

**U.S. Department of Education
Office of Inspector General**

Mitigating Fraud Risks in the Title IV Programs

**Presented by Kori Smith
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**OIG Investigation Services
Southeastern Region**

AGENDA

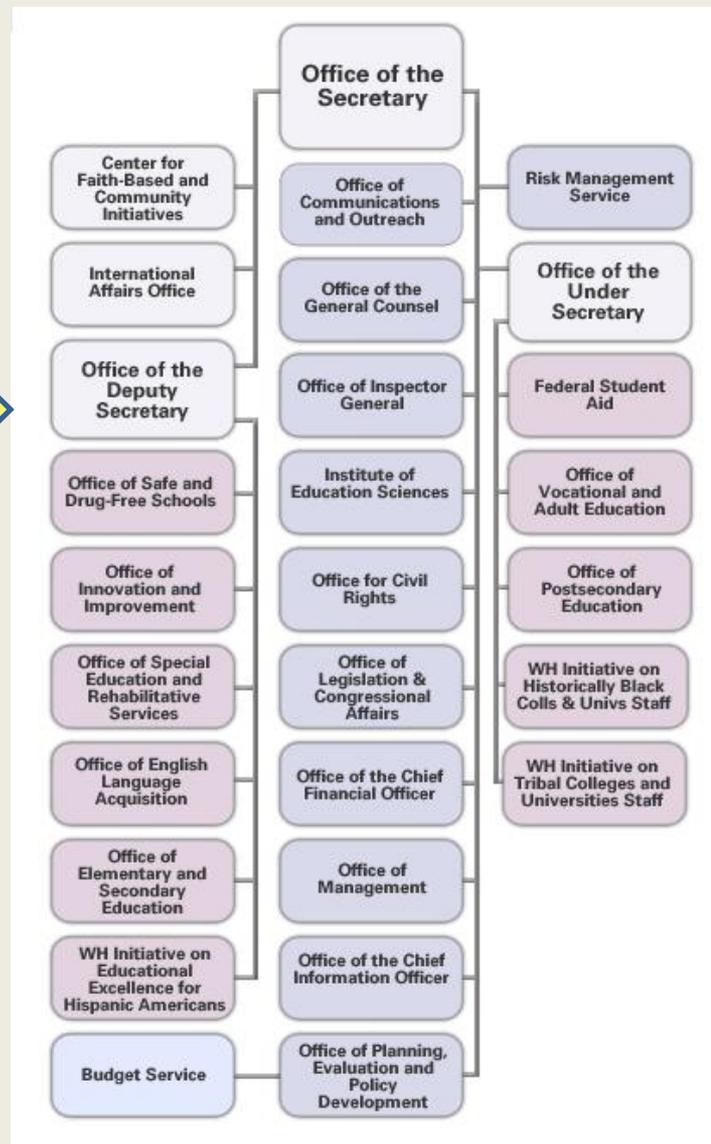


- **OIG Organization and Mission**
- **Sources of Allegations**
- **Fraud Indicators**
- **Examples of Title IV Fraud Schemes**
- **Detecting and Preventing Distance Education Fraud**
- **Standards of Administrative Capability**
- **Contact Information**
- **Question and Answer**

ORGANIZATIONAL CHART



Part of the
Department
BUT...
Independent



Inspector General Act of 1978



...to prevent and detect fraud, waste and abuse and improve the economy, efficiency and effectiveness of Education Department programs and operations.

