



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



## **Accountability for American Recovery and Reinvestment Act of 2009 Funds**

### **Title IV Programs**

**[Presenters]  
[Location]**

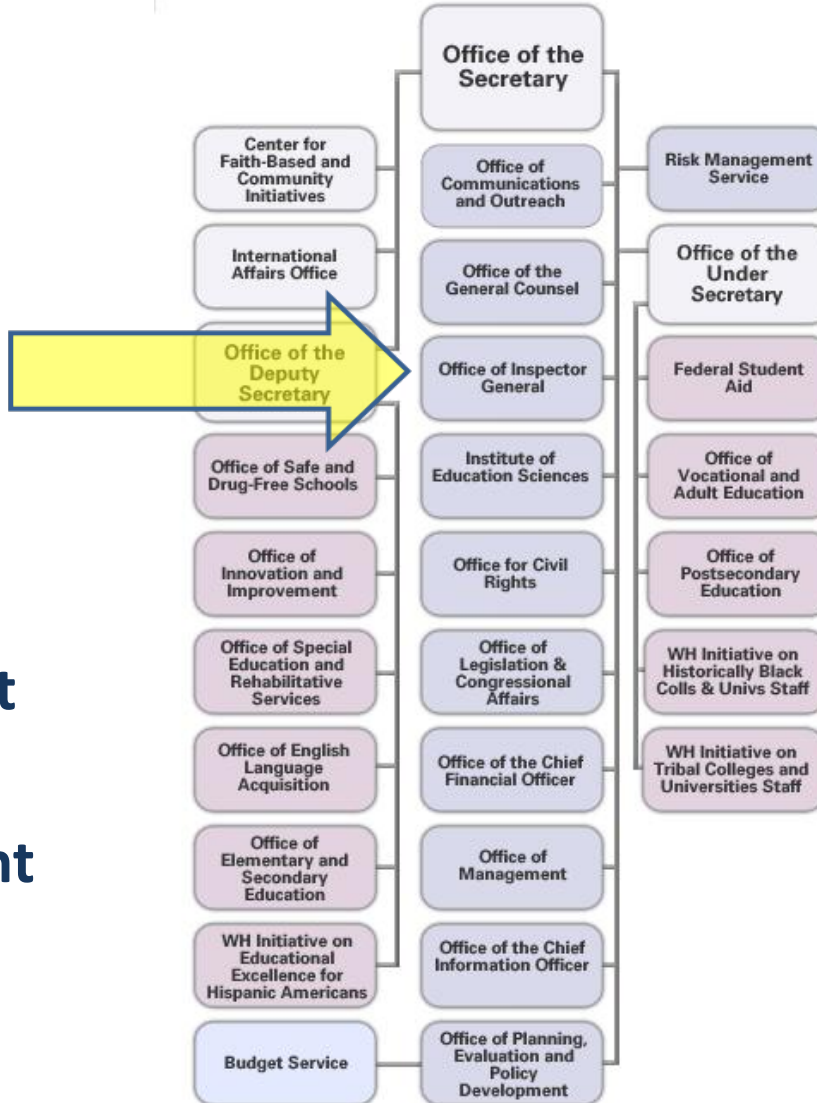


# AGENDA

- ED/OIG Organization and Mission
- Overview of the American Recovery and Reinvestment Act of 2009
- Student Financial Assistance Programs
- What to Expect from a Federal Audit
- Lessons Learned from Recent OIG Audits
- Whistleblower Protection
- Fraud in Education Programs
- Contacting OIG – 1-800-MISUSED



