Statement of Kathleen S. Tighe, Inspector General
U.S. Department of Education Office of Inspector General
Before the Subcommittee on Government Operations and
the Subcommittee on Intergovernmental Affairs of the
Committee on Oversight and Government Reform
United States House of Representatives
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Chairman Meadows, Chairman Palmer, Ranking Member Connolly,
Ranking Member Butler Demings, and Members of the Subcommittees:

Thank you for inviting me here today to discuss the work of the U.S. Department of Education (Department) Office of Inspector General (OIG) involving improper payments. For more than 35 years, the OIG has worked to promote the efficiency, effectiveness, and integrity of Federal education programs and operations. We aggressively identify and pursue fraud, waste, and abuse involving the Department's programs and operations. Our work related to improper payments has evolved and increased over the years with passage of the Improper Payments Information Act of 2002, the Improper Payments Elimination and Recovery Act of 2010, and the Improper Payments Elimination and Recovery Improvement Act of 2012 (collectively referred to in this testimony as IPERA). In these efforts, we have identified instances of noncompliance with IPERA by the Department and weaknesses in the Department's efforts to measure, estimate, and report on improper payments and have provided recommendations for improvement. Last year, the Department made progress addressing these recommendations and in its efforts to measure improper payments, a fact that I highlighted in recent testimony before the U.S. House of Representatives Committee on Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies. Today, I will discuss the findings of our recent IPERA audits and the Department's response to those findings.

The Department must be able to ensure that the billions of dollars entrusted to it are reaching the intended recipients. Perhaps nowhere is this more critical than in the area of Federal student aid, as the Department disburses about $125 billion in student aid annually and manages an outstanding loan portfolio of nearly $1.3 trillion—making it one of the largest financial institutions in the country. Specific to this area, the Department has identified the Federal Pell Grant (Pell) and the William D. Ford Federal Direct Loan (Direct Loan) programs as susceptible to significant improper payments. In addition, the Office of Management and Budget (OMB) has designated these programs as high-priority programs, which are subject to greater levels of oversight.

IPERA requires each agency, in accordance with guidance prescribed by OMB, to periodically review all programs and activities that the agency administers and identify all programs and activities that may be susceptible to significant improper payments. For each program and activity identified, the agency is required to produce an estimate of the improper payments made and include those estimates in the agency's annual financial report (AFR). IPERA also requires each agency's Inspector General to determine the agency's compliance with the statute for each fiscal year (FY). Compliance with IPERA means that the agency has met six specific requirements. If an agency does not meet one or more of these requirements, then it is not compliant with IPERA.

FY 2014 and FY 2015 Results

Our IPERA audits for FY 2014 and FY 2015 found that for both years, the Department did not comply with IPERA because it failed to meet one of the six compliance requirements: it reported an improper payment rate that did not meet its reduction target for the Direct Loan program. In both years, we also found the Department's improper payment estimates and estimation methodologies for the Pell and Direct Loan programs were inaccurate, incomplete, and unreliable, and the estimates deviated from the OMB-approved methodologies. We found that they relied on program reviews as the sole or primary source of improper payments but did not take into account all program reviews that could identify improper payments and did not include all improper payments from ineligible programs or locations identified in program reviews. In addition, the Department excluded other sources of improper payments, such as applicants with inaccurate self-reported income on the Free Application for Federal Student Aid (FAFSA). As a result, the Department was limited in both its ability to address root causes of improper payments and its ability to assess its progress in reducing improper payments over time.

