Potential Threats Facing Institutions of Higher Education

Presentation to
COHEAO Fall Workshop

Office of Inspector General
Investigation Services
U.S. Department of Education

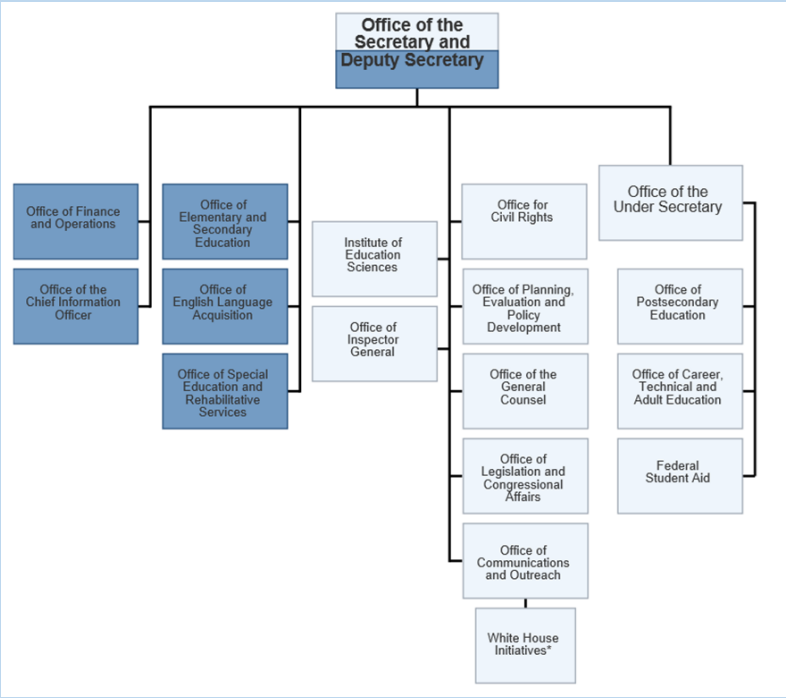
Agenda

- OIG Background and Mission
- HEERF
- Why Institutions are Targets
- External Fraud
- Internal Fraud
- Pathways to Success
- How to Report Fraud
- Questions

OIG Background and Mission

- ". . . promote economy, efficiency and effectiveness . . . [and] prevent and detect fraud and abuse . . ." in Department of Education programs and operations.
- The Office of Inspector General (OIG) is an independent component of the Department. We examine allegations of fraud, waste, and abuse, and pursue those who seek to enrich themselves by abusing Department programs at the expense of our nation's taxpayers.