# 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.

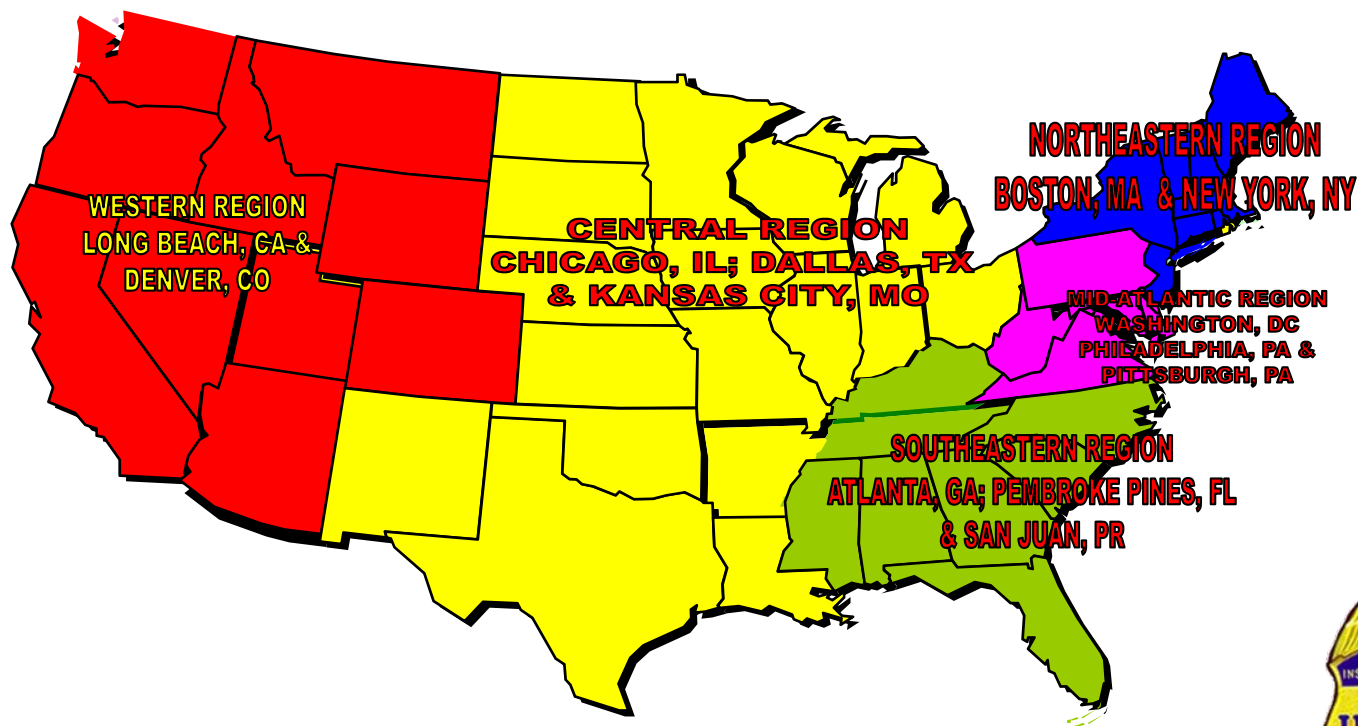


# ***OIG Components***

- ✓ Audit Services
- ✓ Investigation Services
- ✓ Evaluation, Inspection and Management Services
- ✓ Information Technology Audits and Computer Crime Investigations



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



# American Recovery and Reinvestment Act of 2009 (ARRA)







# ARRA GOALS



- ✓ Use Funds to Save and Create Jobs
- ✓ Improve Student Achievement Through School Improvement and Reform
- ✓ Ensure Transparency, Public Reporting, and Accountability
- ✓ Invest One-Time ARRA Funds Thoughtfully to Minimize the “Funding Cliff”



# Student Financial Assistance Programs

The Department oversees –

- ✓ More than 6,000 postsecondary institutions
  - ✓ More than 3,000 lenders,
  - ✓ 35 guaranty agencies
  - ✓ \$82 billion in awards, and
  - ✓ In FY 2007, an outstanding loan portfolio of \$500 billion
- and must ensure that all entities involved are adhering to statutory and regulatory requirements.



# Student Financial Assistance Programs, cont'd.

- ✓ The Office of Inspector General works closely with the Department to provide –
  - o Audit guidance, assistance, and advice on putting mechanisms in place to ensure the effective operation of the programs at all levels, and
  - o Investigative staff assistance to identify and pursue cases of fraud and abuse in the programs.
- ✓ Only two student financial assistance programs are receiving ARRA funds –
  - o The Federal Pell Grant program, and
  - o The Federal Work-Study Program.