OIG Mission Statement



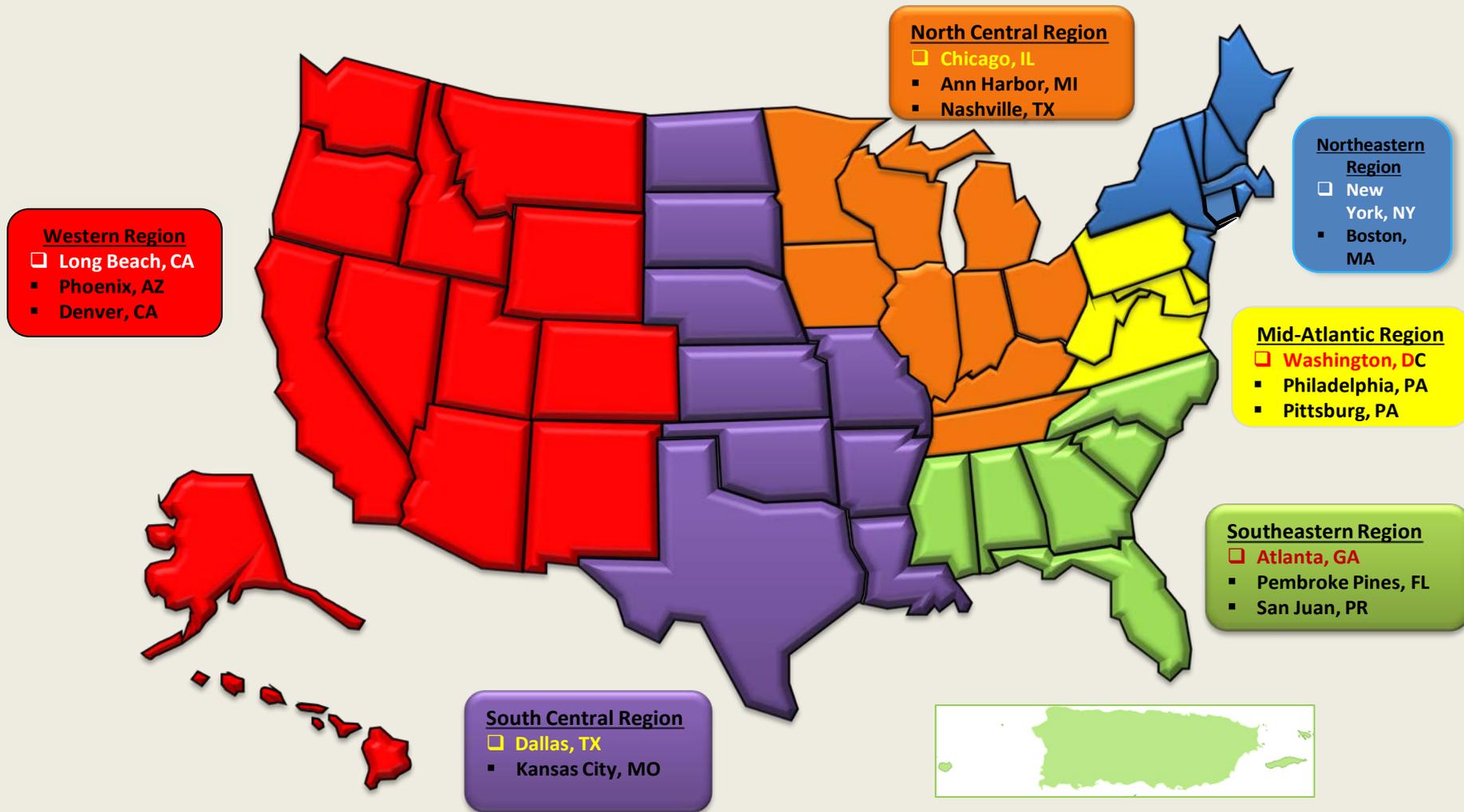
To promote the efficiency, effectiveness, and integrity of the Department's programs and operations, we conduct independent and objective audits, investigations, inspections, and other activities.

OIG Components



- Investigation Services
- Audit Services
- Evaluation, Inspection and Management Services
- Information Technology Audits and Computer Crime Investigations
- Immediate Office/Counsel/Public Affairs

OIG-Investigation Services Regional Map



Sources of Allegations

- OIG Hotline
- OIG Audits and Inspections
- Department Program Offices
- School Employees and Officials
- Guarantee Agencies
- 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



34 CFR § 668.16

Standards of Administrative Capability



The Secretary considers an institution to have administrative capability if the institution:

(f) Develops and applies an adequate system to identify and resolve discrepancies in the information that the institution receives from different sources with respect to a student's application for financial aid under Title IV.

(g) Refers to the Office of Inspector General...any credible information indicating that an applicant for Title IV, HEA program assistance may have engaged in fraud or other criminal misconduct in connection with his or her application.

Schools must also refer to the OIG any third-party servicer who may have engaged in fraud, breach of fiduciary responsibility, or other illegal conduct involving the FSA Programs.

