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
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October 30, 2024

To: WIOA and Other Subrecipients of the Orange County Workforce Development Board

From: Nancy Cook
Director of Workforce and Economic Development 

Subject: Incident Reporting of Waste, Fraud and Abuse Policy
Information Notice No. 24-OCWDB-11
Supersedes Information Notice No. 21-OCWDB-17 and No.13-OCWDA-01

PURPOSE

This policy provides guidance and establishes the procedures for reporting allegations of criminal fraud, program abuse, or criminal conduct involving grantees or other entities and Service Providers receiving federal funds through the Employment Development Department (EDD).

EFFECTIVE DATE

This policy is effective on the date of the issuance.

REFERENCES

- Title 2 Code of Federal Regulations (CFR) Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) Section 200.113
- Title 20 CFR Section 683.620
- DOL Training and Employment Guidance Letter (TEGL) 15-23 *Employment and Training Administration (ETA) Grant Recipient Responsibilities for Reporting Instances of Suspected Fraud, Program Abuse and Criminal Conduct* (June 11, 2024)
- EDD Workforce Services Directive 24-03, *Incident Reporting* (September 17, 2024)

BACKGROUND

Information and complaints involving criminal fraud, waste, abuse, or other criminal activity must be reported immediately to the Department of Labor's (DOL) Office of Inspector General (OIG) Hotline Portal and simultaneously reported to the Employment and Training Administration (ETA). The Inspector General Act of 1978, as amended, authorizes the OIG to conduct audits and investigations related to alleged fraud, waste, abuse, misconduct, or other wrongdoing concerning such programs and operations.



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When an individual has knowledge of or suspicion of a violation of WIOA or its regulations, the individual must take prompt and appropriate action.

DEFINITIONS

Complaint – Allegations of criminal activity and serious misconduct incidents and allegations of fraud, waste, and abuse concerning federally-funded grants, contracts, programs and operations, and dangers to the public health and safety.

Emergency – A situation involving imminent health or safety concerns, or the imminent loss of funds exceeding an amount much larger than \$50,000 (e.g., \$500,000).

Employee/Participant Misconduct – Actions occurring during or outside work hours that reflect negatively on Orange County Workforce Development Board (OCWDB) or Employment Development Department or its mission including, but not limited to: conflict of interest or the appearance of conflict of interest involving outside employment, business and professional activities; the receipt or giving of gifts, fees, entertainment, and favors; misuse of federal property; and, misuse of official information and such other activities as might adversely affect the confidence of the public in the integrity of the government (29 CFR Part 0 and 5 CFR Parts 2635 and 5201) as well as serious violations of federal and state laws.

Fraud, Misfeasance, Nonfeasance or Malfeasance – Any alleged deliberate action or inaction which may be in violation of federal statutes and regulations. This category includes, but is not limited to, indications of bribery, forgery, extortion, embezzlement, theft of participant checks, kickbacks from participants or contractors, intentional payments to a contractor without the expectation of receiving services, payments to ghost (fake) enrollees, misuse of appropriated funds, and misrepresenting information in official reports.

Gross Mismanagement – Actions or situations arising out of management ineptitude or oversight and leading to a major violation of statutory (such as WIOA or W-P) processes, regulations, or contract/grant provisions. Such actions or situations have the potential to severely hamper accomplishment of program goals, waste government resources, and jeopardize future support for a particular program or project. This category includes, but is not limited to, unauditible records, unsupported costs, highly inaccurate fiscal reports or program reports, payroll discrepancies, payroll deductions not paid to the Internal Revenue Service (IRS), and lack of good internal control procedures.

Incident Referrals – The OIG refers incidents and allegations concerning ETA programs to the ETA in instances where the OIG determines that the incident report does not have investigative or audit merit.

Misapplication of Funds – Any alleged deliberate use of funds, assets or property not authorized or provided for by legislation or regulations, grants, or contracts. This category includes, but is not limited to, nepotism, political patronage, use of participants for political activity, ineligible enrollees, conflict of interest, failure to report income from federal funds, violation of contract/grant procedures, and the use of federal funds for other than specified purposes. An incident report should be filed when there appears to be an intent to misapply funds rather than merely for a case of minor mismanagement. It should be noted that there are

some exceptions related to nepotism for the Indian and Native American programs, as described in 20 CFR Section 684.630(d).