# Federal Pell Grant

- ✓ The Federal Pell Grant program, authorized by the Higher Education Act (HEA), is the single largest source of grant aid for postsecondary education attendance funded by the Federal Government.
- ✓ The Federal Pell Grant Program is estimated to provide nearly \$19 billion in FY 2009 to about 5.8 million undergraduate students.



# Federal Work-Study

- ✓ The Federal Work-Study program provides grants to eligible institutions to pay up to 75 percent of the wages of their needy undergraduate and graduate students who work part-time.
- ✓ The school or other eligible employer provides the balance of the student's wages.
- ✓ At the FY 2009 level, about 800,000 students will receive a total of nearly \$1.2 billion in award year 2009-10.



# ARRA Title IV

- ✓ For the 2009-2010 *award year* –
  - The **maximum** Pell Grant Award equals \$4,850; however,
  
- ✓ For the 2009 *fiscal year appropriation* –
  - Maximum Pell Grant will be \$5,350, which means an
  - An additional increase of \$490.
  
- ✓ For the 2009-2010 *school year* –
  - The Pell Grant and Work-Study funding will be used, and
  - These funds will be available, pending disbursement, beginning July 1, 2009.



# ARRA Title IV Funding

- ✓ \$17.314 billion will be allocated to provide Pell Grants through the 2011 academic year as well as provide an additional \$200 million in Federal Work-Study program support. The funds will be allocated for:
  - o \$15.640 billion for Pell Grants
  - o \$200 million for Federal Work Study Program
  - o \$643 million for FY 2009 Mandatory Pell Grants
  - o \$831 million for FY 2010 Mandatory Pell Grants



# Department Monitoring

- ✓ The Department uses several methods to ensure that schools participating in Title IV programs follow correct procedures to award, disburse, and account for federal funds.
- ✓ These methods are also used to monitor schools' compliance with applicable laws and regulations, identify procedural problems, and recommend solutions.





# Federal Audits

- ✓ A Federal audit is initiated by the Office of Inspector General and conducted by the OIG's Audit Services component.
- ✓ A school may be selected for a Federal audit if there is concern about the school's administration of Title IV programs.
- ✓ A Federal audit does not satisfy the requirement that a school must have an annual non-Federal audit.



# Types of Federal Audits

- ✓ Performance Audits
- ✓ Financial Audits
- ✓ Quality Control reviews of Single Audits (Non-Federal OMB Circular A-133)
- ✓ Contract Audits and Attest Services
  - o Pre-Awards
  - o Close Outs
  - o Procurement



# Cooperating with OIG Auditors

- ✓ A school must make all program, fiscal, and student records available to an auditor.
- ✓ Both the school's financial aid administrator and fiscal officer should be aware of the dates the auditor will be at the school.
- ✓ Representatives from the business and financial aid offices should be on-hand during this period to provide documents and answer questions.



# OIG Audit Findings

## **FAILURE TO DOCUMENT STUDENT ATTENDANCE AND REFUND PELL GRANTS**

Why OIG Did This Audit –

- ✓ A proprietary school headquartered in Minnesota provides all of its instruction on-line and does not have any “brick and mortar” classroom facilities. For the time period reviewed, the school received over \$328 million in Title IV funding.

What OIG Found –

- ✓ The audit noted that the school did not comply with the provisions of governing return of Title IV program funds and Federal Family Education Loan (FFEL) program and Pell Grant disbursements.
- ✓ The school did not return all funds disbursed on behalf of students who dropped before the first day of class of the payment period.
- ✓ The school lacked documentation of the students’ attendance for its on-line programs, thus it returned about \$588,000 less than it should have.
- ✓ The school also disbursed FFEL and Pell Grants to students who were not enrolled in an eligible program at the time of the disbursement.