Fraud Defined

A deliberate distortion of the truth in an attempt to obtain something of value.

or

Lying and cheating.

Fraud Risks

- One person in control
- No separation of duties
- Lack of internal controls/ignoring controls
- No prior audits
- Repeat audit findings
- High turnover of personnel
- Unexplained entries in records
- Unusually large amounts of payments for cash
- Inadequate or missing documentation
- Inability to answer or respond to basic questions
- Altered records
- Non-serial number transactions
- Inventories and financial records not reconciled
- Unauthorized transactions
- Related Party Transaction



Evidence Gathering

- ✓ Statutory and Regulatory Access to Records
- ✓ Consensual Search/Access
- ✓ Search Warrant
- ✓ Court Order
- ✓ Subpoenas
- ✓ Interviews





Statutory and Regulatory Access to Records

- Under the Inspector General Act of 1978, as amended, OIG can access any records available to the Department of Education in order to perform audits, investigations and inspections of Department programs and operations.
- The Family Educational Rights and Privacy Act (FERPA) requires schools receiving funding from the Department of Education to protect the privacy of student education records. In many cases consent must be received from a parent or student before records can be disclosed.
- FERPA provides that consent is not required in order to disclose student records to the Office of Inspector General. The regulations provide that representatives of the Secretary, which include OIG, may have access without prior consent in connection with an audit, evaluation, or enforcement of legal requirements related to the Department's programs.

FERPA regulations can be found at 34 C.F.R. Part 99,
<http://www2.ed.gov/policy/gen/guid/fpco/index.html>

Criminal Penalties



Education Fraud

Title 20 U.S.C. § 1097 (a)

- Any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or **fails to refund** any funds, assets, or property provided or insured under this subchapter and part C of subchapter I of chapter 34 of Title 42, or attempts to embezzle,....
- Persons convicted of a felony shall be fined not more than \$20,000 or imprisoned for not more than 5 years, or both.
- Attempt is defined as, “an undertaking to do an act that entails more than mere preparation but does not result in the successful completion of the act.”

Other Criminal Statutes Used in Connection with OIG cases:

- 18 USC § 371 CONSPIRACY
- 18 USC § 1001 FALSE STATEMENTS
- 18 USC § 1341 MAIL FRAUD
- 18 USC § 1343 WIRE FRAUD
- 18 USC § 1014 BANK FRAUD
- 18 USC § 641 THEFT OF GOVERNMENT FUNDS
- 18 USC § 666 THEFT CONCERNING FEDERAL PROGRAMS
- 18 USC § 1030 COMPUTER FRAUD/EXCEEDING ACCESS

Example of OIG Investigation

Falsified Attendance Records

- School officials engage in a scheme to defraud the Department's FSA programs through the use of falsified attendance records in order to receive, or retain, Title IV funds. This type of scheme can include:
 - Marking students present when they are absent.
 - Falsifying "make-up" hours.
 - Falsifying the "Last Date of Attendance."
 - Falsifying the number of classroom hours offered and taken by students.
 - Falsifying internship/externship hours and records.

Example of OIG Investigation

Failure to Make Refund

A school is required to determine the earned and unearned portions of Title IV aid as of the date the student ceased attendance based on the amount of time the student spent in attendance or, in the case of a clock-hour program, was scheduled to be in attendance.

School officials engage in schemes to withhold making refunds to the Title IV programs by:

- Falsifying the “Last Date of Attendance” to avoid making refunds.
- Calculating refunds but don’t return the Title IV funds.
- Falsifying the refund calculation to conceal Title IV refunds due to ED.

This scheme is a criminal act under 20 USC 1097. Based on a U.S. Supreme Court decision, *BATES v. US* (1997), the government is not required to prove that failure to make refunds was done with criminal intent. Government needs to prove only that an official was aware refunds were due and chose not to pay them.

Example of OIG Investigation

Obstruction of a Federal Audit

School officials, with the intent to deceive or defraud, obstruct or impede a Federal auditor in the performance of their official duties relating to the administration of the Title IV programs. This type of scheme can include:

- “Cleaning files” by removing or altering documents.
- Providing misleading and evasive documents or statements.
- Providing false statements to auditors or program reviewers.
- “Holding back” requested or relevant information.
- “Coaching” employees or students to make false statements.
- Changing records during an audit or program review.

