



U.S. Department of Education Office of Inspector General



Accountability for American Recovery and Reinvestment Act of 2009 Funds

State and Local Programs

**[Presenters]
[Location]**



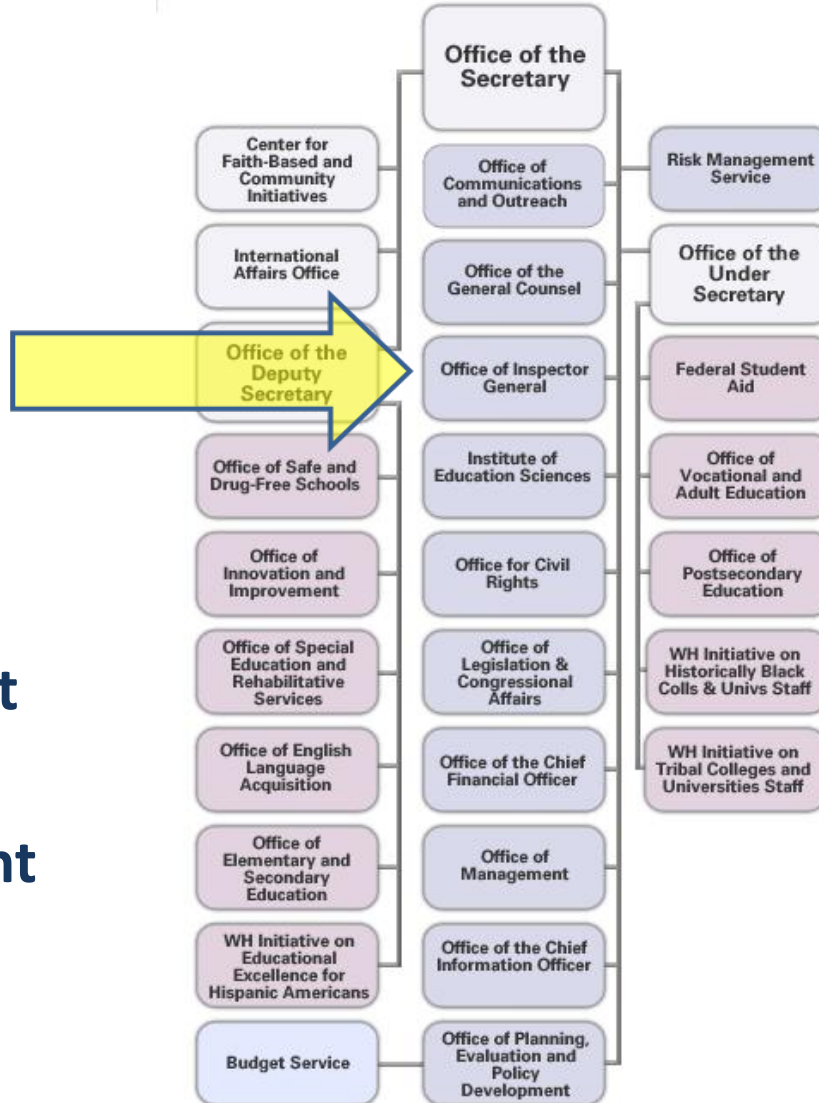
AGENDA



- ✓ ED/OIG Organization and Mission
- ✓ Overview of the American Recovery and Reinvestment Act (ARRA)
- ✓ Types of Federal Audits
- ✓ 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 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.