As a result of these findings, we made a series of recommendations for the Department to address in order to comply with IPERA and improve its improper payment estimates. In response to these recommendations, the Department revised its estimation methodologies for both the Direct Loan and Pell programs for FY 2016. Among the changes was, for the Pell program, the inclusion of estimates of inaccurate self-reported income (both over- and under- reporting) by applicants on the FAFSA. In addition, for both the Pell and Direct Loan programs, the estimates were revised to include improper payments associated with schools with ineligible programs or locations; and the Department expanded the number of program reviews included in the estimates. This revision resulted in about 400 program reviews being included in the FY 2016 estimates, a significant increase over the 130 or so program reviews included in the

FY 2015 estimates. The revised estimation methodologies resulted in significant increases in the FY 2016 improper payment estimates for these programs. The estimate for the Direct Loan program increased from $1.28 billion in FY 2015 to $3.86 billion in FY 2016 and the estimate for the Pell program increased from $562 million to $2.21 billion. Although the OIG believes that the revised estimates are more realistic, the significant increases emphasize the need for the Department to use a more stable estimation methodology and intensify its efforts to identify and address internal controls and oversight to address the root causes.

FY 2016 IPERA Results

For the third year in a row we found that the Department did not comply with IPERA because it did not meet two of IPERA's six compliance requirements. Like the previous two years, the Department did not meet the annual reduction target for the Direct Loan program, and for the first time, it also did not meet the annual reduction target for the Pell program. The Department also did not conduct risk assessments that conformed with the requirements in the Improper Payments Information Act of 2002 (IPIA) or OMB guidance to determine whether Department-managed grant programs and FSA-managed contracting activities may be susceptible to significant improper payments. In addition, the Department failed to identify and report the Rehabilitation Services Administration-Vocational Rehabilitation State Grants program as a program that may be susceptible to significant improper payments. We found that the Department's improper payment reporting, estimates, and methodologies were generally accurate and complete; however, as discussed below, we identified issues in all three areas.

Direct Loan and Pell Programs

The Department reported improper payment rates for the Pell and Direct Loan programs that did not meet the FY 2016 reduction targets established in its FY 2015 AFR. The improper payment rate for the Pell program was 7.85 percent ($2.21 billion), which exceeded the reduction target of 1.87 percent; and the improper payment rate for the Direct Loan program was 3.98 percent ($3.86 billion), which exceeded the reduction target of 1.29 percent. The Department stated in its most recent AFR that its failure to meet reduction targets was not due to a control failure or increase in actual improper payments in the Direct Loan and Pell programs, but due to changes made to its estimation methodologies.

We found that the Department's improper payment reporting, estimates, and methodologies were generally accurate and complete; however, we identified issues in all three areas. First, the Department needs to improve its policies and procedures for its Direct Loan and Pell programs improper payment calculations, as we found that despite having a quality control process, it did not identify and correct two errors in its improper payment calculations. Second, the Department needs to clarify its estimation methodologies to explicitly address improper payments that are applicable to one award year that were identified through a sample of recipients drawn from another award year. Third, the Department's AFR did not include the results of all of the corrective actions implemented to address the root causes of the identified improper payments.

Risk Assessment – Rehabilitation Services Administration-Vocational Rehabilitation (VR) State Grants

Under IPERA, an agency is required to conduct a program specific risk assessment for each program or activity that conforms to requirements in the IPIA. If improper payments in a program may have exceeded (i) $10 million of all program payments made during the FY reported and 1.5 percent of program outlays or (ii) $100,000,000, the program may be susceptible to significant improper payments. During FY 2016, the Department conducted an improper payment risk assessment of grant programs managed by several Department offices using questioned costs identified in single audits and in OIG audits for FYs 2013, 2014, and 2015. The Department identified the VR program as the only program that exceeded the threshold—single audits identified questioned costs for the VR program ranging from $31.1 million to $44.6 million, which was between 1.56 percent and 1.81 percent of program outlays for FYs 2013, 2014, and 2015.