Inspector General Act of 1978

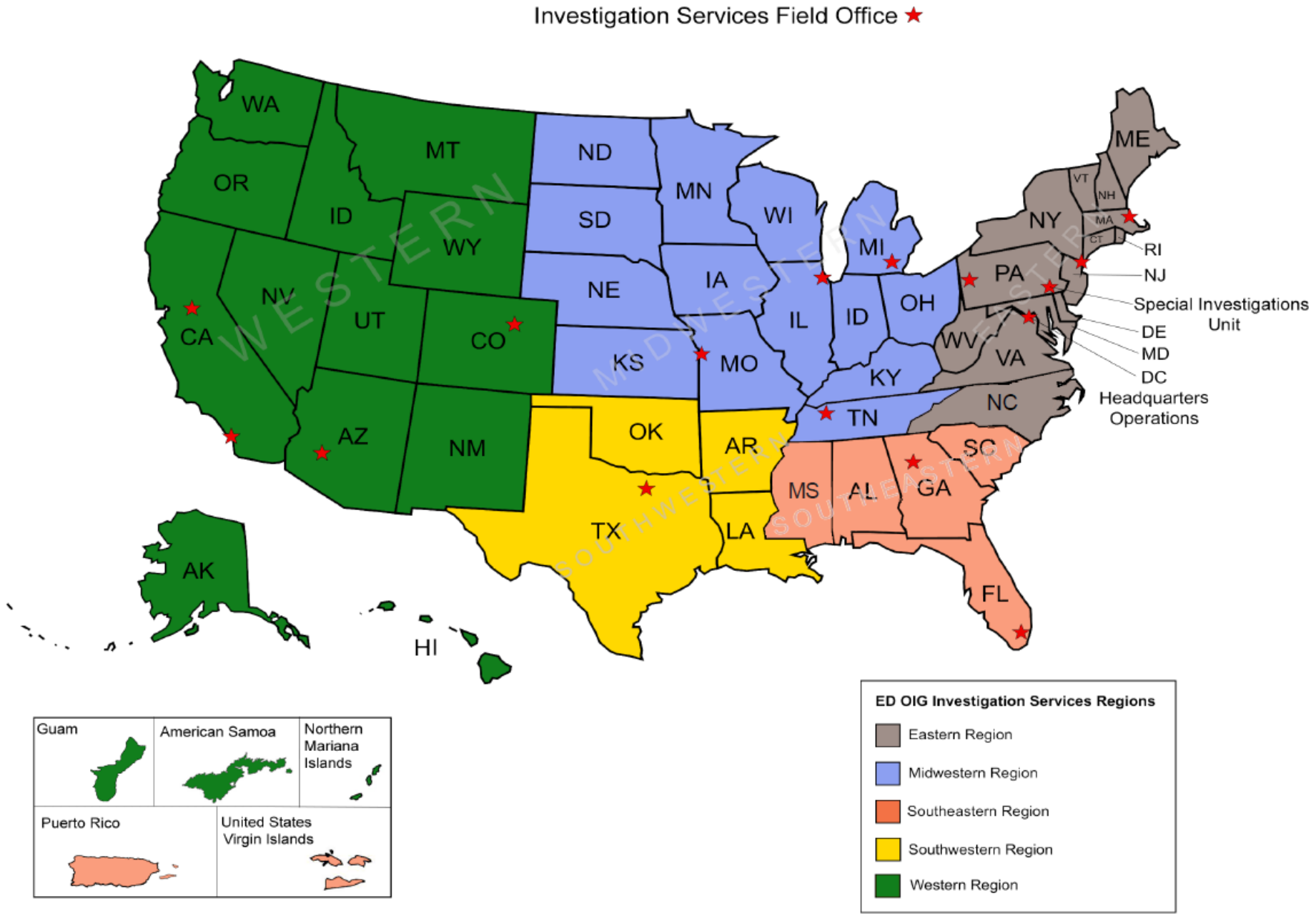


OIG Operational Components

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

Investigation Services

- Comprised of Federal law enforcement officers with extensive training in criminal and civil law
- Conduct criminal, civil, and administrative investigations—such as Federal student aid fraud, diploma mill schemes, fraud and corruption in after-school programs, and grant and contract fraud
- Coordinate with other Federal, State, and local law enforcement agencies and Federal prosecutors at the U.S. Department of Justice
- Operate the OIG Hotline
- Work with the Department to develop appropriate enforcement actions and recommend fixes on programs vulnerable to fraud


Investigation Services Field Office ★
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WESTERN
MIDWESTERN
SOUTHWESTERN
SOUTHEASTERN
Guam
American Samoa
Northern Mariana Islands
Puerto Rico
United States Virgin Islands
ED OIG Investigation Services Regions
Eastern Region
Midwestern Region
Southeastern Region
Southwestern Region
Western Region

Special Investigations Unit

The Special Investigations Unit leads IS's efforts to uncover and investigate the misuse, theft, and other criminal interference with the intended administration of coronavirus response funds and disaster funding associated with the Bipartisan Budget Act of 2018 and the Disaster Relief Act of 2019.

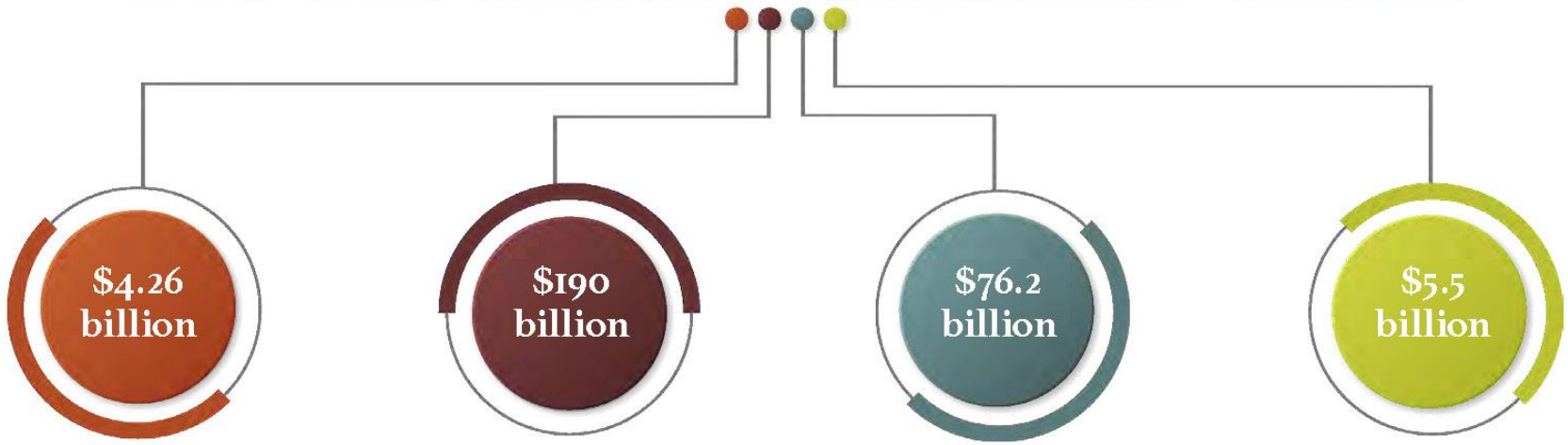
Higher Education Emergency Relief Fund (HEERF)

Coronavirus Funding Overview HEERF

- **$13.9 billion** awarded to Institutions of Higher Education (IHEs) by the Office of Postsecondary Education (OPE)-**CARES Act**
  - HEERF Section 18004 (a) (1) consists of:
    - Student Aid portion (CFDA 84.425E)
    - Institutional portion (CFDA 84.425F)
- **$22.7 billion** provided for HEERF on December 27,2020-**CRRSA**
- **$39.6 billion** provided for HEERF on March 11,2021-**American Rescue Plan**

Coronavirus Response Funding 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