# OIG Audit Findings

## FAILURE TO COMPLY WITH THE 90 PERCENT RULE

Why OIG Did This Audit –

- ✓ The 90/10 Rule requires proprietary schools to demonstrate that at least 10 percent of their revenue is derived from source other than Title IV.

What OIG Found –

- ✓ While its financial statements noted that the school met the 90 Percent Rule for the three years examined, the review found that the school did not in fact comply with the 90 Percent Rule
- ✓ The school did not have sufficient, reliable accounting records to support its 90 Percent Rule calculation, and
- ✓ Was ineligible to participate in Title IV programs.



# OIG Audit Findings

## INAPPROPRIATELY PAYING OFF STUDENTS' LOANS

Why OIG Did This Audit –

- ✓ A loan on which a payment is made by the school, in order to avoid default by the borrower, is considered as in default for purposes of calculating the school's cohort default rate.
- ✓ We reviewed a school that received over \$20.5 million in Title IV funding – \$10.5 million in Pell Grants and \$8.8 million in FFEL funds.

What OIG Found –

- ✓ The school improperly paid over \$440,400 to FFEL lenders to pay off its students' loans and prevent default, and
- ✓ The school had internal control deficiencies in its administration of the Title IV programs.

# Protecting State and Local Government and Contractor Whistleblowers

- ✓ Recovery Act – An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to [law enforcement and other officials] information that the employee reasonably believes is evidence of
  - o gross mismanagement,
  - o gross waste of covered funds,
  - o a danger to public health and safety,
  - o an abuse of authority, or
  - o a violation of law.

# Protecting State and Local Government and Contractor Whistleblowers

- ✓ Non-Federal whistleblowers can file complaints with ED/OIG which has established a unit to evaluate and investigate complaints.
  
- ✓ By statute Federal Offices of Inspector General are mandated to investigate unless the:
  - Inspector General determines the complaint is frivolous
  - The complaint does not relate to covered funds, or
  - Another Federal or State judicial or administrative proceeding has previously been invoked to resolve the complaint.



# Fraud



## ***LEGAL DEFINITION***

Acts, omissions, or concealment involving a breach of legal or equitable duty. In most cases, results in damage to another, either monetary or in another form.

## ***LAYMAN'S DEFINITION***

Lying, cheating and/or stealing.

# Fraud 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**
- ✓ **Non-serial number transactions**
- ✓ **Inventories and financial records not reconciled**
- ✓ **Unauthorized transactions**
- ✓ **Related Party Transaction**
- ✓ **Repeat audit findings**

# How You Can Help

- ✓ **Ensure that staff receive necessary training**
- ✓ **Review documents thoroughly**
- ✓ **Question documents/Verify authenticity**
- ✓ **Request additional information from the vendors or administration**
- ✓ **Compare information on different documents**
- ✓ **Contact ED-OIG**
- ✓ ***A Guide to Grant Oversight and Best Practices for Combating Grant Fraud***  
<http://www.usdoj.gov/oig/special/s0902a/final.pdf>



# Examples of Title IV Fraud Schemes

- **FAFSA fraud- enrollment**
- **Falsification of entrance exams**
- **Falsification of GEDs/HS Diplomas**
- **Falsification of attendance**
- **Falsification of grades**
- **Front loading**
- **Failure to make refunds**
- **Ghost students**
- **Leasing of eligibility**
- **Loan theft/ forgeries**
- **Fraud/Theft by School Employees**
- **Default rate fraud**
- **90/10 rule**
- **Financial statement falsification**
- **ATB fraud**
- **Falsified last date of attendance**
- **Obstruction of a federal audit or program review.**

# Sources of Allegations

- ✓ **OIG Hotline**
- ✓ **ED Program Offices**
- ✓ **School Employees and Officials**
- ✓ **Guarantee Agencies**
- ✓ **Citizens and Students**
- ✓ **Competing Vendors/Schools**
- ✓ **Other Federal Agencies**
- ✓ **U.S. Attorney's Offices**
- ✓ **Other ED OIG Investigations**
- ✓ **Federal Bureau of Investigation**
- ✓ **State and Local Education Agencies**



# Who Commits Fraud Involving Education Funds?

- ✓ **School Employees, Officials, Owners, Financial Managers, and Instructors**
- ✓ **Lenders and lender servicers**
- ✓ **Guarantee Agencies**
- ✓ **Award Recipients**
- ✓ **Grantees and Contractors**
- ✓ **ED Employees**
- ✓ **Others**



# 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,.....
- ✓ 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.”

