



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL
INVESTIGATION SERVICES

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Memorandum

TO: James Runcie
Chief Operating Officer
Federal Student Aid

Eduardo Ochoa
Assistant Secretary
Office of Postsecondary Education

FROM: William D. Hamel /s/
Assistant Inspector General
for Investigations
Office of Inspector General

SUBJECT: Investigative Program Advisory Report
Distance Education Fraud Rings
Control No. ED-OIG/L42L0001

The Office of Inspector General (OIG) has conducted numerous investigations of fraud involving distance education programs over the past six years. The OIG's inventory of these investigations has risen dramatically. The results of these investigations have identified a serious vulnerability in distance education programs. Attached is an Investigative Program Advisory Report (IPAR) to alert Federal Student Aid (FSA) and the Office of Postsecondary Education (OPE) about our findings from these investigations, and to make recommendations which, if implemented, would mitigate future additional risks of fraud in Title IV programs. We received your response to our draft and it is attached to this IPAR.

Corrective actions proposed (resolution phase) and implemented (closure phase) by your offices will be monitored and tracked in the Audit Accountability and Resolution Tracking System. Department policy requires that you develop a final corrective action plan for our review in the automated system within 45 days of the issuance of this report. The corrective action plan should set forth the specific action items and targeted completion date necessary to implement final corrective actions on the findings and recommendations contained in this IPAR.

If you have any questions concerning this IPAR please contact me or Howard Sorensen, Assistant Counsel to the Inspector General at (202) 245-6900.

Attachment

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Investigative Program Advisory Report

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Control Number: L42L0001

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Investigative Program Advisory Report

Distance Education Fraud Rings

I. EXECUTIVE SUMMARY

The purpose of this report is to alert Federal Student Aid (FSA) and the Office of Postsecondary Education (OPE) to a serious fraud vulnerability in distance education programs and to make recommendations which, if implemented, would mitigate future additional risks of fraud in Title IV programs. The Office of Inspector General (OIG) has identified an increasing number of cases involving large, loosely affiliated groups of individuals ("fraud rings") who conspire to defraud Title IV programs through distance education programs.

To be eligible to receive assistance under the Title IV programs of the Higher Education Act of 1965, as amended (HEA), generally, a person must be a regular student enrolled or accepted for enrollment in an eligible program at an eligible institution. 34 C.F.R. § 668.32(a)(1)(i).¹ A regular student is someone who is enrolled or accepted for enrollment at an institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution. 34 C.F.R. § 600.2. To qualify to receive Title IV funds, a student must have obtained a high school diploma or its recognized equivalent (e.g., General Educational Development (GED) certificate). 34 C.F.R. § 668.32(e)(1).

Nearly all the individuals we identified as participants in fraud rings failed to meet the basic eligibility requirement of enrollment for the purpose of obtaining a degree, certificate, or other recognized credential. Many also did not have a high school diploma or its recognized equivalent. Lastly, some fraud rings have enrolled incarcerated inmates who are ineligible to receive Title IV funds under 34 C.F.R. § 668.32(c).

This report focuses on fraud involving persons who enroll in distance education programs in which instruction is delivered solely through the Internet. Over the past six years, OIG has responded to a dramatic increase in fraud in these programs. Education programs that are delivered solely through the Internet present unique opportunities for fraud and challenges for oversight, because Title IV programs were designed primarily to deliver aid to students who are physically present in traditional classrooms, rather than alternative on-line environments. All aspects of the application for admission and student financial aid and the delivery of instruction take place through the Internet, and students are not required to present themselves in person at any point. Because institutions offering distance education -- like all Title IV institutions -- are not required to verify prospective and enrolled students' identities, ringleaders can easily use others' identities (with or without their consent) to obtain Title IV funds. The Department's Title IV regulations and application systems also do not require the verification of identity and can be exploited to cause improper delivery of Title IV funds. In this report we make recommendations

¹ Unless otherwise noted, all references to statutes and regulations are to the most recent 2010 versions.

to reduce the program vulnerabilities identified by our investigations of fraud rings and distance education programs.

This report was prepared in accordance with the Council of Inspectors General for Integrity and Efficiency's *Quality Standards for Investigations* and its *Quality Standards for Offices of Inspectors General*.