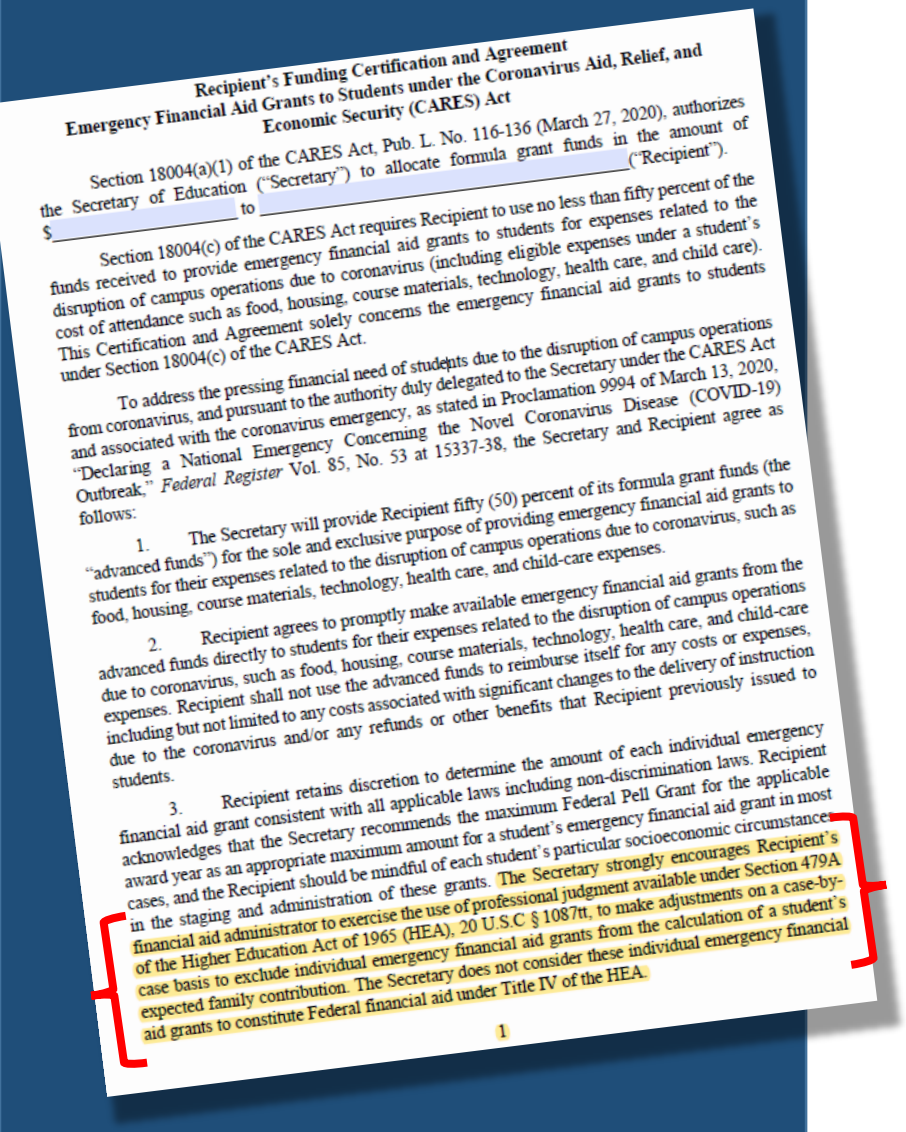
Awarded To: IHEs

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.



Recipient's Funding Certification and Agreement
Emergency Financial Aid Grants to Students under the Coronavirus Aid, Relief, and Economic Security (CARES) Act

Section 18004(a)(1) of the CARES Act, Pub. L. No. 116-136 (March 27, 2020), authorizes the Secretary of Education ("Secretary") to allocate formula grant funds in the amount of $_____ to _____ ("Recipient").

Section 18004(c) of the CARES Act requires Recipient to use no less than fifty percent of the funds received to provide emergency financial aid grants to students for expenses related to the disruption of campus operations due to coronavirus (including eligible expenses under a student's cost of attendance such as food, housing, course materials, technology, health care, and child care). This Certification and Agreement solely concerns the emergency financial aid grants to students under Section 18004(c) of the CARES Act.

To address the pressing financial need of students due to the disruption of campus operations from coronavirus, and pursuant to the authority duly delegated to the Secretary under the CARES Act and associated with the coronavirus emergency, as stated in Proclamation 9994 of March 13, 2020, "Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak," *Federal Register* Vol. 85, No. 53 at 15337-38, the Secretary and Recipient agree as follows:

1. The Secretary will provide Recipient fifty (50) percent of its formula grant funds (the "advanced funds") for the sole and exclusive purpose of providing emergency financial aid grants to students for their expenses related to the disruption of campus operations due to coronavirus, such as food, housing, course materials, technology, health care, and child-care expenses.

2. Recipient agrees to promptly make available emergency financial aid grants from the advanced funds directly to students for their expenses related to the disruption of campus operations due to coronavirus, such as food, housing, course materials, technology, health care, and child-care expenses. Recipient shall not use the advanced funds to reimburse itself for any costs or expenses, including but not limited to any costs associated with significant changes to the delivery of instruction due to the coronavirus and/or any refunds or other benefits that Recipient previously issued to students.

3. Recipient retains discretion to determine the amount of each individual emergency financial aid grant consistent with all applicable laws including non-discrimination laws. Recipient acknowledges that the Secretary recommends the maximum Federal Pell Grant for the applicable award year as an appropriate maximum amount for a student's emergency financial aid grant in most cases, and the Recipient should be mindful of each student's particular socioeconomic circumstances in the staging and administration of these grants. The Secretary strongly encourages Recipient's financial aid administrator to exercise the use of professional judgment available under Section 479A of the Higher Education Act of 1965 (HEA), 20 U.S.C § 1087tt, to make adjustments on a case-by-case basis to exclude individual emergency financial aid grants from the calculation of a student's expected family contribution. The Secretary does not consider these individual emergency financial aid grants to constitute Federal financial aid under Title IV of the HEA.

