



Fraud Reporting Requirements

A Guide for Federal Program Participants and Auditors

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



Target Audience

Grantees and subgrantees receiving U.S. Department of Education (Department) funding, and auditors who oversee those funds.

Purpose

This guide summarizes the fraud reporting requirements most relevant to entities receiving pandemic relief funds and auditors of those entities. The Office of Inspector General (OIG) has been conducting outreach with Department stakeholders focused on identifying fraud indicators and best practices in Federal education programs. In the course of our outreach, stakeholders have raised questions about how and when to report fraud. Therefore, we felt it was important to highlight the fraud reporting requirements for grantees receiving Federal education funds and their auditors.

Grant recipients and auditors should also review all laws, regulations, contracts or grant agreements, standards, and guidance applicable to them to determine whether they have a professional or legal responsibility to report the occurrence or suspicion of fraud.

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Background

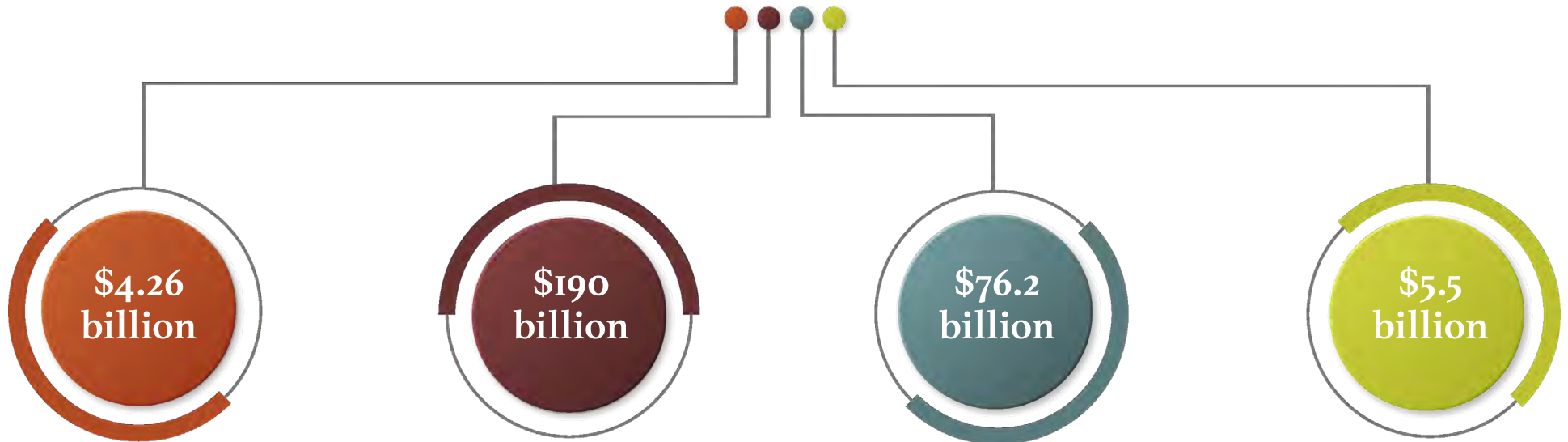
The OIG, as the independent oversight arm of the Department, is responsible for protecting the integrity of Federal education programs administered by the Department, ensuring vital funds are used for allowable and intended purposes and in accordance with all applicable requirements. The OIG relies on entities that participate in Department programs and their auditors to be alert to opportunities for fraud involving those programs.

There has been a significant increase in grant funds for new and existing programs from pandemic relief laws passed by Congress. Most significant to the Department is the Education Stabilization Fund, which provided the Department with more than \$280 billion to assist States, elementary and secondary

schools, institutions of higher education, and other education-related entities in meeting their needs and the needs of students impacted by the coronavirus pandemic. The following graphic describes the primary types of assistance established under the Education Stabilization Fund and the amount of funds for each.

Education Stabilization Fund Snapshot

Funded through the [CARES Act](#), the [Coronavirus Response and Relief Supplemental Appropriations Act](#), and the [American Rescue Plan](#)



Governor's Emergency Education Relief Fund

Awarded To: Governor's offices to provide to local educational agencies (LEAs), institutions of higher education (IHEs), or other education-related entities the Governor deems essential

Purpose: Support efforts to provide educational services to students and to support ongoing operations. [Learn more.](#)

Elementary and Secondary School Emergency Relief Fund

Awarded To: State educational agencies to provide to LEAs and charter schools that are LEAs

Purpose: A wide range of activities, including purchasing and using technology for online learning, coordinating efforts with public health departments, addressing the needs of disadvantaged student populations, planning for school closures, purchasing cleaning supplies, providing mental health services, and implementing summer learning and supplemental after-school programs. [Learn more.](#)