Subaward – An award provided by pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity, It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient – A non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal award; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

POLICY AND PROCEDURES

All Service Providers must promptly report all allegations of WIOA-related fraud, program abuse, or criminal activity to OCWDB, DOL's OIG, and ETA. Service Providers have a responsibility to be alert for instances of fraud, abuse, and criminal activity committed by staff, contractors, or program participants and to report all instances. Each Service Provider is to designate a staff member who will be responsible for reporting allegations. Service Provider must post instructions for staff and the general public on how to report fraud, waste or abuse. These instructions shall include to the County of Orange Fraud Hotline.

Reporting

A Service Provider must report an alleged incident within **one working day** of detection by completing the following steps:

1. Complete the relevant fields on the OIG Hotline Portal* (<https://www.oig.dol.gov/hotline.htm>)
2. Email a copy of the Incident Report, including screen shots or photos of the three OIG Hotline Portal screens, to the following:
 1. OCWDB Program Manager,
 2. ETA at ETAIncidentReporting@dol.gov, and
 3. The County of Orange Fraud Hotline at <https://ocgov.com/how-do-i/report/fraud-waste-abuse>.

Upon receipt of a Service Provider Incident Report, OCWDB will also file a report with the County of Orange Fraud Hotline.

If internet access is not available, incidents can be reported through the following hotlines:

1. OIG Toll-free hotline: 800-347-3756
2. OIG Non-toll-free hotline: 1-202-693-6999
3. County of Orange Fraud Hotline: 714-834-3608

*Reference [TEGL 15-23](#) for detailed instructions on reporting to the OIG and ETA.

Action will not be taken against any complainant for disclosing information concerning criminal or improper activities or making a valid complaint to proper authorities. Complainants may remain anonymous. If a complainant considers that their position will be compromised by reporting information through an incident report, the complainant may submit the report directly to the OIG.

Incident Referrals

When the OIG receives an incident report from any source, the OIG will determine whether the allegations have merit, and when appropriate, conduct or arrange for an investigation and/or audit.

In instances where the OIG determines that the incident report does not have investigative or audit merit, the incident report will be referred to the ETA for resolution. The ETA will either forward the incident report to the EDD Compliance Review Office (CRO) to research and report back, or the ETA will work with the CRO to analyze and report on the incident.

If an incident report is remanded to the CRO, it will be prioritized and the CRO will request a fact-finding and resolutions report from the appropriate level of oversight, depending on the nature of the allegations. The CRO may require the County to submit a fact-finding and local resolution report, or the fact-finding mission may be conducted by the CRO. The fact-finding may, in certain circumstances, rise to the level of a special monitoring review, an investigation, or an audit by the appropriate state entities or by independent third-party auditors, as determined by the CRO.

The reporting entity may be contacted by OCWDB, CRO, or OIG to take appropriate actions to recover misspent funds or to contain its financial liability.

Record Retention Requirements

Documentation related to the incident report must be maintained in the Service Provider's files for a period of three years from the date of submission of the final expenditure report of the funding year.

OCWDB will report the outcome of any criminal, civil, or administrative proceedings according to 41 U.S. Code 2313 to the Federal Awardee Performance and Integrity Information System (FAPIIS).

If a Service Provider suspects fraud, waste, or abuse by a staff person, contractor, or program participant and immediate action is necessary to prevent further financial loss or enable recovery of funds or property, the Service Provider has the responsibility to take any action it deems appropriate, including contacting the local law enforcement agency. Any immediate action taken or planned by the reporting entity must be included on the associated Incident Report.

ACTION

Bring this policy to the attention of all staff and relevant parties.

INQUIRIES

If you have any questions regarding this policy, email info@ocworkforcesolutions.com

ATTACHMENTS

Attachment I: Incident Report