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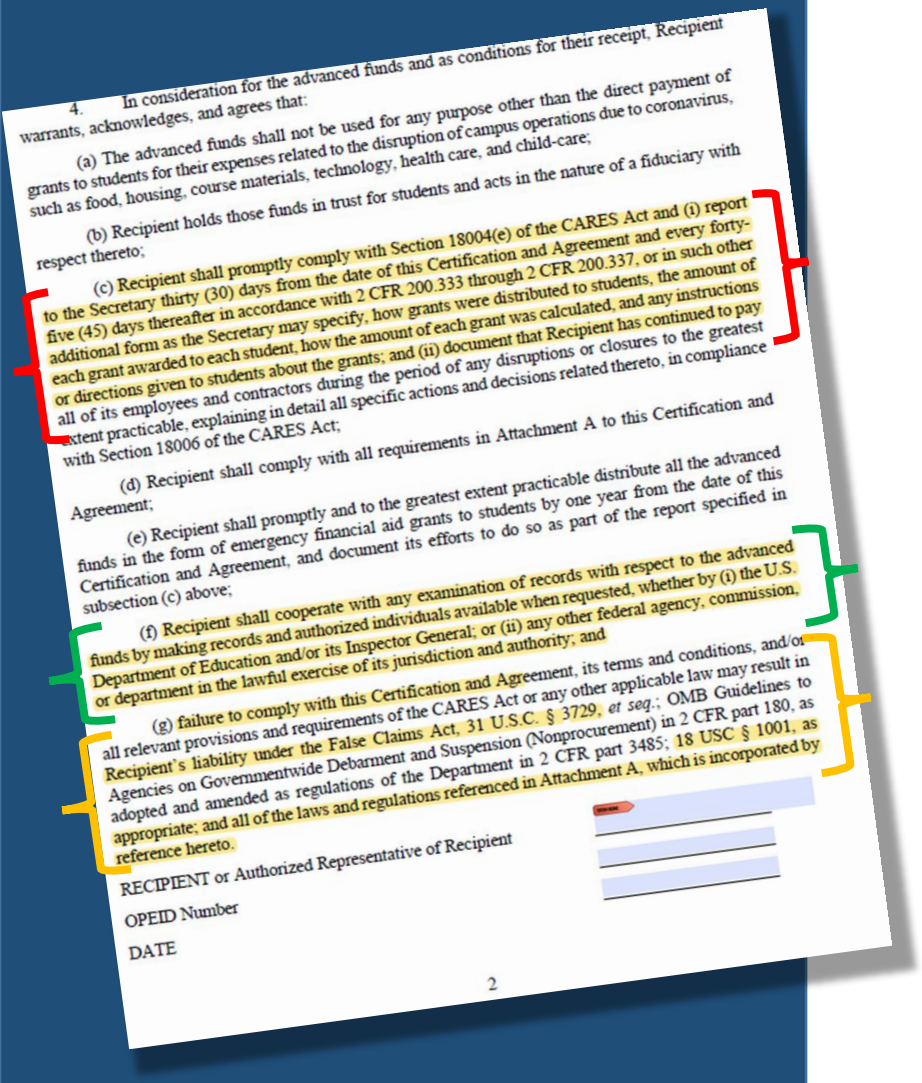
The Secretary strongly encourages Recipient's financial aid administrator to exercise the use of professional judgement available under Section 479A of the Higher Education Act of 1965 (HEA), 20 U.S.C. §1087tt, to make adjustments on a case-by-case basis to exclude individual emergency financial aid grants from the calculations of a student's expected family contribution. The Secretary does not consider these individual emergency financial aid grants to constitute Federal financial aid under Title IV of the HEA.



4. In consideration for the advanced funds and as conditions for their receipt, Recipient warrants, acknowledges, and agrees that:

(a) The advanced funds shall not be used for any purpose other than the direct payment of grants to students for their expenses related to the disruption of campus operations due to coronavirus, such as food, housing, course materials, technology, health care, and child-care;

(b) Recipient holds those funds in trust for students and acts in the nature of a fiduciary with respect thereto;

(c) Recipient shall promptly comply with Section 18004(e) of the CARES Act and (i) report to the Secretary thirty (30) days from the date of this Certification and Agreement and every forty-five (45) days thereafter in accordance with 2 CFR 200.333 through 2 CFR 200.337, or in such other additional form as the Secretary may specify, how grants were distributed to students, the amount of each grant awarded to each student, how the amount of each grant was calculated, and any instructions or directions given to students about the grants; and (ii) document that Recipient has continued to pay all of its employees and contractors during the period of any disruptions or closures to the greatest extent practicable, explaining in detail all specific actions and decisions related thereto, in compliance with Section 18006 of the CARES Act;

(d) Recipient shall comply with all requirements in Attachment A to this Certification and Agreement;

(e) Recipient shall promptly and to the greatest extent practicable distribute all the advanced funds in the form of emergency financial aid grants to students by one year from the date of this Certification and Agreement, and document its efforts to do so as part of the report specified in subsection (c) above;

(f) Recipient shall cooperate with any examination of records with respect to the advanced funds by making records and authorized individuals available when requested, whether by (i) the U.S. Department of Education and/or its Inspector General; or (ii) any other federal agency, commission, or department in the lawful exercise of its jurisdiction and authority; and

(g) failure to comply with this Certification and Agreement, its terms and conditions, and/or all relevant provisions and requirements of the CARES Act or any other applicable law may result in Recipient's liability under the False Claims Act, 31 U.S.C. § 3729, *et seq.*; OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; 18 USC § 1001, as appropriate; and all of the laws and regulations referenced in Attachment A, which is incorporated by reference hereto.

RECIPIENT or Authorized Representative of Recipient

OPEID Number

DATE

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(c) Recipient shall promptly comply with Section 18004(e) of the CARES Act and (i) report to the Secretary thirty (30) days from the date of this Certification and Agreement and every forty-five (45) days thereafter in accordance with 2 CFR 200.333 through 2 CFR 200.337 …

(f) Recipient shall cooperate with any examination of records with respect to the advanced funds by making records and authorized individuals available when requested …

(g) Failure to comply … Recipient's liability under the False Claims Act … 18 USC § 1001, as appropriate; and all of the laws and regulations referenced …

Higher Education Emergency Relief Fund

Additional funding under the Supplemental and ARP

Changes in allocation formula to include 100% online students and institutions

Uses of funds – more flexibility (student portion and institutional portions) for some