I. DISTANCE EDUCATION AND TITLE IV

Background

Congress authorized the Distance Education Demonstration Programs (DEDPs) in the Higher Education Amendments of 1998 (Pub. L. No. 105-244) to help determine the specific statutory and regulatory requirements that should be altered to provide greater access to distance education and the appropriate level of Title IV assistance for students enrolled in distance education programs. 20 U.S.C. § 1093(a)(1999). The amendments authorized the Secretary to grant waivers of statutory and regulatory provisions governing the Title IV programs to participating institutions to enable them to provide Title IV funds to distance education students more efficiently and, in some instances, to expand their distance education programs beyond otherwise applicable statutory limits. This included granting waivers of the so-called "50 percent rule."

The 50 percent rule provided that (1) institutions that offered more than 50 percent of their courses via correspondence were not eligible to participate in the Title IV programs; (2) institutions were not eligible to participate in the Title IV programs if 50 percent or more of their regular students were enrolled in correspondence courses; and (3) a student enrolled in correspondence courses was eligible to receive Title IV funds only if the correspondence courses were part of a program that led to an associate, bachelor's, or graduate degree.² 20 U.S.C. § 1002(a)(3)(A) & (B)(1999); 34 C.F.R. §§ 600.7(a)(1)(i)-(ii), 668.32(a). Under certain conditions, "telecommunications courses" were considered to be correspondence courses and were also subject to the 50 percent rule. 20 U.S.C. § 1091(l)(1)(1999); 34 C.F.R. §§ 600.2, 600.7(b)(1999).

The Department made three reports to Congress regarding DEDPs' results, in January 2001, July 2003, and April 2005, and each identified problems associated with distance education programs. The reports reflected the Department's position that there were new risks associated with the growth of distance education that had to be anticipated and managed to protect the integrity of the Title IV programs. The reports also emphasized the need to expand the opportunities for

² "Correspondence course" was then defined as (1) a home study course provided by an institution under which the institution provided instructional materials, including examinations on the materials, to students who were not physically attending classes at the institution. When students completed a portion of the instructional materials, the students took the examinations that related to that portion of the materials and returned the examinations to the institution for grading; (2) a home study course that provided instruction in whole or in part through the use of video cassettes or video discs in an award year unless the institution also delivered the instruction on the cassette or disc to students physically attending classes at the institution during the same award year; (3) a course at an institution if the sum of telecommunications and other correspondence courses offered by that institution equaled or exceeded 50 percent of the total courses offered at that institution; (4) a course that was part correspondence and part residential training. 34 C.F.R. § 600.2 (1999). Under HERA, this definition changed.

distance education to address the growing demands of an increasingly non-traditional student population and called for eliminating the 50 percent rule for distance education.

The Higher Education Reconciliation Act of 2005 (HERA)(Pub. L. No. 109-171) modified the 50 percent rule. 20 U.S.C. §§ 1002(a)(3), 1091(1) (2006). Students enrolled in a course of instruction that was offered through telecommunications and that led to a recognized certificate, associate, bachelor's, or graduate degree were no longer considered to be enrolled in correspondence courses. Id. § 1091(1) (2006). Thus, otherwise eligible institutions that offered over 50 percent of their courses by telecommunications, or had 50 percent or more of their regular students enrolled in telecommunications courses, became eligible to participate in the Title IV programs.

HERA also allowed students enrolled in certificate and degree programs offered wholly or in part by telecommunications to be eligible to receive Title IV funds. Id. However, the 50 percent rule continued to apply to correspondence courses and students.

II. PROGRAM DEFICIENCIES

Distance Education Growth and Increased Risk

The introduction of the Internet to higher education and statutory changes that removed the restrictions on the eligibility of distance education programs have led to an increase in the number of education programs offered solely on-line and the number of students receiving Title IV funds to pursue such programs. While the Department does not maintain data to identify which students receive Title IV funds to attend distance education programs, data from the National Postsecondary Student Aid Study conducted by the Department's National Center for Education Statistics show that the volume of students who took distance education courses increased from 8.2 percent in 1999-2000 to 20.4 percent in 2007-2008. For academic year 2006-2007, distance education programs were offered by 97 percent of public two-year institutions and 89 percent of public four-year institutions of higher education.

While the Internet offers an easy method for delivering education programs to geographically dispersed students, it also provides users anonymity. In traditional educational settings, most students pursuing educational programs present themselves in person at sometime during the enrollment and registration process. In contrast, distance education students may enroll in and pursue their educational programs online without having any in-person interaction with the institution.

Fraud rings have taken advantage of the expansion of distance education to commit significant fraud against Title IV programs and the higher education community. In 2005, OIG had opened 16 distance education fraud ring investigations. As of August 1, 2011, OIG had opened 100 investigations. Fraud ring investigations currently constitute about 17 percent of all open OIG investigations. We expect complaints about distance education fraud rings from institutions and other sources to increase. As of August 1, 2011, we have been evaluating 49 additional complaints for investigative merit, including one referral that one large for-profit institution believes represents over 600 different potential fraud rings involving over 10,000 participants.