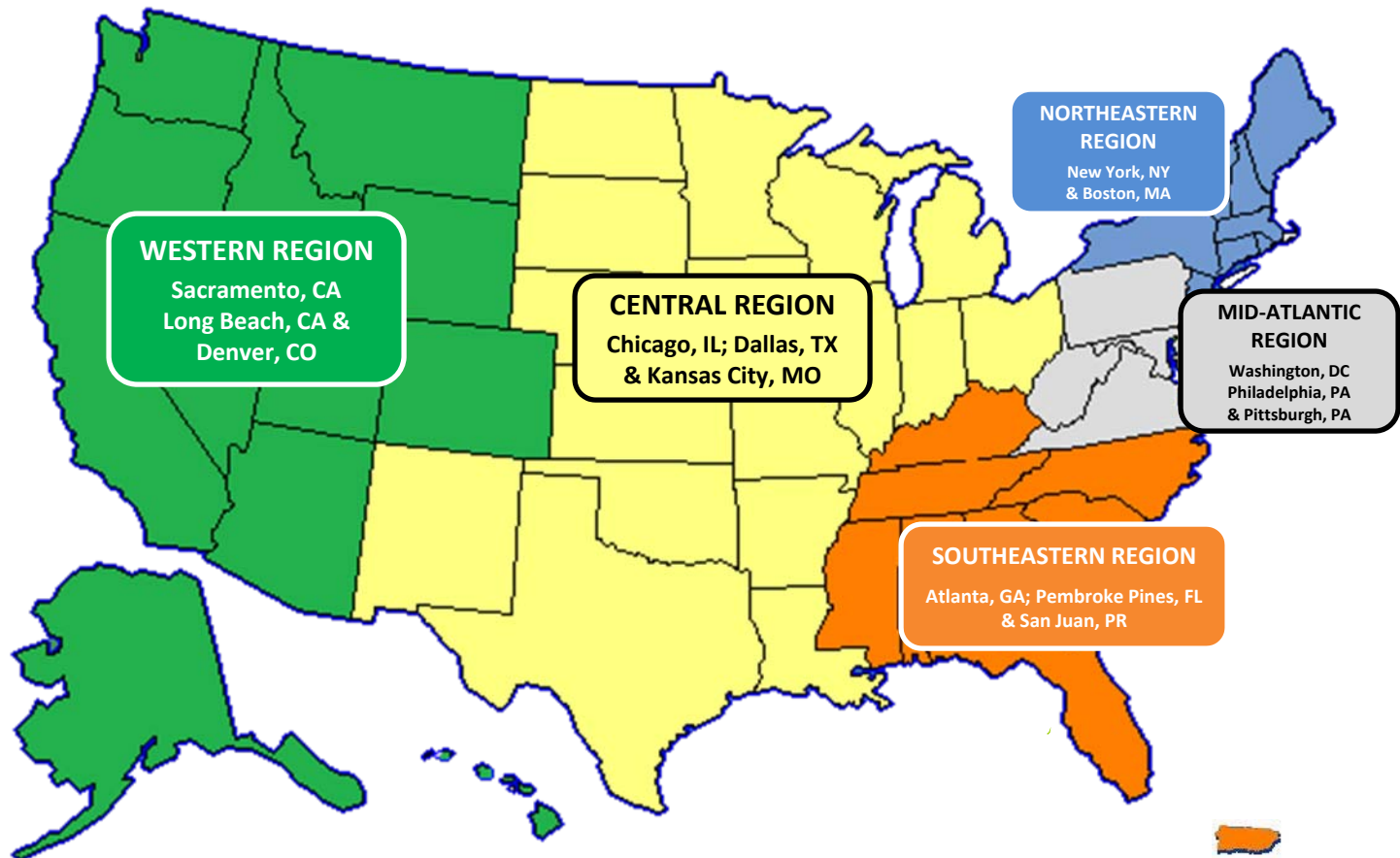


OIG Components

- ✓ 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





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”

ARRA Funding for Accountability

- ✓ \$25 Million to the Government Accountability Office (GAO)
- ✓ \$252.75 Million to Inspectors General for 22 Federal Departments and Agencies
- ✓ \$84 Million to the Recovery Act Accountability and Transparency Board
- ✓ Results of Oversight Work to be Posted on Government-wide Website – Recovery.gov

Education Funding

(millions)

| | |
|-----------------------|----------|
| ✓ State Stabilization | \$53,600 |
| ✓ Title I | \$13,000 |
| ✓ IDEA | \$12,200 |
| ✓ Ed. Technology | \$ 650 |
| ✓ Voc. Rehab. | \$ 540 |
| ✓ Indep. Living | \$ 140 |
| ✓ Teacher Incentive | \$ 200 |
| ✓ Teacher Quality | \$ 100 |
| ✓ Impact Aid | \$ 100 |
| ✓ Homeless | \$ 70 |

State Fiscal Stabilization Fund

- ✓ 61 Percent of Allocation Based on Population of Individuals Aged 5 to 24 and 39 Percent Based on Total Population
- ✓ Funds Provided to State Governors in 2 Phases
- ✓ States will Receive 67 Percent of SFSSF Funding Within 2 Weeks of Submitting Application
- ✓ Remaining Portion of SFSSF Funding will be Provided After Approval of State Plan