Student eligibility

Supplemental – student portion must be the same as allotted under CARES

ARP – student portion must be at least 50%

Reporting

HEERF Resources

- March 2021 Guidance on calculating lost revenue
  - https://www2.ed.gov/about/offices/list/ope/g5updateletter31921.pdf
- Notice on new guidance on allowable expenses
  - https://www.federalregister.gov/documents/2021/03/22/2021-05849/notice-of-interpretation-regarding-period-of-allowable-expenses-for-funds-administered-under-the
- HEERF FAQs on Lost Revenue
  - https://www2.ed.gov/about/offices/list/ope/heerflostrevenuefaqs.pdf
- HEERF Grant Auditing Requirements
  - https://www2.ed.gov/about/offices/list/ope/heerfauditletter.pdf
- HEERF FAQs for Public and Non-Profit IHEs
  - https://www2.ed.gov/about/offices/list/ope/updatedfaqsfora1crrssaheerfii.pdf
- HEERF FAQs on Public and Non-Profit IHEs
  - https://www2.ed.gov/about/offices/list/ope/heerfiia2faqsv2.pdf
- HEERF FAQs on Proprietary Grants to Students
  - https://www2.ed.gov/about/offices/list/ope/updatedheerfiia4crrsaafaqs.pdf
- ARP HEERF III Guidance
  - https://www2.ed.gov/about/offices/list/ope/arp.html

HEERF Additional Resources

- ARP HEERF Allocations by State
  - https://www2.ed.gov/about/offices/list/ope/arpstatetotals.pdf
- HEERF III FAQ's
  - https://www2.ed.gov/about/offices/list/ope/arpfaq.pdf
- OPE Briefing on HEERF III-May 2021
  - https://www2.ed.gov/about/offices/list/ope/opebriefingheerfarpinstitution.pdf

OIG and FSA Coordination

- OIG assists the Department in promoting the integrity of the Title IV programs
- Issues Management Information Reports to alert the Department about serious fraud and corruption trends
- Reviews and comments on all regulations with suggestions on areas for improvement
- Regularly exchanges information with FSA to identify current issues in compliance and abuse, and coordinates oversight and investigatory activities, when appropriate

Differences Between OIG and FSA Program Compliance

OIG INVESTIGATION SERVICES

- Investigates any fraud impacting Department programs or operations
- Works with federal and state prosecutors to take criminal and civil actions
- Criminal investigators have statutory law enforcement authority to carry firearms and execute search and arrest warrants
- Operates independently of the Department in exercising its investigative authority

FSA PROGRAM COMPLIANCE

- Conducts compliance reviews, administrative investigations of violations of HEA
- Takes administrative actions authorized by the HEA and program regulations
- Has program operating responsibilities
- Is required to send allegations of fraud to OIG

Why Institutions are Targets of Fraud

What is Fraud?

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

-or-

Lying and cheating.

Why Are You a Target For Fraud?

BECAUSE YOU HAVE WHAT CRIMINALS WANT!

- **$$$ MONEY $$$** - You are a financial institution that handles millions of dollars every year.
- Your “customers” do not typically consider the fraud threat.
- You have network resources and sensitive student and financial data that are of interest to commercial entities, insiders, hackers, terrorists, etc.
- Your infrastructure may not be configured for fraud detection, prevention, and deterrence. ID Theft Resource Center reports that in 2019, there were **1,473 breaches** of over **164 million records**! Of these breaches, 118 were in the education sector.

Why Are You Important to OIG?

You play a critical role in helping us achieve our mission by serving as the OIG's "eyes and ears" to help us detect and prevent fraud.

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

Criminal Remedies Used by OIG

- 18 USC 201 – Bribery
- 18 USC 641 – Embezzlement
- 18 USC 666 – Theft
- 18 USC 1341 – Mail Fraud
- 18 USC 1343 – Wire Fraud
- 18 USC 1001 – False Statements
- 18 USC 371 – Conspiracy
- 20 USC 1097-Student Financial Aid Fraud (Title IV only)
- 18 USC 1516-Obstruction of a Federal Audit

Civil Remedies Used by OIG

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 required

Liable for Civil Penalties of between $10K and $20K per count **plus** 3 times the amount of actual damages

Potential HEERF/FSA Fraud Schemes

Types of fraud committed by students:

- Distance education fraud rings due to increased online education
- Identity theft
- Falsifying eligibility for emergency financial aid grants and/or federal student aid
- FAFSA fraud schemes
- Falsification of documents

Potential FSA/HEERF Fraud Schemes

Institutional / Employee Fraud

- Theft and embezzlement - increased purchasing of equipment for distance learning without proper internal controls; non-existent vendors
- Public corruption - public officials taking advantage of the COVID-19 crisis to engage in fraudulent or otherwise illegal schemes
- Procurement fraud – lack of internal controls creates opportunities for fraud;
- Ghost Students

External Fraud

HEERF Distance Education Fraud

- 2 college students stole the student identification numbers and passwords of 9 students to access the IHEs online student portal
- They applied for HEERF grants and directed the grants to specific bank accounts they controlled with other members of the conspiracy
- Charged with conspiracy to commit identity theft and identify theft

Euclid, OH Woman Enrolls Students Into Ohio Community Colleges to Defraud ED

- The subject conspired with others to defraud ED out of $1.8 million.
- She used the fraudulent students' name, date of birth and social security number to enroll them in community colleges. She then applied for financial aid on behalf of the students, many of which did not have a high school diploma or GED.
- The subject, her recruiters, and the fraudulent students split the proceeds of the financial aid.
- The subject charged $500 to make counterfeit GED certificates or high school transcripts.
- She pled guilty to numerous charges, including conspiracy, wire and mail fraud, and aggravated identity theft.
- She was sentenced to 114 months in prison and ordered to pay nearly $1.9 million in restitution.

Internal Fraud

Comptroller (Bossier Parish Community College)

- The former comptroller for a community college used an internal database to make entries falsely showing individuals were due refunds for a loss of $259,000
- The comptroller recruited her sister and 9 other individuals to receive refunds that were fraudulent since they were not attending the school.
- The comptroller and her sister received between one-half and two-thirds of the money.
- The comptroller and 3 other individuals were charged with conspiracy to commit wire fraud.
- 2 individuals have pled guilty to wire fraud.
- The comptroller was sentenced to 60 months in prison and her sister was sentenced to 48 months in prison.
- The investigation is ongoing.