Because of the sheer volume of referrals, finite resources, and other external limitations, we cannot investigate all of the referrals we receive concerning distance education fraud rings.

Distance Education Fraud Rings

What They Are and How They Work

Fraud rings generally are comprised of one or more ringleaders who facilitate enrolling “straw students” in distance education programs in exchange for receiving a portion of the Title IV funds that the institution disburses to the straw students. Straw students willingly provide their identities to fraudulently obtain Title IV funds and enroll in on-line programs at eligible institutions. Some of the larger cases OIG has investigated involve recruiters who bring in additional straw students and a portion of the Title IV funds goes to both the recruiter and the ringleader for their personal use.

Because Title IV applicants and enrollees are not required to have their identities confirmed, and because institutions do not always otherwise verify students’ identities for their own purposes, ringleaders with access to a computer and the Internet can apply for Title IV funds at institutions around the country using the identities of multiple straw students. Fraud ring participants exploit the Department’s Title IV application systems, which are designed to encourage electronic access to Title IV assistance. The Department provides personal identification numbers (PINs) used to sign the Federal Application for Financial Student Assistance (FAFSA) and student loan promissory notes, as well as to access accounts online, in response to any online submission of a valid name, date of birth, and Social Security number (SSN).³ The Department delivers PINs electronically to any specified email address (previously the Department required PINs to be mailed to a permanent address on record, a security precaution frequently utilized for bank ATM cards). Because valid SSNs are used, and the straw students are not currently in default, the applications from the fraud rings satisfy edits and matches in the Department’s Central Processing System (CPS), resulting in issuance of Institutional Student Information Records (ISIRs). The ISIRS are utilized by institutions to award Title IV funds.

Participants in the fraud rings obtain Title IV funds when institutions return credit balances to the straw students. When an institution draws down Title IV funds, it applies these funds to a student’s account to cover the student’s allowable costs such as tuition and fees and other educationally related charges incurred by the student at the institution. 34 C.F.R. § 668.164(d). If the total amount of all Title IV funds credited to the student’s account exceeds the total amount of authorized charges, then the institution must pay the resulting credit balance (sometimes referred to by institutions as a “refund”) to the student or parent, if applicable, within a specified time period. 34 C.F.R. §§ 668.164(d)-(e).

When completing the FAFSA, all students must certify they will use Federal student financial aid to pay only the cost of attending an institution of higher education. Students are to use credit

³ The Department maintains computer matching agreements with nine other departments/agencies to verify various aspects of eligibility, such as ensuring that the reported SSN agrees with the name and date of birth and that applicants do not have disqualifying drug-related convictions.

balances to pay for expenses related to their education (e.g., books, room and board, and commuting expenses) outside of tuition and fees and any other allowable charges the institution applies to their account. Our investigations have demonstrated that fraud ring participants have obtained and used their credit balance payments for other than allowable charges.

Our investigations have also found that straw students drop or withdraw from programs after they receive their credit balance payments and then kick back a portion of the funds to the ringleader and, if applicable, a recruiter. In many cases, ringleaders will keep straw students enrolled up to 30 days in order to obtain Title IV loan funds.⁴

Fraud rings primarily target community colleges and other open enrollment institutions that have on-line programs with lower tuition, because Title IV awards are sufficient to satisfy institutional charges (such as tuition) and thus result in disbursement of the balance of an award to the student for other educational expenses.⁵ Fraud rings also target these institutions because the application and enrollment processes there are relatively simple. They do not require submission of academic credentials, such as admissions test scores, academic transcripts, or faculty recommendations (which also serve to corroborate identity) and do not require a person to appear in-person at any point in the process.

Exploiting these weaknesses, fraud ring leaders and their lieutenants are able to control enrollment and disbursement of aid for multiple individuals. Some participants have each caused the delivery of aid for up to 100 individuals.

Findings from Investigations of Distance Education Fraud Rings

OIG has had success in its distance education fraud ring investigations. Since 2005, 215 distance education fraud ring participants from 42 different fraud rings have been criminally convicted as a result of our investigations, and \$7,521,840 in restitution and fines have been ordered.⁶ However, these numbers do not reflect the full scale of these fraud rings because in many cases, only the ringleaders, and not all participants, have been prosecuted. Some of the fraud rings we are currently investigating involve over 400 participants. From past experience, we know that only a small fraction of participants will be prosecuted and only a fraction of Title IV losses will be recovered. Considered individually, most fraud ring participants have not fraudulently obtained the amount of funds necessary to meet the financial thresholds for prosecution employed by prosecutors. And, as previously stated, because some of the known fraud rings involve hundreds of participants, it is unlikely that OIG or the Department of Justice will have the resources to investigate and prosecute them all. However, administrative remedies to demand repayment of ineligible assistance could be utilized.

