safety and/or security problems. Job Corps regions immediately began conducting monitoring visits for these centers following the procedures outlined in a newly developed Center Safety Site Visit Guide.

The Center Safety Guide will be used by regional staff conducting center behavior management systems and safety site visits. The highly-detailed protocol includes an extensive evaluation of

center safety. It includes pre-visit interviews; pre-visit data reviews; on-site interviews; on-site data review; on-site observations; and on-site focus groups with students and staff.

Further, the National Director is taking a more active management role by increasing oversight of regional travel plans to ensure adequate center monitoring is taking place. The National Director has recently directed all regional offices to conduct unannounced monitoring visits, in part to assess how centers are handling student misconduct issues. ETA is also revising and standardizing the monitoring process; a team of Job Corps Regional Directors and National Office managers has been tasked to develop clearer standards for conducting ROCAs. A ROCA is the cornerstone of the monitoring and quality control system. It is a comprehensive on-site evaluation of center compliance with Job Corps operations requirements that covers all aspects of center operations and usually takes a week to conduct. Establishing clear and precise guidelines for how ROCAs will be conducted and how corrective actions will be implemented when problems are identified will facilitate more effective monitoring and timely improvements when necessary.

**Recommendation 4: Eliminate the backlog of unaddressed Level I zero tolerance and Level II infractions identified by this audit.**

ETA concurs that any backlog of unaddressed Level I Zero Tolerance infractions and Level II infractions must be eliminated. We have discussed this recommendation with OIG staff and understand that its purpose is to ensure that current students and staff are not at risk because required disciplinary actions for students who remain in the program were not performed. ETA will follow up to determine if there are current students that have records of Level I and II infractions entered in the Center Information System that have not yet been resolved and will require these infractions to be addressed promptly.

Since the OIG review was conducted, Job Corps has taken some steps to ensure that these infractions have been properly addressed. In the August 13, 2014 memorandum to the regions, the then-Acting National Director instructed regional staff to conduct immediate reviews of applicable data to identify centers with potential Zero Tolerance policy enforcement issues. Site visits were conducted for the centers identified, at which time emphasis was placed on resolving those unaddressed infractions. As the result of a site visit, failure to properly administer the Zero Tolerance policy was among the factors cited for not renewing the operator's contract at the North Texas Job Corps Center.

**Recommendation 5: Develop and implement an effective deterrent, such as financial penalty, to better enforce centers compliance with Job Corps' student disciplinary requirements.**

ETA agrees that an effective deterrent is needed for centers that fail to enforce Job Corps' student disciplinary requirements and will aggressively implement liquidated damages when appropriate. However, Job Corps has additional – and potentially more effective – deterrents at its disposal which it intends to use to enforce compliance with student disciplinary requirements. Every center operation contract requires that the contractor comply with the PRH, and failure to do so will trigger prompt corrective action.

As a result of its recent quality assurance review, ETA plans to implement a strategy of progressively escalating corrective actions, tied to the operator's contract performance. The progressive approach requires ETA to keep track of a contractor's effectiveness in remedying performance and promptly escalate to stronger tools of enforcement when the contractor is failing to remedy performance in the timeframe provided. Progressive tools of enforcement include, in increasing levels of severity, a letter of concern or a letter of deficiency, a cure notice, a show cause notice, and eventually, if the contractor fails to correct the problem, a choice by Job Corps to terminate or not renew the operator's contract.

This approach will address emerging performance deficiencies, including centers' failure to comply with student disciplinary requirements, before they escalate to a more serious level. Under this regime, contract operators must promptly address student disciplinary concerns and provide immediate corrective action, or they will risk escalated contract actions such as contract termination.

**Recommendation 6: Determine and work with their respective contracting personnel to recover liquidated damages for prolonging disciplinary separations and overstating on-board strength.**

Job Corps will not tolerate fraudulent reporting and will use the full extent of contractual and other remedies, including criminal referrals, when operators fail to comply with program requirements pertaining to student safety and security. On January 8, 2015, the National Director issued a memorandum to the Job Corps contractor community reminding operators and staff of the consequences of falsifying record, including security records and overstating on-board strength.

The Contracting Officers will work with the program office CORs to determine whether liquidated damages can be assessed according to the terms of the contract. Each contract must be considered individually based on its specific terms. All appropriate and allowable liquidated damages will be assessed and recovered.

Thank you again for the opportunity to review this report and provide a response to its recommendations. ETA takes seriously its responsibility to quickly and effectively implement

actions to address them. We look forward to working with the OIG to implement these additional actions for continued improvement and oversight of Job Corps' student disciplinary policies.