

Fraud, Waste, and Abuse of Title I Money

Protecting Taxpayer Dollars

Office of Inspector General
U.S. Department of Education



INVESTIGATION SERVICES

OFFICE OF INSPECTOR GENERAL
UNITED STATES DEPARTMENT OF EDUCATION



Agenda

- OIG Organization and Mission
- OESE and OIG Coordination
- Sources of Allegations
- Statutory, Regulatory Access to Records
- Standards of Administrative Capability
- Fraud Indicators
- Examples of Title I Fraud Schemes
- Criminal and Civil Investigations
- Criminal and Civil Remedies
- Ways to Help OIG
- Contact Information

A blue-tinted photograph of a business meeting. Several people in professional attire are gathered around a table, looking at laptops and documents. A sunburst graphic is positioned above the text. A horizontal line is drawn across the image, passing through the sunburst and the text.

OIG Background

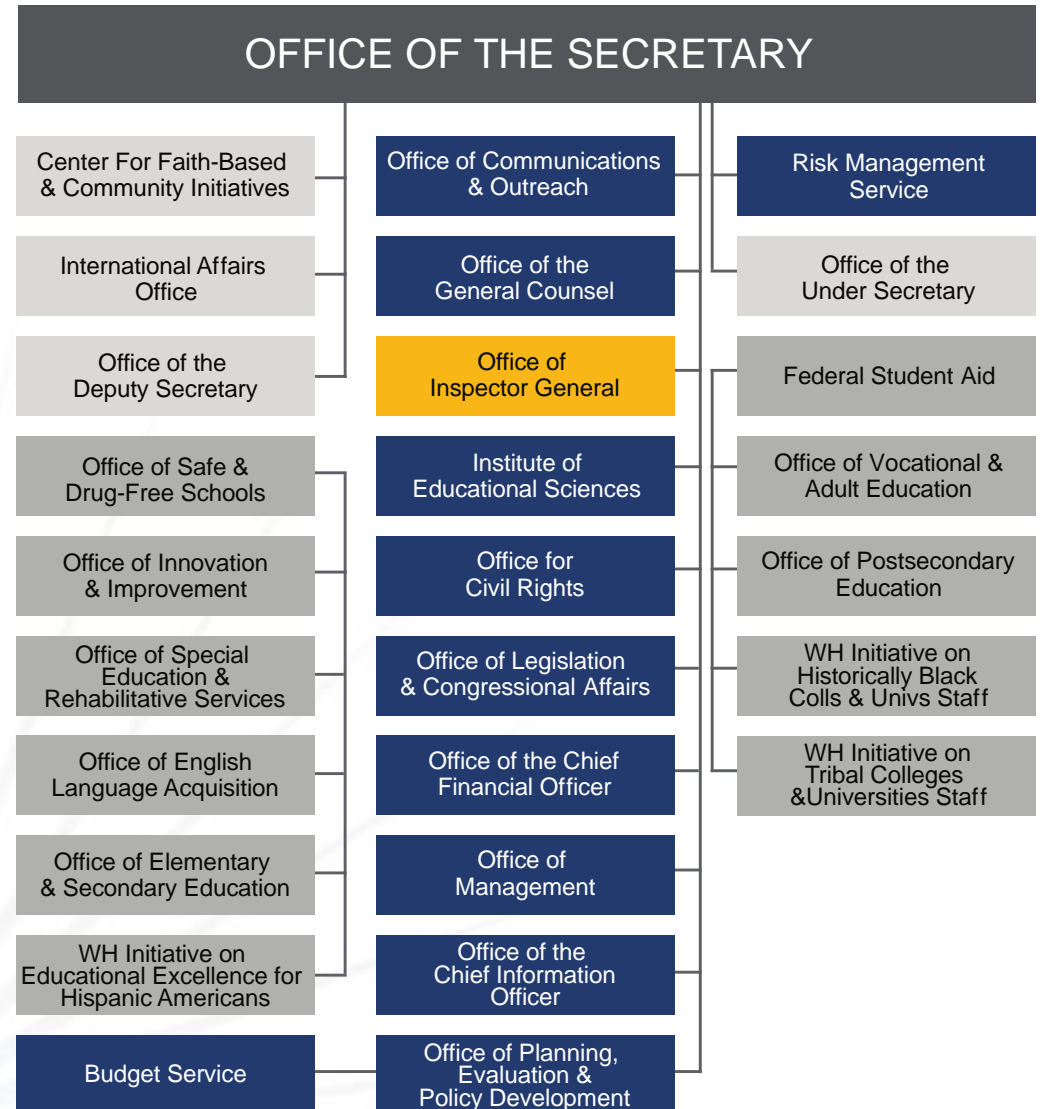
Inspector General Act of 1978

“. . . promote economy, efficiency and effectiveness . . . [and] prevent and detect fraud and abuse . . .” in Department of Education programs and operations