Our investigations have determined that most fraud ring participants do not meet the basic student eligibility requirements to obtain Title IV funds. Most participants have no intention of

⁴ 34 C.F.R. § 668.164(f)(3) prohibits institutions from disbursing loan funds to first-year first-time student borrowers until 30 days after the first day of the student's program of study.

⁵ Open enrollment institutions are schools that enroll students without regard to prior academic achievement.

⁶ These statistics are as of August 1, 2011.

enrolling to obtain a degree, certificate, or other credential. For example, in one ongoing investigation of a very large fraud ring, we interviewed and obtained affidavits from 45 participants, all of whom admitted they did not intend to earn a degree, certificate, or other credential. Some of these individuals are illiterate and were unable to write a statement or read a summary of their verbal statement to our investigators.

Many of the fraud ring participants also do not have a high school diploma or its equivalent.⁷ Ringleaders are able to apply for and enroll these participants by falsely indicating on the FAFSA that participants satisfy this eligibility requirement. Because applicants generally are not required to present proof of their high school diplomas or GEDs to a school either before they are admitted or upon enrollment, ring leaders can apply for and enroll straw students without fear that they or the students they enroll will be detected. Additionally, participants are able to evade detection because they have bona fide identity credentials, are not in default on prior student aid, and are therefore able to pass all of the Department's automated eligibility checks with the Social Security Administration, other government databases, and the Department's internal systems.

Two recent investigations illustrate some of the issues associated with distance education fraud rings. One involved a distance education fraud ring that targeted Rio Salado College in Arizona in which 64 individuals were indicted, convicted, and sentenced for their roles in a \$538,000 Title IV fraud scheme. The investigation determined that the ringleader recruited individuals to act as straw students at the institution in order to apply for and receive Title IV funds, and completed and submitted admission, financial aid, and supporting documentation containing forged documents and false statements on behalf of the straw students.

Consistent with other distance education fraud ring investigations, we found that many of the straw students did not meet the basic eligibility requirement of possessing a valid high school diploma or its equivalent, but the ringleader falsely indicated on the FAFSA that they did. The ringleader also used the Internet to access enrolled straw students' on-line classes in order to meet the institution's attendance requirement for first-time student borrowers, resulting in Title IV funds being disbursed to the straw students. A substantial portion of these payments were kicked back to the ringleader, who was subsequently sentenced to 41 months in prison and ordered to pay more than \$581,000 in restitution, which included student loan interest accrued.

This case was different from others OIG has investigated in that all the fraud ring participants were prosecuted. Prosecuting all the participants placed a significant burden on the criminal justice system. It is unlikely that such a robust effort to prosecute all participants in such a large investigation will be repeated in the future.

In another similar investigation involving a fraud ring that targeted the Los Rios Community College District in California, six individuals were indicted and pled guilty for their roles in a

⁷ A student who does not have a high school diploma or its equivalent can qualify to receive Title IV funds in one of several ways including demonstrating an ability to benefit from the program of instruction by passing a Department of Education-approved test, completing home schooling at the secondary level, or by satisfactorily completing six credits or the equivalent course work that are applicable toward a degree or certificate offered by the school. 20 U.S.C. § 1091(d). The fraud ring participants OIG investigated claimed to have established eligibility to receive Title IV based on having a high school diploma or GED.

\$200,000 fraud scheme where the ringleader and other recruiters completed all paperwork and enrollment procedures necessary for 62 straw students to obtain Title IV funds. This case involved recruiters that recruited individuals to act as straw students in order to for them to apply for and receive Title IV funds, and completed and submitted admission, financial aid, and supporting documentation containing forged documents and false statements on behalf of the straw students. Also consistent with Rio Salado and other distance education fraud ring investigations, many of the straw students did not meet the basic eligibility requirement of possessing a valid high school diploma or its equivalent.

Findings from Investigations Involving Inmates

OIG has also successfully investigated and had prosecuted fraud ring participants and identity thieves who utilized the identities of inmates incarcerated in prison to obtain Title IV funds. Incarcerated persons are not eligible to receive Title IV funds under 34 C.F.R. § 668.32(c).