ARRA Title I, Part A Funds and IDEA Parts B and C Funds

- ✓ 50 Percent of Funds Awarded Under Existing State Application
- ✓ Remaining Funds Awarded After State Submits an Amendment to Application Addressing ARRA Recordkeeping and Reporting Requirements
- ✓ Use of Funds Must Be Consistent With Program Requirements
- ✓ Some Waivers of Requirements May Be Available



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

Issue Areas Identified in Recent OIG Audits

- ✓ **School District Work**
- ✓ **SEA Subrecipient Monitoring**
- ✓ **Cash Management -- State and Local**

School District Work

✓ Issued:

- Detroit --

<http://www.ed.gov/about/offices/list/oig/auditreports/fy2008/a05h0010.pdf>

- St. Louis --

<http://www.ed.gov/about/offices/list/oig/auditreports/fy2008/a07h0017.pdf>

- Los Angeles --

<http://www.ed.gov/about/offices/list/oig/auditreports/fy2009/a09h0019.pdf>

✓ On-going:

- Houston, Dallas, Philadelphia, Camden

Common LEA Findings

- ✓ Personnel Costs Not Allocable to the Grant
- ✓ Non-Personnel Costs Unnecessary (or Unreasonable) to Carry Out the Grant or Not for Program Purposes
- ✓ Unallowable Costs Resulting from Contracts with Missing Required Elements, Lack of Approval, or Expenditures that Exceeded the Contract Amount
- ✓ Poor Internal Controls Over Purchase Cards and Gift Cards
- ✓ Unsupported Adjusting Journal Entries

Common LEA Findings

- ✓ Time and Effort Certifications were Missing, Incomplete, Inaccurate, or Untimely
- ✓ Inadequate Personal Activity Reports or Timesheets Missing or Incomplete
- ✓ Inadequately Documented Fringe Benefits
- ✓ Property/Inventory Control
- ✓ Violations of Cost Principles -- Food Purchases
- ✓ Excess Cash

Detroit

- ✓ Unallowable Personnel Costs [\$1M]
- ✓ Time and Effort Support [\$49.5M]
- ✓ Unallowable or Inadequately Documented Non-Personnel Costs
 - Unallowable \$348K
 - Inadequately documented \$2.9M
- ✓ Unallowable and Inadequately Documented Contract Expenditures
 - Unallowable \$14.5K
 - Unsupported \$1.7M
- ✓ Inadequately Monitored Resolution of a Detroit Internal Investigative Report

Detroit -- Recommendations

- ✓ Return \$1.3M in unallowable charges to the Department;
- ✓ Either provide adequate documentation to support \$52M in inadequately documented expenditures or return that amount to the Department;
- ✓ Develop and implement policies and procedures to ensure that adequate and accurate time and effort certifications and personnel activity reports are prepared; and
- ✓ Develop and implement policies and procedures to adequately review contracts, invoices, employee insurance benefit costs, and adjusting journal entries.

Outcome -- Michigan Department of Education Declares Detroit Public Schools High Risk

- ✓ MDE August 26, 2008 Letter to Detroit Public Schools
 - *...The district has been designated as high-risk status in compliance with Federal regulation 34 CFR 80.12...*
 - *...A compliant financial management system must provide adequate financial reporting, recordkeeping, internal controls, budget controls, and cash management, and address the criteria of reasonable, allocable, and allowable costs...*
 - *Special conditions*

SEA Subrecipient Monitoring -- Trends in Single Audits

- ✓ 2004 -- 32 States with Subrecipient Monitoring Findings
- ✓ 2005 -- 38 States with Subrecipient Monitoring Findings
- ✓ 2006 -- 39 States with Subrecipient Monitoring Findings
- ✓ Current OIG Work -- Inadequate system of internal control over ensuring subrecipient compliance with Education programs

SEA Subrecipient Monitoring

- ✓ Partnership for Intergovernmental Management and Accountability
- ✓ New Guidance:
 - Risk Assessment Monitoring Tool - <http://www.agacgfm.org/intergovernmental/downloads/riskassessmentmonitoringtool.pdf>
 - Financial and Administrative Monitoring Tool - <http://agacgfm.org/intergovernmental/downloads/financialadministrativemonitoringtool.pdf>

Cash Management – State and Local

- ✓ States' methods for disbursing Federal funds must ensure that LEAs receive Federal funding when needed to pay program costs.
- ✓ States need to strengthen controls to ensure that LEAs correctly calculate and promptly remit interest earned on Federal cash advances.