Organizational Chart

The Office of Inspector General (OIG) is part of the Department but...independent. **We examine allegations of waste, fraud, and abuse, and pursue those who seek to enrich themselves at the expense of our nation's students.**



OIG Operational Components

- Audit Services
- Information Technology Audits and Computer Crime Investigations (ITACCI)
- Investigation Services

Audit Services

Types of audits:

Structure

- Nationwide
- Series + Capping
- Individual

• Subject

- General Oversight
- Data Reliability
- Fiscal Compliance

Adequate internal controls over:

- Accounting for and expending Federal funds?
- Allowability of goods and services?
- Participant eligibility?
- Salary expenses?
- Non-Salary expenses?
- Electronic Data and Systems?

Audit Services

Management Certifications of Data Reliability -

<http://www2.ed.gov/about/offices/list/oig/auditreports/fy2016/a06o0001.pdf>

CMOs/Charter Schools - <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2016/a02m0012.pdf>

Single Audit Resolution

- Massachusetts <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2016/a09p0001.pdf>
- North Carolina <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2016/a09p0005.pdf>
- Illinois <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2017/a02p0008.pdf>

Protecting PII in State Systems

- Virginia's <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2016/a02p0007.pdf>
- Oregon's <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2016/a02p0006.pdf>

ITACCI – Technology Crimes Division

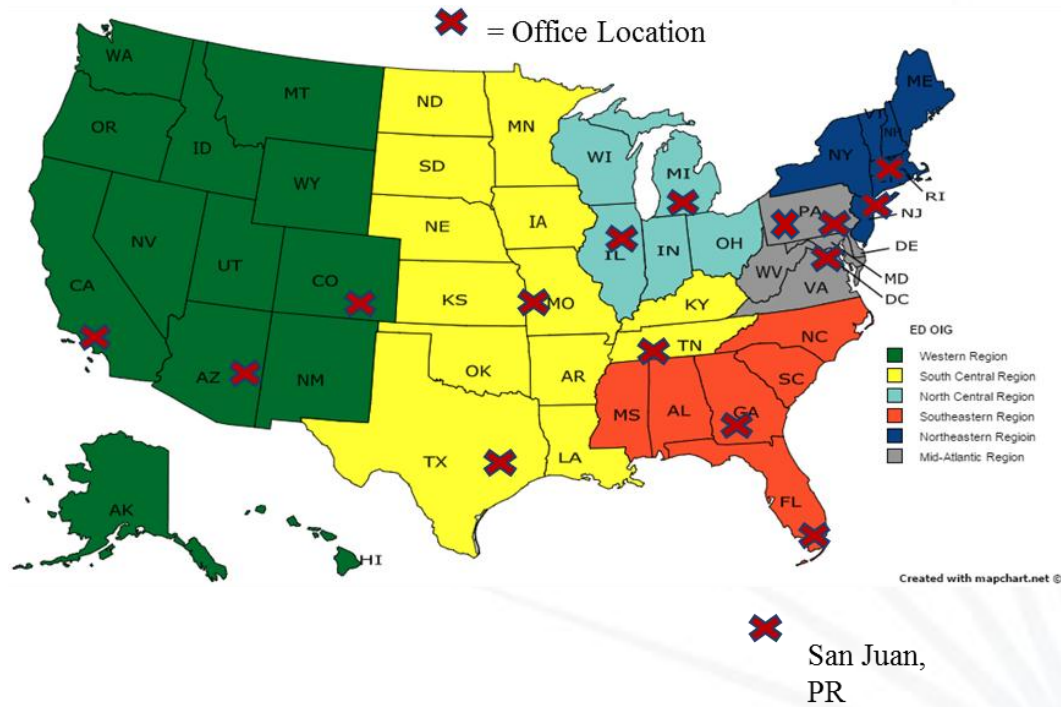
- TCD centralizes OIG digital investigations and our support missions for traditional OIG services:
 - Comprised of three separate units, each with a distinct mission, that support each other and other OIG components
- Staffing:
 - Special Agents
 - IT Computer Specialists
 - Investigative Analysts
 - Financial Analysts