With the assistance of persons who were not incarcerated and who used the Internet to apply to and enroll in distance education programs on the inmates' behalf, inmates fraudulently obtained Title IV funds through their co-conspirators. One investigation found that the co-conspirators received the credit balances from the institutions; they then converted those Title IV funds into money orders which were sent to the inmates in prison. In this case 15 inmates' identities were used to obtain over \$110,000 in Title IV funds.

The theft of inmates' identities to obtain Title IV is another scheme involving distance education programs we have investigated. In one investigation, the defendant utilized the identities of over 50 inmates, typically those serving long prison terms, and obtained over \$300,000 in Title IV funds. This investigation also determined that the defendant had obtained the identities of approximately 45 additional inmates and would have utilized these identities for additional Title IV applications had he not been apprehended.

OIG's Semiannual Reports to Congress contain other examples of distance education frauds nationwide that have been prosecuted. (<http://www2.ed.gov/about/offices/list/oig/sarpages.html>).

III. AREAS FOR IMPROVEMENT

Distance education fraud rings exploit weaknesses in the Title IV programs, rapid growth of distance learning programs, and the expanded pool of eligible institutions and Title IV recipients. Statutes, regulations, and policies need to be strengthened to improve the integrity of the Title IV programs that are delivered entirely through distance education. Existing controls in Title IV programs were designed primarily to deliver aid to students who are physically present in a traditional classroom, rather than an alternative on-line environment. They leave gaps in controls that have been identified by our investigations of distance education fraud. Some improvements have been made to address these weaknesses, but the changes have not been fully implemented.

Improving Program Weaknesses

The Department could take action to require schools to verify the identity and regular student status of those enrolled in solely distance education programs, and reduce the cost of attendance for Title IV awards to these students. The Department could also take action to ensure that ineligible incarcerated persons not obtain Title IV awards.

Verification of Student Identity

The HEA does not directly require the verification of student identity as part of the Title IV application or disbursement process. Section 495(1)(A) of the Higher Education Opportunity Act did amend the HEA to require accrediting agencies to ensure that institutions offering distance education programs have processes in place to establish that the student who registers for a distance education course or program is the same student who participates in, completes the program, and receives academic credit. While this requirement directed at securing academic integrity helps address the risks to the Title IV programs associated with distance education, it does not ensure this verification actually takes place as part of the student aid process or identify penalties for institutions that do not comply.

Pursuant to 34 C.F.R. Part 668, Subpart E, the Department may require an institution to verify data elements affecting financial eligibility, i.e., income, taxes paid, household size, family members also enrolled in higher education, and certain untaxed income. 34 C.F.R. § 668.56(a). Beginning with the 2012–2013 award year, the Department also has the ability to annually designate additional elements from the FAFSA data for verification and require selective verification to target particular issues of concern. 34 C.F.R. § 668.56 (75 F.R. 66956). This authority could be utilized to require verification of identity and regular student status as well.

Reducing Cost of Attendance

Since 2001, OIG has raised concerns about the cost-of-attendance calculation for distance education students because an allowance for room and board does not seem appropriate to these programs, which are largely designed for working adults. The HEA authorizes students enrolled in distance education to receive the full amount of Title IV assistance available to students attending any on-campus program. This is in contrast to the HEA requirement for students enrolled in correspondence courses, which limits cost of attendance to tuition and fees, and if required, books, supplies and travel. Limiting the allowances for room and board for distance education students would reduce the amount of Title IV funds obtained, decrease loan debt, and reduce the amount of refunds available to distance education fraud rings.

The HEA does authorize financial aid administrators to exercise professional judgment to reduce Title IV awards to distance education students based on a “substantially reduced cost of attendance.”⁸ This statutory provision could address distance education fraud rings trying to

⁸ 20 U.S.C. § 1091(1)(2) provides, “A student’s eligibility to receive grants, loans, or work assistance under this title shall be reduced if a financial aid officer determines under the discretionary authority provided in section 479A [20 U.S.C. § 1087tt] that distance education results in a substantially reduced cost of attendance to such student.”

maximize the credit balances they receive by reducing the amount of Title IV funds available to the students. However, our investigations have demonstrated that this statutory provision has not prevented or mitigated the growth of fraud rings. For example, one defendant in the Rio Salado College investigation incurred only \$600 in tuition and fees for institutional charges for a summer semester, but was awarded a total of \$7,060 in Title IV funds, netting him a \$6,460 credit balance. Based on our experience with the fraud ring cases, this authority -- which has been in place since 1992 -- has not served to reduce funds disbursed to distance education students.