Former Associate Registrar

- Former Associate Registrar (AR) at Delaware State University accepted over $70k in bribes from a co-conspirator in exchange for her agreement to change the registration status of hundreds of out-of-state students, thereby allowing the students to qualify for in-state tuition.
- The AR used forged residency documents prepared by her co-conspirator to enable these students to pay reduced tuition.
- The estimated cost to the university of reduced tuition payments exceeded $3 million.
- The AR pleaded guilty to a one count information of violating 18 U.S.C. 666 - Theft or Bribery Concerning Programs Receiving Federal Funds.
- On February 20, 2020, the AR was sentenced to fifteen months of confinement, three years of supervised release and ordered to pay $3,202,300 in restitution and a $100 special assessment.

Pathways to Success

Best Practices

- Conduct a fraud risk assessment and assess potential threats
- Create a plan to mitigate risks and to evaluate potential fraud
- Coordinate with IT departments to identify common addresses (including IP and email), common bank accounts, common passwords and challenge questions, and anomalous geographic locations
- Participate in information sharing with other schools
- Require two-factor authentication to improve security of student accounts
- Formalize a process for reporting potential fraud, waste, and abuse to OIG

Your Role in Preventing and Detecting Fraud

- Review documents thoroughly, question/verify authenticity, and request additional information
- Ensure that staff receive necessary training
- Stay current on alerts and communication from the Office of Postsecondary Education
- Stay current on types of fraud affecting IHEs by signing up for the OIG's free Notification Service, and follow us on Facebook (@EducationOIG) and Twitter (ED OIG)
- Cooperate with the OIG in connection with an audit or investigation. Don't "tip off" subjects of an actual or pending investigation and continue normal course of business unless otherwise directed
- Contact the OIG if you suspect fraud

To participate in any Title IV program:

- *Schools must develop and apply "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." 34 C.F.R. § 668.16(f).*
- *Schools and their third party servicers must refer to the OIG "**any credible information**" indicating that a student, school employee, school, third party servicer, or other agent of the school "**may have engaged**" in fraud, criminal or other illegal conduct, misrepresentation, conversion, or breach of fiduciary duty involving Title IV. 34 C.F.R. § § 668.16(g) and 668.25(c)(2).*

Why Report Fraud to the OIG?

- Meet statutory and regulatory requirements
- Comply with ethical responsibility
- Deter others from committing fraud and abuse
- Protect the integrity of the Title IV and HEERF Programs
- Avoid being part of a fraud scheme
- Avoid administrative, civil and criminal penalties

Fraud Obligations and Standards of Administrative Capability

Schools must develop and apply "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." 34 C.F.R. § 668.16(f).

Schools and their third party servicers must refer to the OIG "**any credible information**" indicating that a student, school employee, third party servicer, or other agent of the school "**may have engaged"** in fraud, criminal or other illegal conduct, misrepresentation, conversion, or breach of fiduciary duty involving Title IV. 34 C.F.R. § § 668.16(g) and 668.25(c)(2).