Cash Management – State and Local

- ✓ Los Angeles Unified School District's Procedures for Calculating and Remitting Interest Earned on Federal Cash Advances

<http://www.ed.gov/about/offices/list/oig/audit/reports/fy2009/a09h0019.pdf>

- ✓ California Department of Education Advances of Federal Funding to Local Educational Agencies

<http://www.ed.gov/about/offices/list/oig/audit/reports/fy2009/a09h0020.pdf>

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
 - gross mismanagement,
 - gross waste of covered funds,
 - a danger to public health and safety,
 - an abuse of authority, or
 - 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**
- ✓ **Multiple Audit Findings/Repeat Findings**
- ✓ **No Audit Trail/Inability to Support Questioned Costs**
- ✓ **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**
- ✓ **Unreasonable Costs (*As Outlined in OMB Circular 122*)**
- ✓ **Related Party Transaction**

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>

Watch for Anomalies



- ✓ **Inflated invoices**
- ✓ **Payments to unknown vendors for unknown services**
- ✓ **Funding for a counselor, but no counselor**
- ✓ **Funding for equipment, but no equipment**
- ✓ **Invoices for services or equipment not provided**
- ✓ **Administrator cuts you a check and asks for a portion of proceeds**
- ✓ **Consulting contracts-costs get buried under this area**

Sources of Allegations



- ✓ **OIG Hotline**
- ✓ **OIG Audit Services**
- ✓ **Independent Auditors (Single Audits)**
- ✓ **ED Program Offices**
- ✓ **School Employees and Officials**
- ✓ **Citizens and Students**
- ✓ **Competing Vendors/Schools**
- ✓ **Other Federal Agencies**
- ✓ **U.S. Attorneys 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**
- ✓ **Award Recipients**
- ✓ **Grantees and Contractors**
- ✓ **Federal, State, and Local Government Employees**
- ✓ **Others**



Fraud Scheme Investigations



- ✓ **Misapplication**
- ✓ **Grant Fraud**
- ✓ **Contract/Procurement Fraud**
- ✓ **Bribery/Kickbacks**
- ✓ **Theft/Embezzlement by School Employees in Trust Positions**

THESE ARE JUST A FEW...NOT ALL INCLUSIVE!

Common Criminal Statutes



- ✓ 18 U.S.C. § 287, False Claims
- ✓ 18 U.S.C. § 371, Conspiracy
- ✓ 18 U.S.C. § 641, Theft of Public Funds
- ✓ 18 U.S.C. § 666, Theft/Bribery
- ✓ 18 U.S.C. § 1001, False Statement
- ✓ 18 U.S.C. § 1341, Mail Fraud
- ✓ 18 U.S.C. § 1343, Wire Fraud
- ✓ 18 U.S.C. § 1510/1512, Obstruction

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.

REAL WORLD EXAMPLE

Special Programs Federal Bookkeeper Garland Independent School District



- ✓ Created Fraudulent Vendor Contract under Niece's Name to Purportedly Perform Spanish Translation and Interpretations Under Title I/ESEA
- ✓ Submitted Bogus Invoices and Payment Requests in her Niece's Name to the GISD Finance Department for Services Never Performed
- ✓ Obtained and Negotiated 48 GISD Checks and Deposited Funds into Personal Checking Account
- ✓ Embezzled Approximately \$84,000 in Title I/ESEA Funds from May 2006 to July 2007
- ✓ Pled guilty on August 8, 2008 to Theft and Embezzlement from a Program Receiving Federal Funds
- ✓ Sentenced on November 7, 2008 to 10 Months Incarceration, 2 Years Probation, and Ordered to Pay \$92,112 in Restitution

REAL WORLD EXAMPLE

Superintendent Marble City Schools, Oklahoma



- ✓ Embezzled Approximately \$1 Million Over a 10-Year Period Through a School Account Thought to be Closed
- ✓ Used Funds to Purchase Lakefront Property, Farmland, Farm Equipment, and Personal Automobiles
- ✓ Residence Searched by FBI and ED/OIG Agents on January 18, 2008
- ✓ Farm Equipment and Other Personal Assets Seized
- ✓ Pled guilty on May 28, 2008 to Embezzlement and Filing a False Tax Return
- ✓ Repaid \$1,088,948 Prior to Sentencing (Through Asset Forfeiture and Liquidation of Assets)
- ✓ Sentenced on October 2, 2008 to 24 Months Incarceration