ELECTRONIC
CRIMES TEAM

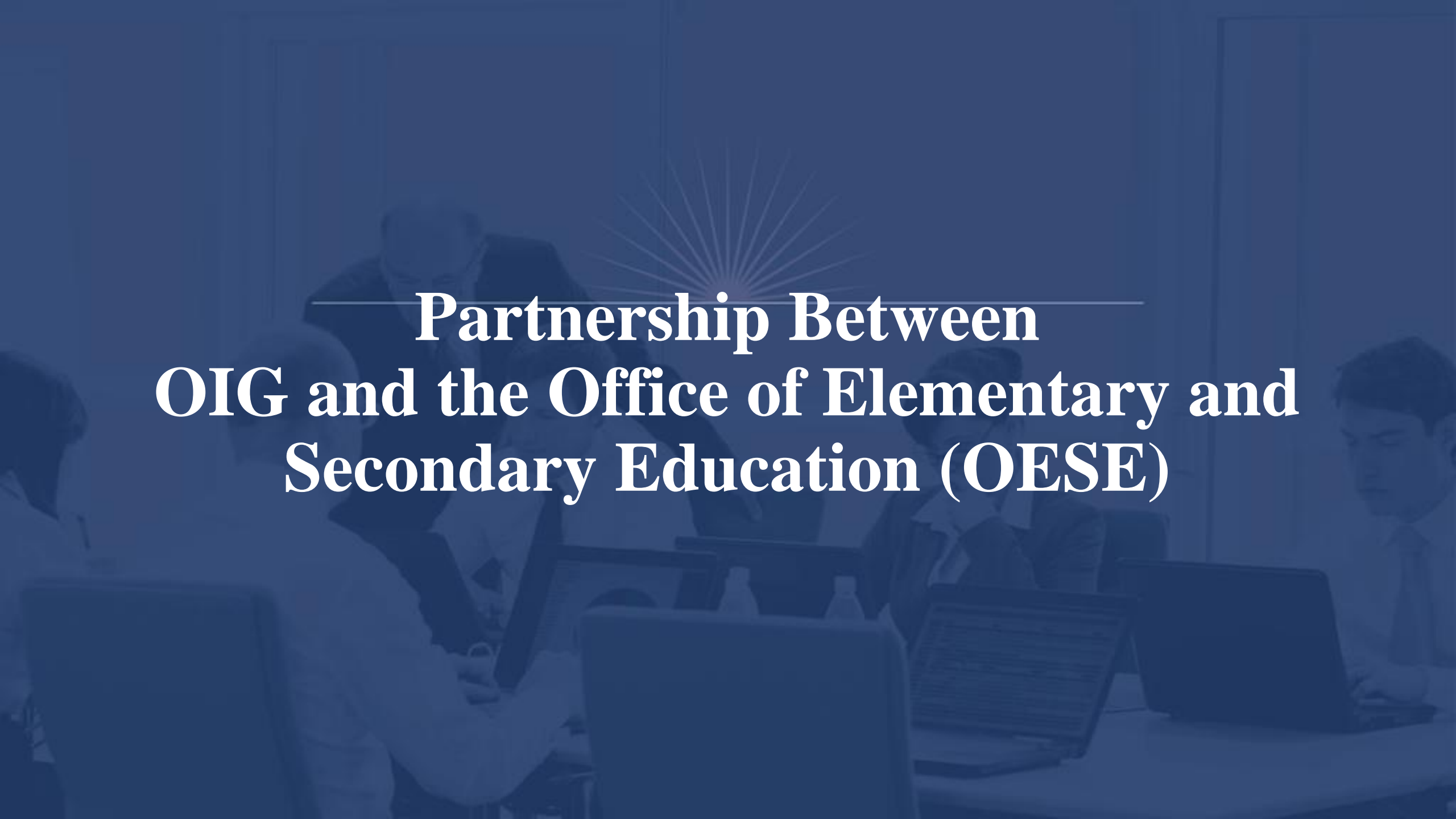
DATA ANALYSIS AND
REFERRAL TEAM

DIGITAL FORENSIC
LABORATORY

Investigation Services



- 80 Special Agents Nationwide
- Conduct administrative, civil, and criminal investigations involving ED funding and employees



**Partnership Between
OIG and the Office of Elementary and
Secondary Education (OESE)**

OESE and OIG Coordination

OIG assists the Department in promoting the integrity of the Title I programs.