Preventing Title IV Awards to Ineligible Inmates

The Department currently utilizes Computer Matching Agreements (CMA) with nine other Federal departments/agencies to help ensure that ineligible persons do not obtain Title IV awards.⁹ Pursuant to 34 C.F.R. § 668.32(c) persons incarcerated in Federal or state prison are not eligible to receive Title IV awards. As discussed above, our investigations have demonstrated that fraud rings, as well as identity thieves, have exploited the vulnerabilities in distance education programs to commit fraud against Title IV programs by enrolling ineligible prison inmates. Currently, there is no method to ensure that ineligible prison inmates are not awarded Title IV funds. The Department currently has a CMA with the Department of Justice to prevent persons convicted of drug trafficking and possession offenses from obtaining Title IV awards; it does not however have a CMA with the Department of Justice for persons incarcerated in Federal prisons, which are operated by the Bureau of Prisons within the Department of Justice. Establishing CMAs with prisons systems, including state prison systems, would provide an additional layer of verification to prevent ineligible persons from obtaining Title IV awards.¹⁰

Improving Detection of Fraud Rings

The Department could improve the detection of fraud rings by alerting institutions to the problem of fraud rings, highlighting their obligation to disburse Title IV aid only to eligible students, identifying practices for institutions to detect and prevent distance education fraud, and specifying when the Department will hold institutions responsible for disbursing Title IV funds to ineligible persons. As set forth below, the Department could also analyze its own data to detect fraud rings.

Institutions are required to develop and apply an adequate system to identify and resolve information discrepancies from student applicants and recipients of Title IV funds. 34 C.F.R. § 668.16(f). There are a number of institutions, lenders, and guarantee agencies that have developed processes for systematically and proactively analyzing available data to detect possible fraud. Many of OIG's fraud investigations have developed based on referrals from institutions and other entities who have noted common and repeated addresses, telephone numbers, enrollment and drop out patterns, and other commonalities and discrepancies. OIG has

⁹ CMAs are authorized by an amendment to the Privacy Act [Computer Matching and Privacy Protection Act of 1988 (Pub. L. No. 100-503)]. The overriding purpose of matching efforts is to safeguard taxpayers' dollars by combating fraud, waste, and abuse while assuring compliance with the Privacy Act of 1974.

¹⁰ OIG investigations related to ineligible inmates have to date involved only inmates incarcerated in state prisons.

received particularly effective referrals from institutions that retain and analyze the web server logs for Internet Protocol (IP) addresses or have mechanisms in place to identify common email and home addresses being used by many different individuals.¹¹ IP information can provide the Internet address of computers used in distance education fraud. Just as a common street address can be used to identify possibly fraudulent FAFSAs mailed to the Department, common IP information can be used to help identify fraudulent activity originating from a common computer.

Participating institutions offering distance education programs, especially those who chose not to verify identity, could be required to capture and track IP information throughout the admissions, enrollment, and attendance phases of a student's participation in a distance education program. IP information could assist an institution in identifying patterns that indicate fraud such as multiple users with common email and home addresses. This tracking would promote better monitoring and compliance by institutions, accrediting agencies, the Department, and other entities with program oversight responsibilities. It also could facilitate the identification of straw students and fraud rings, as well as ease the burden of investigating those individuals by capturing more specific information about those users.

The Department has the ability to collect and analyze web server logs for IP information in its own systems, as well as examine and correct vulnerabilities in its systems that create opportunities for the fraud rings to operate. As noted previously, the Department delivers PINs electronically to any person that submits a valid SSN. The Department does not verify that the submitter of the PIN request is the actual holder of the SSN. We found that from January 2010 to May 2011, 1,335 email addresses were used for over 19,000 PINs. Each of these 1,335 email addresses was used to receive PINs for five or more individuals. The top 100 email addresses received over 10,000 PINs. Twelve email addresses associated with our fraud ring investigations received PINs for 200 separate individuals; one email address received PINs for over 50 people. While all of these 19,000 PINs cannot be associated with fraud rings, because many appear related to financial aid advisory services, these numbers reflect the vulnerability to fraud and extensive violation of rules related to PIN security.¹² Some fraud rings avoid using common email addresses. Web server logs (which include IPs) could be used to identify these rings, which also exploit the lack of identity verification in the PIN system to direct PINs to individual specified email addresses.

Our investigations have identified numerous fraud ring straw students that have enrolled and obtained Title IV funds at one institution then withdrawn and enrolled at subsequent institutions to obtain Title IV funds. In one investigation we have identified some straw students that have enrolled in at least six institutions over successive award years. The National Student Loan Data System (NSLDS) currently has a code for withdrawals and could be programmed to more easily identify repeated withdrawals. This could help institutions identify persons who are not enrolled

¹¹ Internet Protocols are responsible for routing outgoing messages and recognizing incoming messages through the Internet.