How to Report Fraud

ED OIG HOTLINE

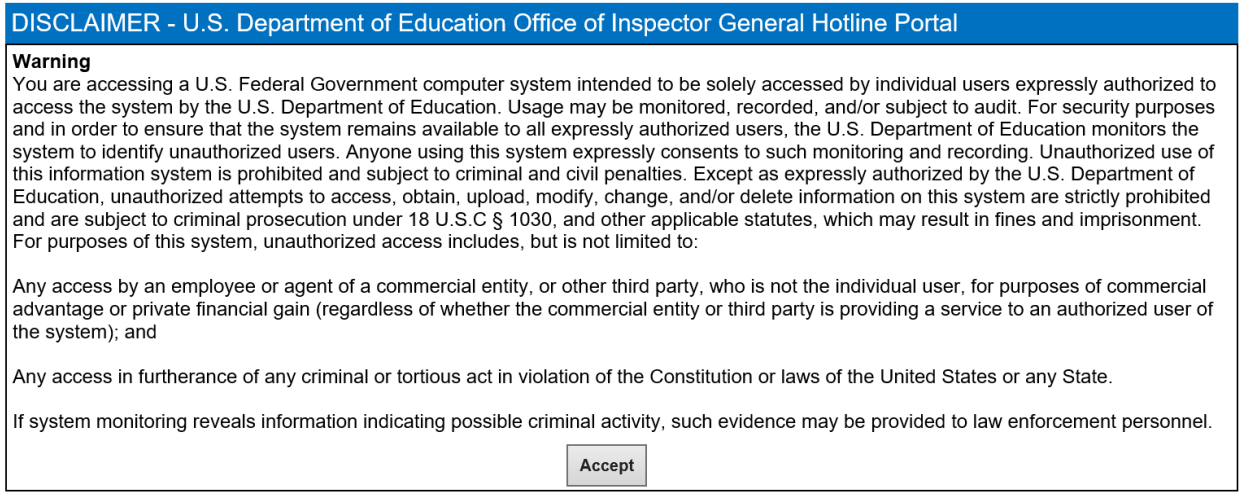
OIGhotline.ed.gov

or

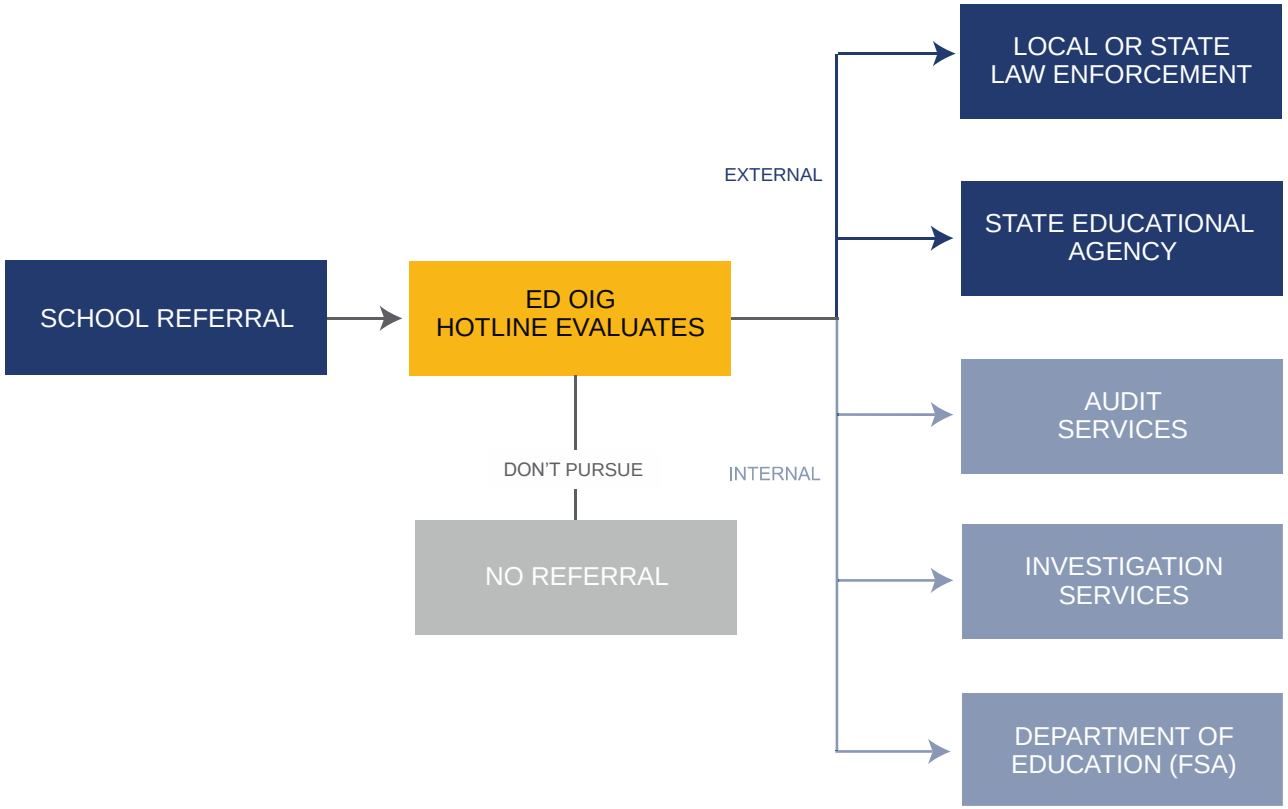
Contact an OIG regional office at www.ed.gov

Secure Electronic Reporting

OIGHOTLINE.ED.GOV



OIG Hotline Referrals and Resolution



Not all complaints filed with the OIG will generate an investigation, audit or inspection by the OIG. We may refer matters to another office within the Department or to an external entity, as appropriate. The OIG Hotline does not provide updates regarding the status of complaints.

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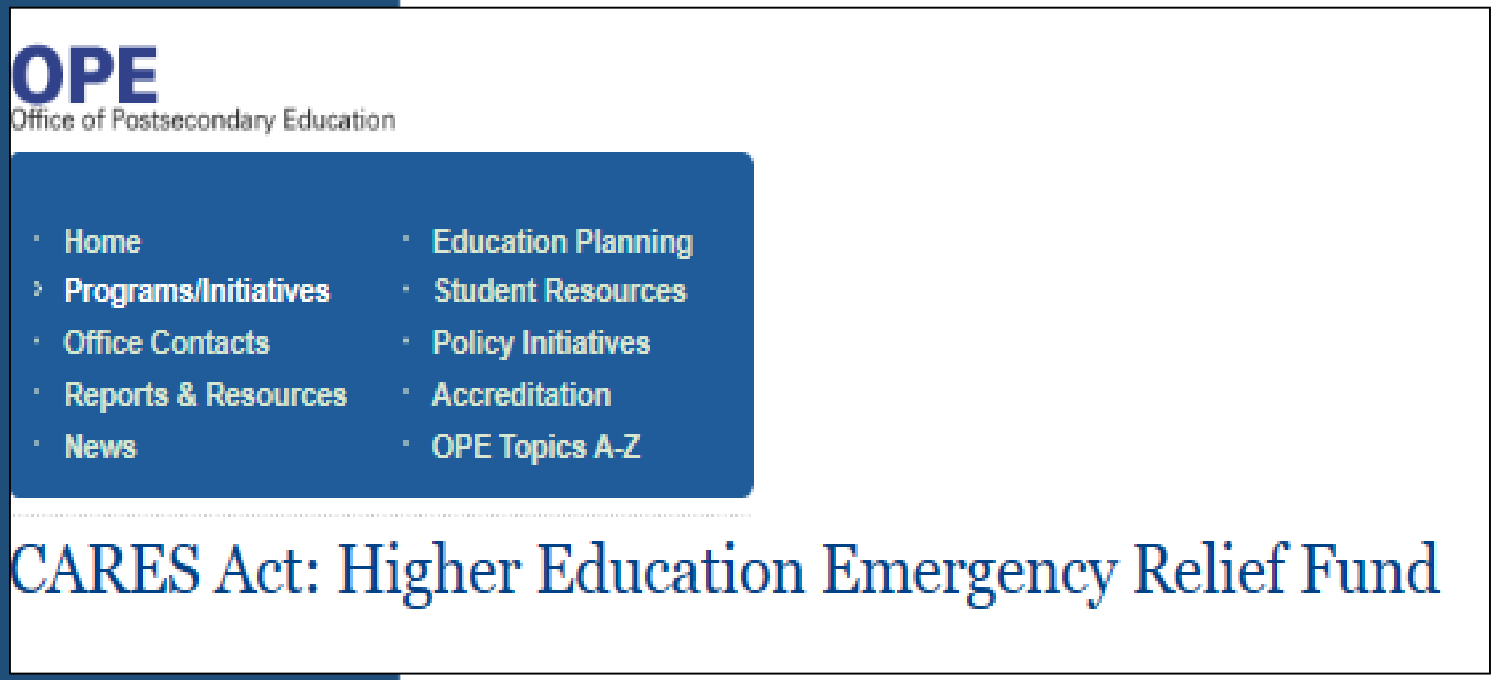