- Reviews and comments on all regulations with suggestions on areas for improvement
- Regularly exchanges information with OESE to identify current issues in compliance and abuse, and coordinates oversight and investigatory activities, when appropriate
- Issues Management Information Reports to alert the Department about serious program vulnerabilities, as well as fraud and corruption trends

SES Dear Colleague Letter - <http://www2.ed.gov/policy/elsec/guid/stateletters/ses/seoigltr03102014.pdf>

Charter Schools Dear Colleague Letter <https://www2.ed.gov/programs/charter/finalsignedcsp.pdf>

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Conducting Investigations

Sources of Allegations

- OIG Hotline
- OIG Audits
- ED Program Offices
- School Employees and Officials
- Contractors and Sub-contractors
- Grantees and Sub-grantees
- Citizens and Students
- Competing Vendors/Schools
- Other Federal Agencies
- U.S. Attorney's Offices
- Other OIG Investigations
- State and Local Law Enforcement Agencies
- Federal Bureau of Investigation
- Qui Tam Actions

Subjects of Investigations

- School Officials
 - Local School Districts
 - Intermediate Units
- LEA Vendors
- ED Grantees
- State Education Employees
- ED Employees

Common Schemes

- Using funds for unintended purposes
 - Falsifying loan/grant applications
 - Creating fictitious records
 - Forgery
 - Double billing
 - Fees for non-existent consulting services
 - Issuing checks made payable to friends and relatives
- Purchasing equipment and supplies for personal reasons
 - Accepting kickbacks from vendors
 - Bribery
 - Falsifying research data
 - Inflating enrollment or attendance
 - Extortion

Fraud Risk Indicators



- One person in control
 - No separation of duties
 - Lack of internal controls/ignoring controls
 - No prior audits
 - High turnover of personnel
 - Unexplained entries in records
 - Unusually large amounts of payments for cash
 - Inadequate or missing documentation
- Altered records
 - Financial records not reconciled
 - Unauthorized transactions
 - Related Party transactions
 - Repeat audit findings

Gathering Evidence

- Statutory and Regulatory Access to Records
- Consensual Search/Access
- Search Warrant
- Court Order
- Subpoenas
 - Grand Jury
 - Administrative
- Interviews

OIG Statutory and Regulatory Access to Records

- Under the Inspector General Act of 1978, as amended, 5 U.S.C. App., and in Federal regulations at 2 C.F.R. § 200.336(a), OIG can access any records available to the Department of Education to perform audits, investigations, and inspections of Department programs and operations.
- Disclosure to the OIG is specifically exempt from the requirement to obtain student/parental written consent under the Family Educational Rights and Privacy Act (FERPA) because the disclosure is to an authorized representative of the Secretary of Education in connection with the enforcement of the Federal legal requirements which relate to Federally supported education programs. 20 U.S.C. §§ 1232g(b)(1)(C)(i)(II) and (b)(3); 34 C.F.R. §§ 99.31(a)(3)(iii) and 99.35.
- The inclusion of a copy of the OIG's request letter in a student's file will constitute compliance with FERPA's recordation requirement. 20 U.S.C. § 1232g(b)(4); 34 C.F.R. § 99.32.
- Records disclosed will be handled in accordance with the requirements in 34 C.F.R. §§ 99.31(a)(3), 99.33, and 99.35. Records disclosed may be re-disclosed to the Department of Justice and its authorized representatives to enforce Federal legal requirements related to Federal education programs. 20 U.S.C. § 1232g(b)(1)(C)(ii); 34 C.F.R. §§ 99.31(a)(3)(ii), 99.33(b), and 99.35.

Potential Remedies

- Administrative
- Civil
- Criminal

Administrative Actions

- **Case against entity** (school, vendor, etc.) can result in:
 - Referral to ED Program Office (OESE, OII, etc...)
 - Audit Resolution by Program Office
 - Designation as a high risk grantee by the Department
 - Multi-year Compliance Agreement or Memorandum of Understanding between the Department and entity which requires they enter into corrective action plans to reach full compliance with all applicable program requirements in order to continue to receive Federal education funds
 - Coordination with State Department of Education
 - Coordination with LEA administration
 - Example: SES Vendor

Civil Actions

Civil False Claims Act - 31 U.S.C. § 3729

- Knowingly presents, *or causes to be presented*, to the United States Government a false or fraudulent claim for payment or approval (*no proof of specific intent to defraud is required.*)
- ...or makes, uses, *or causes to be made or used*, a false record or statement to get a false or fraudulent claim paid or to conceal, avoid, or decrease an obligation to the Government.
- Burden of Proof – “Preponderance of the Evidence” (*More likely than not*).
- *Specific Intent* to Defraud the Government not an Element.
- Liable for Civil Penalties of between \$5.5K and \$11K per count **plus** 3 times the amount of actual damages.