¹² The PIN application process requires applicants to agree not to share a PIN with anyone, including commercial services that offer to help applicants complete a FAFSA. The FAFSA reinforces these requirements by including a certification that the applicant is the person identified by the PIN and the applicant has not disclosed the PIN to anyone else.

or accepted for enrollment for the purpose of obtaining a degree, certificate, or other recognized credential, and who are enrolled solely to fraudulently obtain Title IV funds. It could also help institutions to 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. See 34 C.F.R. § 668.16(f).

Improving Remedial Action

As noted previously, neither OIG nor the Department of Justice has the resources to pursue to conviction all identified participants in the fraud ring investigations. Alternative remedies could be pursued, not only to recover the Departments losses, but also to prevent future fraud.

Our investigations have revealed that some participants in a fraud ring who are not charged or convicted continue to enroll in institutions and engage in fraud against the Title IV programs. Current regulations already provide the Department and institutions with some effective tools for preventing these fraud ring participants from receiving additional Title IV funds. Direct Loan regulations permit the Department to classify borrowers as ineligible to receive Title IV funds if they meet certain conditions. 34 C.F.R. § 685.211(e) provides that a borrower is ineligible if, at the time the loan was made and without the institution's or the Secretary's knowledge, the borrower or the student on whose behalf a parent borrowed, provided false or erroneous information or took actions that caused the borrower or student to receive a loan for which the borrower was wholly or partially ineligible, or to receive loan proceeds for a period of enrollment for which the borrower was not eligible.¹³ Further, existing regulations at 34 C.F.R. § 690.79 state that a student is liable for any Federal Pell Grant overpayment made to him or her.

These regulations provide the Department with methods to demand repayment of loan funds disbursed to ineligible borrowers or Pell Grants disbursed to ineligible students. For instance, 34 C.F.R. § 685.211(e)(2) requires the Secretary to send an ineligible borrower a demand letter requiring that the borrower repay any principal amount and any accrued interest for which the borrower was ineligible. If the borrower does not comply with the demand letter, then the borrower is held to be in default on the entire loan. Similarly, 34 C.F.R. § 690.79 allows an institution to send a student who has received a Pell Grant overpayment a demand letter requesting repayment and notifying the student that failure to make satisfactory repayment arrangements makes the student ineligible for further Title IV until final resolution of the overpayment. An institution may refer to the Department for collection any overpayment that a student fails to repay or to make satisfactory arrangements for repayment. Once a student

¹³ 34 C.F.R. Section 682.412(a)(3) contains a similar provision for FFEL loans borrowers whom lenders determine provided false or erroneous information or took actions that caused the student or borrower to receive loan proceeds for a period of enrollment for which he or she failed to attend school and has not paid those funds to the school or repaid them to the lender. While new FFEL loans are no longer being made, this provision would apply to existing FFEL loans that lenders determined were issued to borrowers who were not eligible to receive them.

defaults on repayment demands, ineligibility for further Title IV assistance could be established pursuant to 34 C.F.R. § 668.32(g) and the account flagged in NSLDS.¹⁴

Those accounts that are subject to repayment demands could also be flagged in NSLDS as ineligible for loan consolidation. Current regulations contain a provision that prevents Direct Loan borrowers from receiving a consolidation loan to repay loans for which the borrower was wholly or partially ineligible. 34 C.F.R. § 685.211(e)(4).¹⁵ Using a consolidation loan to repay fraudulently obtained Title IV funds would result in further expenditure of program funds for the benefit of those already convicted of Title IV fraud.

For individuals who are not formally charged with a crime, but are handled alternatively through the criminal justice system, the Department could expand its application of the student eligibility provisions of the HEA. Under 20 U.S.C. § 1091(a)(6) (2006), as added by HERA, individuals convicted of fraud in Title IV programs are not eligible for Title IV funds until any court ordered restitution has been satisfied. Due to limited prosecutorial resources, lower loss amounts, or lack of prior criminal records, fraud ring participants are often offered pretrial diversion (PTD) agreements. PTD's are an alternative to prosecution which seeks to divert certain offenders from traditional criminal justice processing into a program of supervision and services administered by a probation department. Offenders are often diverted at the pre-charging stage, and participants that successfully complete the program will not be charged, or if charged, will have the charges against them dismissed. Under the Department's regulations, PTD's entered with court supervision or with an admission of guilt satisfy the definition of a criminal conviction for the purposes of government-wide suspensions and debarments. 34 C.F.R. § 85.925(b); 2 C.F.R. § 180.920 (b). The same interpretation to the Title IV fraud eligibility provision can be applied.