Contact Information

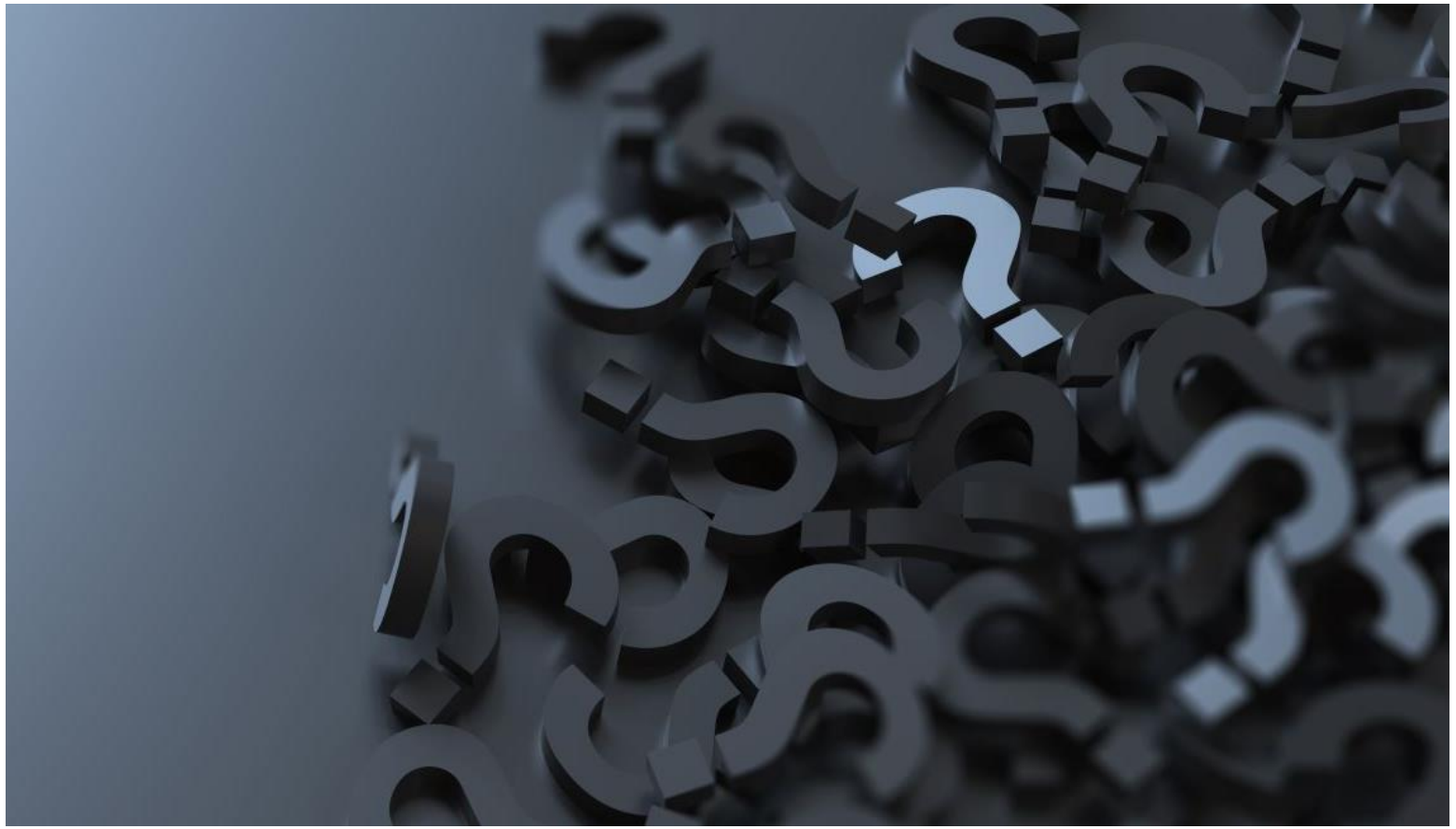
Have questions about HEERF grants? Email HEERF@ed.gov

Think an institution is misusing or abusing ED funds? Do not let CARES Act Funding for Schools and Students end up in the wrong hands. File a complaint online with our Inspector General (OIG) or call their Hotline.

- File a complaint online with the OIG Here
- Contact information for the OIG Hotline Here
- HEERF OIG Hotline Poster

Additional Resources

- **ED-OIG website for Coronavirus Information**
  - https://www2.ed.gov/about/offices/list/oig/disasterrecovery.html
- **ED-OIG website for recent reports**
  - https://www2.ed.gov/about/offices/list/oig/justissued.html?fbclid=IwAR03XlYxk9_xgCz-AEThSQTowYKUyebYNlq7LoHu7JaaG6H1BUsSK9UGN4k
- **OMB Uniform Guidance (2 CFR § 200) (Technical Assistance for ED Grantees):**
  - https://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html
- **OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control:**
  - https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2016/m-16-17.pdf
- **GAO Standards for Internal Control in the Federal Government:**
- https://www.gao.gov/assets/670/665712.pdf
- **GAO Framework for Managing Fraud Risks in Federal Programs:**
- https://www.gao.gov/assets/680/671664.pdf
- **AGA Intergovernmental Partnership (including CAROI 2010 Guide and 2016 Playbook):**
- https://www.agacgfm.org/Tools-Resources/intergov.aspx



Questions?

Special Investigations Unit

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