# 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
- ✓ ...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 \$5K and \$10K per count (75 Counts X 10K = \$750K), **plus** 3 times the amount of actual damages (3 X \$350K = \$1.05 Million)
- ✓ States and Local Governments can and have been prosecuted for fraud under the False Claims Act.



# Failure to Make Title IV Refunds



- ✓ Criminal Act under 20 U.S.C. § 1097
- ✓ United States not Required to Show (Prove) that Failure to Make Refunds was Done with Intent
- ✓ BATES v. United States-Supreme Court Decision (Nov. 1997)



# OIG Investigation Results

## Failure to “Make Refund” Cases

The President of the Pittsburgh Beauty Academy (PBA) in Pennsylvania was sentenced to one-year probation and ordered to pay restitution of over \$83,000 for his role in a financial aid fraud scheme. An OIG investigation found that between 1999 and 2001, the school did not pay refunds totaling over \$83,000. PBA owned and operated four schools in and around the Pittsburgh area for over 48 years.

The former president and chief executive officer of International Education Center (IEC) pled guilty for failing to make refunds to the Pell Grant program. From 1994 to 1996, IEC failed to make refunds totaling more than \$600,000 when students either did not attend IEC after enrolling, or withdrew after completing only a small percentage of the educational program.



# OIG Investigation Results

## Failure to “Make Refund” and “False Statement” Case

Both the former president and the former financial aid director of, MBTI Business Training Institute, Milwaukee, Wisconsin, pleaded guilty to false statements, failure to refund and student financial aid fraud in the Eastern District of Wisconsin. The indictment alleged that from December 2000 through April 2002, the defendants, while acting in their official capacities, engaged in a scheme to defraud the Department whereby they failed to refund approximately \$558,348 in Title IV funds, illegally disbursed approximately \$216,298 in Federal Family Education Loan program (FFEL) funds, and, in an effort to seek additional funding and cover up the illegal disbursements, submitted fraudulent claims for reimbursement to the Department totaling \$571,813.



# OIG Investigation Results

## “Ineligible Student” Case

An OIG investigation revealed that officials at three schools, the California Business Institute (CBI), the United Education Computer College (UECC), and the Mesa Institute (Mesa), allegedly entered into an agreement whereby CBI, a school eligible to participate in Title IV programs, allowed student financial assistance applications from UECC and Mesa, two schools ineligible to participate in Title IV programs, to be processed through CBI. As a result, UECC collected over \$2.1 million for ineligible students, while Mesa collected over \$700,000 for ineligible students. A former consultant to all three schools was sentenced to five months in prison and was ordered to pay approximately \$2.9 million in restitution for her role in the scheme. Three other individuals -- the former owner of CBI, the former owner of UECC, and the former financial aid director at CBI and UECC -- pled guilty to charges for their participation in the scheme.



# OIG Investigation Results

## “Falsified Attendance Records” Case

Five officials of the Michigan-based Metro Technical Institute (MTI)-- the former owner, executive director, education director, admissions director, and registrar-- were sentenced for their roles in a student financial assistance fraud scheme. Our investigation revealed that MTI owners directed school employees to falsify eligibility, attendance, and grade records to illegally obtain student financial assistance funds and to obstruct a scheduled Department program review. All of the officials involved were ordered to pay over \$557,000 in restitution. Sentences ranged from 12 months and one day in prison for the former owner, to community service and/or probation for the other officials. A second MTI owner fled the country and remains a fugitive.