Higher Education Emergency Relief Fund

Awarded To: IHEs

Purpose: Assist students affected by the coronavirus pandemic with expenses such as food, housing, technology, healthcare, childcare, and course materials; help Historically Black Colleges and Universities and Minority Serving Institutions to cover expenses related to closures and transitions to distance education, and help institutions of higher education cover lost revenue, technology, or other expenses related to the cost of attendance. [Learn more.](#)

Emergency Assistance to Nonpublic Schools

Awarded To: Awarded to Governor's offices (\$2.75 million from Governor's Emergency Education Relief Fund)

Purpose: Provide services or assistance to nonpublic schools that enroll a significant percentage of low-income students and are most impacted by the pandemic. [Learn more.](#)

Fraud Reporting for Grantees and Subgrantees

Grantees and subgrantees carrying out Department awards are subject to [2 Code of Federal Regulations \(C.F.R.\) Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"](#) (Uniform Guidance). The Uniform Guidance discusses responsibilities for reporting fraud.

Uniform Guidance Requirements

- Recipients, subrecipients, and applicants for a Federal award must disclose, timely and in writing to the Federal award agency or pass-through entity, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. (2 C.F.R. § 200.113)
- If the recipient's or subrecipient's total value of currently active grants, cooperative agreements, and procurement contracts from all Federal agencies exceeds \$10 million, it must also report certain civil, criminal, or administrative proceedings to the System for Award Management.
- A recipient, subrecipient, or applicant that fails to make these disclosures may be subject to remedies such as the withholding of cash payments or further Federal awards, suspension or termination of the award, and suspension or debarment from Federal assistance programs or activities.

Many entities receiving Education Stabilization Fund awards also receive funds under Title IV of the Higher Education Act of 1965, as amended (Title IV, HEA), or the Elementary and Secondary Education Act of 1965, as amended, (ESEA).



Title IV HEA Requirements

- Institutions of higher education that enter into a Program Participation Agreement with the Department agree to refer to the OIG Investigation Services any credible information indicating possible fraud related to Title IV program funds that an applicant, employee, third-party servicer, or other agent of the institution may have engaged in. (34 C.F.R. § 668.16(g))

ESEA Requirements

- Recipients of a grant or subgrant under the ESEA must display OIG's hotline contact information so that any individual who observes, detects, or suspects improper use of taxpayer funds can easily report such improper use. (Section 9203 of the Every Student Succeeds Act, which amended the ESEA in 2015)

Fraud Reporting for Auditors

Auditors should respond appropriately to fraud or suspected fraud identified during the engagement. Although the auditor may suspect fraud or identify indicators of fraud, the auditor does not make legal determinations of whether fraud has occurred. Therefore, it is important that auditors refer indications of fraud to the proper authorities.

Fraud reporting requirements for auditors depend on the type of engagement being performed and the standards under which the engagement is performed. Audits of States, elementary and secondary schools, and public or private nonprofit institutions of higher education are performed in accordance with standards for financial audits. Audits of for-profit institutions of higher education receiving Higher Education Emergency Relief Fund (HEERF) grants are performed in accordance with attestation standards for examination engagements.

Government Auditing Standards

The standards applicable to financial audits and examination engagements found in Government Auditing Standards address communicating and reporting on internal control, compliance, and fraud. Below we have summarized those requirements applicable to fraud reporting.

- **Investigations or Legal Proceedings.** Auditors may be required to communicate indications of certain types of fraud to law enforcement or investigatory authorities. However, auditors should avoid interference with investigations or legal proceedings when pursuing indications of fraud. Withdrawing from or deferring further work to avoid interference may be appropriate. (6.13–6.14 and 7.15–7.16)
- **Reporting on Instances Fraud.** When auditors identify or suspect fraud that is material, they should include relevant information in their report on internal control or compliance or their examination report. If the fraud is less than material but warrants the attention of those charged with governance, auditors should communicate relevant information about the fraud in writing to the audited entity officials. Auditors may consult with authorities or legal counsel about whether publicly reporting such information would compromise investigative or legal proceedings



and may limit their public reporting to matters that would not compromise those proceedings. (6.41, 6.44, 6.49 and 7.44-7.47)

- **Direct Fraud Reporting to Parties Outside the Audited Entity.** Even if the auditor has resigned or been dismissed from the audit or engagement before its completion, the auditor should report identified or suspected fraud directly to parties outside the audited entity in two circumstances:

- when audited entity management fails to satisfy legal or regulatory requirements to report fraud to external parties or
- when audited entity management fails to take timely and appropriate steps to respond to fraud that is likely to have a material effect on the subject matter and involves funding received directly or indirectly from a government agency.