REAL WORLD EXAMPLE

Pharr-San Juan Independent School District Texas

- ✓ 5 former school board members have pled guilty to receiving bribes in exchange for awarding District contracts
- ✓ Bribes to one official included plane tickets to Las Vegas, gambling money, hotel accommodations, and tickets to a Cher concert and an Oscar de la Hoya boxing match
- ✓ A total of 12 individuals have been convicted to date

REAL WORLD EXAMPLES

District of Columbia Schools System

- ✓ DCPS falsely certified its eligibility to receive Federal funds under the **Migrant Education Program**
- ✓ DCPS claimed it had eligible migratory children residing in the District, when in fact there were no such children
- ✓ \$1.75 Million Civil Fraud Settlement

Puerto Rico Department of Education

- ✓ PRDE submitted false child counts between 2002 and 2005
- ✓ Counts based on falsified student eligibility documents for the **Migrant Education Program**
- ✓ \$19 Million Civil Fraud Settlement

Disclosure Methods



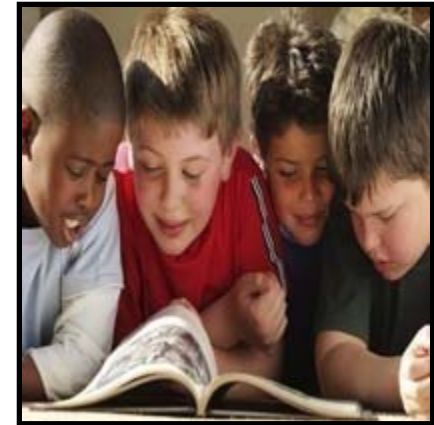
- ✓ Consensual Search/Access
- ✓ Search Warrant
- ✓ Court Order
- ✓ Subpoenas
 - Grand Jury
 - Administrative



Who is Responsible for Reporting Fraud?

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

Why Report Fraud?



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



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.”



Criminal Liability

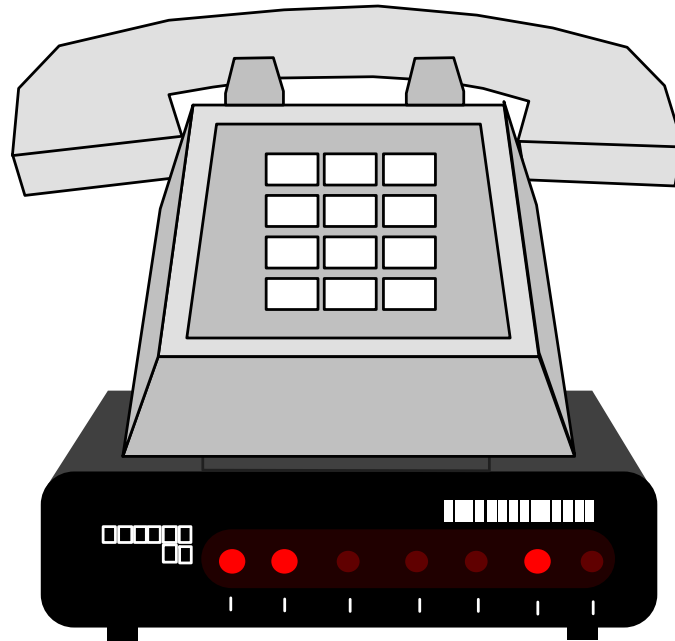
✓ 18 U.S.C. § 2, Aiding and Abetting

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

FAX 202-245-7047



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- Reports & Resources
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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.

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 integrity and continuing improvement in program delivery and program effectiveness

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!

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...

ED.gov Recovery

NoChild LeftBehind

Related Topics:

- MISUSED
- FOIA
- OIG Fraud Hotline

File Edit View Favorites Tools Help

ED/OIG Hotline Complaint Form

Home RSS Print Page Tools

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 |
| <input type="radio"/> Lender | <input type="radio"/> ED Management/SFS |

Contact Us Directly

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QUESTIONS FOR US?



THANKS FOR HAVING US!