# OIG Investigation Results

## **“Falsified ATB” and “Failure to Make” Refund Case**

The three former owners of the Moler Beauty College (MBC), located in Louisiana, were sentenced and fined for conspiracy to commit student financial aid fraud. Our investigation disclosed that the three owners, along with a financial aid administrator and a contracted Ability-To-Benefit (ATB) tester, engaged in a scheme to fraudulently obtain Title IV funds by falsifying student and school records. MBC officials also engaged in a scheme to prevent the return of Title IV funds to the Department. The owners received prison sentences ranging from 12 to 27 months, and were ordered to jointly pay over \$164,000 in restitution to the Department.



# OIG Investigation Results

## **“Conspiracy to Obstruct a Federal Investigation” Case**

In December of 2008, the former President of Harrison Career Institute (HCI), pled guilty to one count of conspiracy to destroy, alter, or falsify records in Federal investigations, in the Eastern District of Pennsylvania. Our investigation determined that the former President along with HCI co-conspirators, the Director of Internal Audit and the Director of Financial Aid, were fraudulently altering student financial aid records to make them appear compliant with federal regulations. This was an ongoing conspiracy to prevent both HCI’s independent auditor and the Department’s Program Reviewers from detecting widespread deficiencies in HCI’s processing of federal student aid. The Director of Internal Audit and the Director of Financial Aid both previously pled guilty.



# OIG Investigation Results

## “Embezzlement” Case

The former financial aid director of the Troy School of Beauty Culture (TSB), located in New York, was sentenced to 18 months in jail and two years of supervised release for embezzlement. Our investigation disclosed that the former director embezzled over \$410,000 in Pell Grant funds over a four-year period. The former director used the identities of at least 25 individuals, including a co-worker, to substantiate drawdowns of funds into the TSB Pell Grant account. The former director then wrote checks to “cash” and converted them for personal use.



# Disclosure Methods



- ✓ Consensual Search/Access
- ✓ Search Warrant
- ✓ Court Order
- ✓ Subpoenas
  - Grand Jury
  - Administrative



# Who is Responsible for Reporting Fraud?

✓ **Everyone** who deals with DoED funding has a responsibility to help control fraud.



# Why Report Fraud?

OMB Guidance on ARRA Accountability and Reporting Requirements:

## ***Mandatory Reporting to the Inspectors General***

Agencies must include in all grants “the requirement that each grantee or sub-grantee awarded funds made available under the Recovery Act shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.”

# Why Report Fraud?



- ✓ Ethical responsibility
- ✓ To deter others from committing fraud and abuse
- ✓ To protect the integrity of the Federal, State and Local programs
- ✓ To avoid being part of the fraudulent/criminal activities



# 34 CFR § 668.16

## Standards of Administrative Capability

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

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

Reporting obligation further applies to fraud on the part of employees, third party servicers or other agents of the institution.



# Criminal Liability

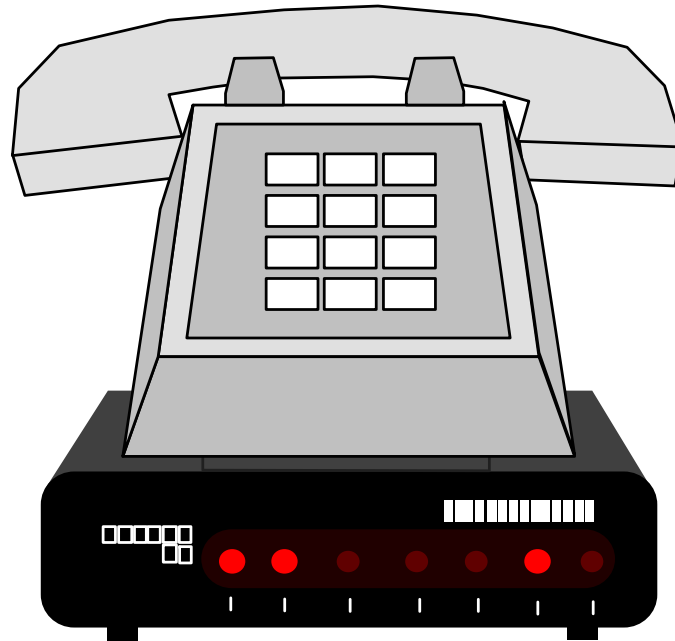
- **18 U.S.C. § 2, Aiding and Abetting**

Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

- **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.