Before reporting to outside parties, the auditor should first communicate these circumstances to those charged with governance. (6.53–6.56 and 7.51–7.54)

Generally Accepted Auditing Standards

Auditing standards generally accepted in the United States of America are codified in the AU-C sections of the American Institute of Certified Public Accountants (AICPA) Professional Standards. “Consideration of Fraud in a Financial Statement Audit,” AU-C section 240, addresses the auditor’s responsibilities relating to fraud in a financial statement audit. The appendix to “Compliance Audits,” AU-C section 935, indicates that most of the AU-C section 240 requirements also apply to compliance audits. These sections address the following considerations related to fraud reporting during a financial statement audit or compliance audit.

- **Communications to Management and Those Charged with Governance.** Auditors identify fraud or indicators of fraud should timely communicate these matters to the appropriate level of management. Auditors should use professional judgment to determine the appropriate level of management for reporting, but ordinarily it is at least one level above the person who appears to be involved with the suspected fraud. Auditors identifying or

suspecting fraud involving management, employees with significant roles in internal control, or others when the fraud is material, should timely communicate these matters, or any others matters related to fraud that the auditor considers relevant, to those charged with governance. (AU-C § 240.39–41 and 240.A68)

- **Communication to Regulatory and Enforcement Authorities.** If auditors have identified or suspected fraud, they should determine whether they have a professional or legal responsibility to report the occurrence or suspicion to a party outside the entity. Although the auditor's professional duty to maintain the confidentiality of client information may preclude such reporting, the auditor's legal responsibilities, especially those requirements of audits of entities that receive government financial assistance, may override the duty of confidentiality in some circumstances. The auditor may consider it appropriate to seek legal advice when determining the appropriate course of action, including the possibility of reporting to regulators or others. (AU-C § 240.38, 240.42, 240.A66, and 240.A73–A74)

Attestation Standards

Attestation standards established by the AICPA, including those applicable to examination engagements of for-profit institutions of higher education receiving HEERF grants, are codified in AT-C sections of AICPA's Professional Standards.

- Practitioners should respond appropriately to fraud or suspected fraud identified during an examination engagement. (AT-C § 205.33)
- Examples of possible appropriate actions include discussing the matter with appropriate parties, obtaining legal advice about the consequences of different courses of action, and communicating with third parties including regulators, among others. (AT-C § 205.A29)
- Practitioners should communicate fraud or suspected fraud identified during the engagement to the responsible party or to the engaging party when the engaging party is not the responsible party. (AT-C § 205.85)

Uniform Guidance

Auditors performing single audits in accordance with Subpart F of the Uniform Guidance must report known or likely fraud affecting a Federal award as an audit finding, unless the fraud was reported outside the auditor's report under the direct reporting requirements of Government Auditing Standards, as discussed above. However, the auditor is not required to publicly report information that could compromise investigative or legal proceedings. (2 C.F.R. § 200.516)



OIG Audit Guides

Examination engagements of for-profit institutions of higher education spending HEERF grants are performed in accordance with the “Guide for Compliance Attestation Engagements of Proprietary Schools Expending Higher Education Emergency Relief Fund Grants,” developed by the OIG. This audit guide requires auditors to immediately report to OIG’s Investigation Services when they detect indications of fraud related to HEERF funds or situations where the auditor learned that management identified possible fraud related to HEERF funds and failed to report the possible fraud as required. After reporting, the auditor is required to prepare a separate written report concerning the fraud or fraud indicators. The report should be submitted to OIG’s Investigation Services no more than 30 days after discovery of the act. The separate written report should not be submitted with the audit or examination report, and the contents of the report should not be reflected in the audit or examination report, unless OIG Investigation Services has advised the auditor that they may do so.



More Resources

Check out these brochures with more information on identifying and reporting fraud to the OIG.

- Info for [student aid administrators](#)
- Info for [Governors' offices, State educational agencies, and local educational agencies](#)

**Click Here to Report
Fraud to Our Hotline**

How to Report Fraud

Help Us Identify and Stop Coronavirus Response Fraud

We all have a responsibility to help deter fraud, waste, and abuse and report it when discovered. If you suspect fraud or something that could be fraud, report it to OIG's Investigation Services. Working together is the best way to stop those who seek to enrich themselves with pandemic relief funds. Together, we can help ensure that this funding is used as intended: helping our nation's schools and students impacted by the coronavirus pandemic.

Report Allegations of Fraud or Other Criminal Activity to Our Hotline

You may report identified or suspected fraud on our website at <http://oighotline.ed.gov>. You may also call toll-free or write the Office of Inspector General.

Inspector General Hotline
1-800-MISUSED
(1-800-647-8733)

Inspector General Hotline
U.S. Department of Education
Office of Inspector General
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Washington, D.C. 20202