IV. RECOMMENDATIONS

The OIG makes the following recommendations based on our investigations of distance education fraud rings. The Department should:

1. Include in the upcoming 2011 negotiated rulemaking session changes to the regulations to require institutions that enroll students exclusively in distance education programs to:
 - a. confirm student identity if they do not already do so as part of the institutions' enrollment processes, and
 - b. collect and retain IP information for such student during application, enrollment, and attendance.
2. Designate identity, high school graduation status, and statement of educational purpose as information required to be verified pursuant to 34 C.F.R. § 668.56(a) (75 F.R. 66956) for

¹⁴ Effective use of these provisions will require policies and procedures to define the satisfactory repayment arrangements under 34 C.F.R. § 668.35(a)(1)(i), (b)(1)(i) & (c)(2) to prevent those committing fraud from reestablishing eligibility with minimal payments.

¹⁵ 34 C.F.R. § 682.201(d)(2) contains a similar prohibition for borrowers of FFEL loans.

the 2013-2014 and subsequent award years for students identified by appropriate edits as potential fraud ring participants.

3. Establish edits within the Central Processing System and the National Student Loan Data System to flag potential fraud ring participants who repeatedly enroll and withdraw, to assist institutions before disbursing Title IV assistance.
4. Seek statutory change to the cost of attendance calculation for students enrolled in distance education programs under the HEA to limit the payment for room and board, and other costs that distance education programs do not incur.
5. Seek a CMA with the Department of Justice for its Bureau of Prisons and explore the feasibility of data matching agreements with State and Federal Trust Territory prison systems to ensure incarcerated persons do not receive Title IV funds for which they are ineligible.
6. Implement controls in the Department's PIN delivery system to identify and prevent the issuance of multiple PINs to the same email address without confirmation of identity.
7. Consider utilizing existing regulations (34 C.F.R. §§ 682.201(d)(2) and 685.211(e)(2) and 34 C.F.R. § 690.79) to establish repayment liabilities for fraud ring participants that are not subject to criminal prosecution.
8. Issue a Dear Colleague Letter to alert institutions to the problem of distance education fraud rings, highlight the institutions' obligation to disburse Title IV aid to only eligible students, identify practices for institutions to detect and prevent distance education fraud, and specify when the Department will hold institutions responsible for disbursing Title IV funds to ineligible persons.
9. Ensure that pretrial diversions are recognized as convictions for program debarment or exclusion purposes under HERA by establishing processes to prevent individuals who enter into pretrial diversion agreements from obtaining Title IV funds until the requirements of HERA for eligibility are satisfied.

Investigative Program Advisory Reports issued by the Office of Inspector General will be made available to members of the press and general public to the extent information contained in the report is not subject to exemptions in the Freedom of Information Act (5 U.S.C. § 552).



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202- _____

SEP 19 2011

Memorandum

TO: William D. Hamel
Assistant Inspector General
for Investigations
Office of Inspector General

FROM: James W. Runcie
Chief Operating Officer
Federal Student Aid

Eduardo M. Ochoa
Assistant Secretary
Office of Postsecondary Education

SUBJECT: Response to the Draft Investigative Program Advisory Report (IPAR),
"Distance Education Fraud Rings" (Control Number ED-OIG/L42-L0001)

Thank you for providing us with an opportunity to respond to the Office of Inspector General's (OIG) draft investigative program advisory report entitled, "Distance Education Fraud Rings" (Control Number ED-OIG/L42-L0001).

Federal Student Aid's Chief Operating Officer and the Assistant Secretary for Postsecondary Education will convene an intradepartmental team to assess the best approach(es) for responding to the emerging risk to Federal student aid funds that the reported fraud rings pose. The team will hold its first meeting no later than October 17, 2011, and will be charged with examining this risk to the Title IV student assistance programs, including the full range of recommendations made by the OIG. We note, however, that given the urgency of this risk, some of the OIG recommendations would take too long to implement to effectively address the OIG findings. For example, regulations that are developed during the upcoming negotiated rulemaking will take effect no sooner than July 1, 2013. The team will, therefore, be charged with giving priority consideration to and making recommendations for, actions that can be taken under existing law, regulations, and administrative procedures.

Given that distance education is the fastest growing segment of higher education, this is certainly an appropriate time to look at controls around the aid application and delivery processes. We see this as an opportunity to develop continuing and more comprehensive measures to minimize the potential for fraud. Thank you again for briefing us on this issue.