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Criminal Actions

- Burden of Proof – “beyond a reasonable doubt”
- Intent to defraud the government is an element.
- Penalties
 - Incarceration
 - Court ordered restitution
 - Fines

- Examples of Charges

18 USC § 371 Conspiracy

18 USC § 1001 False Statements

18 USC § 1341 Mail Fraud

18 USC § 1343 Wire Fraud

18 USC § 1344 Bank Fraud

18 USC § 641 Theft of Government Funds

18 USC § 666 Theft Concerning Federal Programs

Examples of Criminal and Civil Investigations



Former Director Sentenced for Program Fraud

- From July 2007 through April 2013, Cecelia Yauger, the former executive director of Midwestern Intermediate Unit IV (MIU), used the MIU American Express card to make \$72,465 in personal expenses. Yauger did not retain receipts for the purchases, but each month, she approved, either verbally or in writing, the purchases charged to her card as being business related.
- On November 14, 2014, Yauger was sentenced in Federal Court in Pittsburgh, PA to three years probation (the first sixty days in a halfway house), 150 hours of community service, and \$7,500 in restitution.

Transportation Vendor Sentenced for Mail Fraud

- Between 2008 and 2011, Harris Transportation Corp. (HTC) defrauded the Halifax Area School District and Upper Dauphin Area School District of approximately \$1.4 million. The OIG investigation determined that HTC, a bus transportation vendor for the two districts, and was found to have routinely submitted false and grossly inflated mileage claims to the districts.
- On March 18, 2015, Harris Transportation Corp. (HTC) and Todd Harris were sentenced in U.S. District Court (Harrisburg, PA) after pleading guilty to charges of mail fraud and Harris was sentenced to 24 months in prison and three years probation. Harris and HTC were jointly ordered to pay \$1,464,613 in restitution.

State Official Among 8 Indicted for Fraud

- The investigation revealed that Arturo Martinez, who oversaw New Mexico's supplemental educational services (SES) program, directed a payment of \$30,000 be made to a sham Texas company, whom Martinez knew did not provide services to the state of New Mexico or its migrant children.
- The sham company then wrote \$8,250 in checks to Martinez's wife.
- On Tuesday, December 6, 2016, in the United States District Court in Chicago, Illinois, Martinez was sentenced to 1 year and 1 day imprisonment, restitution of \$30,000, a \$100 special assessment, 3 years of supervised release following imprisonment and 150 hours of community service during supervised release.



ESSA Oversight and Monitoring



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Section 9203 – Preventing Improper Use of Taxpayer Funds

- Each recipient must post OIG Hotline contact information in public place
(<https://www2.ed.gov/about/offices/list/oig/hotlineposters.html>)
- Require applicants/sub-grantees to provide assurances to be truthful and accurate when applying or responding to compliance reviews

Section 9204 – Accountability to Taxpayers Through Monitoring and Oversight

To improve monitoring and oversight and to deter fraud, waste, and abuse:

1. Each recipient is required to comply with all monitoring requirements
2. Monitor properly any sub-grantee under the program(s)

Your Role in Preventing and Detecting Fraud



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Uniform Guidance Requirements

- Grantees and sub-grantees must “take prompt action when instances of noncompliance are identified.” 2 C.F.R. § 200.303(d)
- Violations of Federal criminal law involving fraud, bribery, and illegal gratuities must be disclosed in writing in a “timely manner” to the Department or the State Education Agency. 2 C.F.R. § 200.113
- Significant developments – “problems, delays, or adverse conditions” – that will be materially impair the ability to meet the grant objective must be reported “as soon as [they] become known” to the Department or the State Education Agency. 2 C.F.R. § 200.328(d)

Why Report Fraud to OIG?



- Meet statutory and regulatory requirements
- Comply with ethical responsibility
- Deter others from committing fraud and abuse
- Avoid being part of a fraud scheme
- Prevent administrative action
- Avoid civil penalties
- Prevent criminal prosecution

18 U.S.C. § 4 (Misprision of a Felony) - Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

What You Can Do

- Ensure that staff receive necessary training
- Review documents thoroughly
- Question documents/verify authenticity
- Request additional information if you aren't satisfied
- Compare information on different documents
- **Contact the OIG if you suspect fraud**
- **Cooperate with the OIG in connection with an audit or investigation**



Report Fraud!

Inspector General's Hotline

You can reach the Hotline on the web at:

[OIGhotline.ed.gov](https://oig hotline.ed.gov)

For questions, call
1-800-MIS-USED



Questions?



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