# OFFICE OF INSPECTOR GENERAL HOTLINE



**1-800-MISUSED**

**E-MAIL [OIG.HOTLINE@ED.GOV](mailto:OIG.HOTLINE@ED.GOV)**

**FAX 202-245-7047**



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#### 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. Anyone knowing of fraud, waste, or abuse of Department of Education funds should contact the [OIG Fraud Hotline](#) to make a confidential report.

#### MORE RESOURCES

[Downloadable Hotline Posters](#)

[Statutory Law Enforcement Authority \(PDF on IGnet\)](#)

[Click here to subscribe and receive e-mail notification when a new Audit Report is issued by the OIG!](#)

#### VISION STATEMENT

- To be a continual learning and improving organization
- One which appreciates, challenges, respects, and honors its employees
- One which serves as a change agent to encourage fiscal

#### How do I find...?

- Grants to apply for
- Grant opportunities
- Educational resources, lesson plans
- Accreditation
- Money for college
- Research and statistics
- Facts and figures
- More...



#### Related Topics:

- MISUSED
- FOIA
- OIG Fraud Hotline



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**COMPLAINANT CONTACT INFORMATION:**

I wish to remain  Anonymous  
 Confidential, please provide information:

Salutation First Name Middle Name Last Name Institution Mailing Address City State Zip Code Home Phone  (e.g., 555-555-5555)Work Phone  (e.g., 555-555-5555)Other Phone  (e.g., 555-555-5555)E-mail Address Social Security #  (e.g., 111-11-1111)**ALLEGED VIOLATOR:**

Allegation made concerning: (Please check the appropriate box)

- |                                   |   |
|-----------------------------------|---|
| <input type="radio"/> Recipient   | <input type="radio"/> ED Employee       |
| <input type="radio"/> Institution | <input type="radio"/> ED Contractor     |
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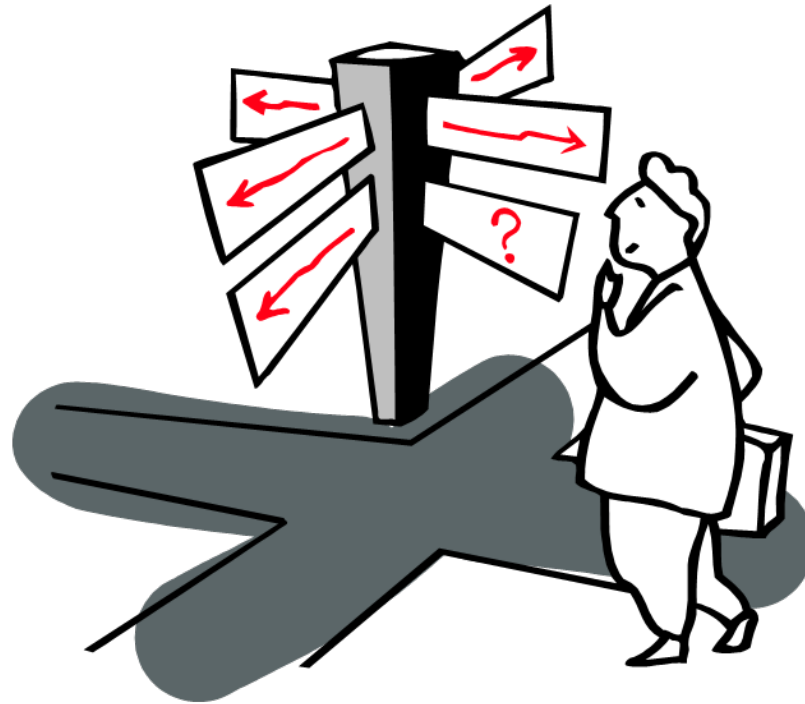
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# QUESTIONS FOR US?



# THANKS FOR HAVING US!