The term “Federal auditor” means any person employed on a full- or part-time or contractual basis to perform an audit, program review, or a quality assurance inspection for or on behalf of the Department.

Example of OIG Investigation

Distance Education Fraud

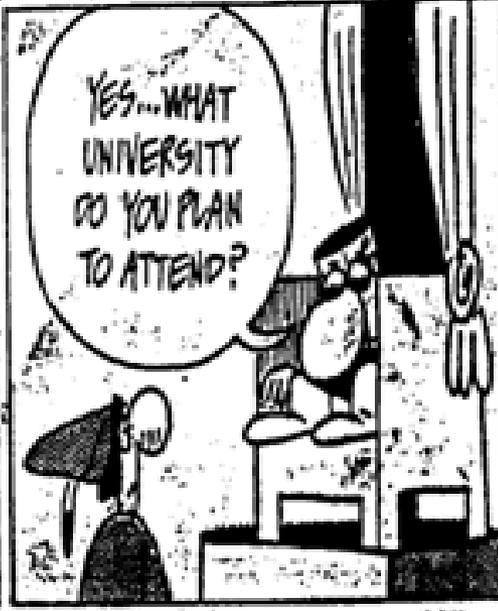
These fraud rings generally target institutions with low tuition in the context of distance education programs and involve a ringleader who:

- Obtains identifying information from “straw” students by promising financial gain.
- Completes multiple financial aid applications using the information collected.
- Applies for admission under the institution's open admissions program.
- Participates minimally in the amount of on-line interaction to secure disbursements.

Once the institution draws down Federal student aid funds, deducts the institutional charges assessed the straw student, and disburses the credit balances to the straw student by check or debit card.

Straw students then give a portion of the proceeds to the ringleaders while keeping the remaining portion.

WIZARD OF ID



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Detecting/Preventing Distance Education Fraud

Detecting fraud before funds have been disbursed is the best way to combat this crime. Some recommended procedures include implementing automated protocols that monitor information in your student information data system to identify instances where a number of students:

- Use the same Internet Protocol (IP) address to complete and submit an admissions application.
- Use the same IP address to participate in the on-line academic program.
- Use the same e-mail address to submit an admissions application.
- Use the same e-mail address to participate in the on-line academic program.
- Appear to reside in a geographic location that is anomalous to the locations of most students in the program.

Schools can modify disbursement rules for students participating exclusively in distance learning programs, which would immediately reduce the amount that fraud ring participants can receive. Schools have the authority to:

- Delay disbursement of Title IV funds until the student has participated in the distance education program for a longer and more substantiated period of time.
- Make more frequent disbursements of Title IV funds so that not all of the payment period's award is disbursed at the beginning of the period.

OIG Proactive Efforts-E Fraud Tool, Management Information Reports

Link to OIG Reports and DC Letter

Distance Education Fraud Ring Investigative Program Advisory Report (IPAR)

- <http://www2.ed.gov/about/offices/list/oig/invtreports/I42I0001.pdf>

Dear Colleague Letter GEN-11-17:

- <http://www.ifap.ed.gov/dpcletters/GEN1117.html>

Additional Safeguards Needed to Help Mitigate the Risks in the Distance Education Environment (OIG Audit)

- <http://www2.ed.gov/about/offices/list/oig/auditreports/fy2014/a07I0001.pdf>

PIN Security Vulnerabilities MIR report

- <http://www2.ed.gov/about/offices/list/oig/auditreports/fy2013/x21I0002.pdf>

How You Can Help

- Ensure that staff receive necessary Title IV training.
- Review documents thoroughly.
- Question documents/Verify authenticity.
- Request additional information from the students or parents.
- Compare information on different documents.
- Contact the OIG if you suspect fraud.
- Cooperate with the OIG in connection with an audit or investigation.

Why Report Fraud To the OIG?



- Statutory and regulatory requirements.
- Ethical responsibility.
- To deter others from committing fraud and abuse.
- To protect the integrity of the Title IV Programs.

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QUESTIONS?



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