Yet despite these findings, the Department did not conclude that the VR program may be susceptible to significant improper payments and did not report the program as such in its FY 2016 AFR. The Department stated that it did not consider the VR program to be a program susceptible to significant improper payments because "(1) most of the grant program's questioned costs were related to a single auditee which had a history of unresolved questioned costs, (2) questioned costs of this type are rarely sustained through the audit resolution process, and (3) the program exceeded the 1.5 percent threshold by only a small margin." Further, it stated that the questioned costs for the VR program identified in FYs 2013, 2014, and 2015 single audits are just a proxy for improper payments and that the Department is not able to determine whether these questioned costs really exist until these single audits are resolved. The Department's justification, however, omitted the following important facts: (1) questioned costs were related to two auditees, not one auditee; (2) although the audit resolution process may not have sustained the VR program questioned costs for FY 2013, the questioned costs for FY 2014 were fully sustained, and the Department could not assume that the FY 2015 questioned costs would not be sustained; (3) IPIA does not provide exclusions or exceptions for programs that exceed a threshold by only a "small margin;" and (4) questioned costs are an appropriate component of an improper payments risk assessment or calculation.

Risk Assessments – Required Risk Factors Not Used

IPIA and OMB guidance together require agencies to consider a minimum of nine risk factors in their risk assessments. For FSA-managed contracting activities, the Department did not consider seven of the nine risk factors and therefore it did not comply with IPERA. FSA-managed contracting activities accounted for $1.88 billion (76 percent) of the Department's $2.46 billion in active contracts in FY 2016. For the Department-managed grant programs, the Department did not consider two of the nine risk factors. As a result, the risk assessments for Department-managed grant programs did not comply with IPERA. However, we found that the Department's conclusion that these grant programs, with the exception of the VR program, were not susceptible to significant improper payments was appropriate because the Department's quantitative risk assessments showed that none of these grant programs had questioned costs that exceeded the thresholds for programs that may be susceptible to significant improper payments and the two risk factors not considered by the Department likely would not identify additional questioned costs or improper payments.

OIG Recommendations

In our report, we made 10 recommendations to help the Department comply with IPERA and improve its improper payment reporting, estimates, and methodologies. With the exception of the recommendation below pertaining to the VR program, the Department indicated that it will take actions to respond to our recommendations. Our recommendations included that the Department do the following:

1. As required by IPERA, submit to Congress proposed statutory changes necessary to bring the Direct Loan program into compliance as it did not meet improper payment reduction targets for the Direct Loan program for 3 consecutive years. The Department must submit its proposal by June 12, 2017.
2. Also as required by IPERA, submit to Congress a plan describing actions the Department will take to bring the Pell program into compliance and actions the Department will take to ensure that its risk assessments conform to requirements in the IPIA and OMB guidance. The plan is due to Congress by August 10, 2017.
3. Identify the VR program in the FY 2017 AFR as a program that may be susceptible to significant improper payments and produce and report an improper payment estimate for the program.
4. Ensure that risk assessments conform with requirements of the IPIA and OMB guidance when determining whether programs may be susceptible to significant improper payments. Specifically, develop improper payment risk assessment models that include all nine required risk factors and other factors, if appropriate, and identify all programs that may be susceptible to significant improper payments.

Internal Revenue Service Data Retrieval Tool

The Department reports that one of the root causes of improper payments in Pell and Direct Loan programs in FY 2016 was inaccurate self-reporting of an applicant's income on the FAFSA that leads to incorrect awards. One of the Department's prior corrective actions to address this root cause is to promote the usage of the Internal Revenue Service (IRS) Data Retrieval Tool (DRT), which allows applicants to have the IRS transfer tax return data from an IRS website directly to their online FAFSA. However, as you know, the DRT was disabled in March due to fraudulent activity. At the hearing on this issue held by the full Committee on May 3, 2017, the Deputy Inspector General of the Treasury Inspector General for Tax Administration (TIGTA) testified that identity thieves appear to have used the personal information of individuals that they obtained outside the tax system to start the FAFSA application process in order to secure individuals' adjusted gross income through the IRS DRT. The thieves then used this information to file fraudulent tax returns. The OIG is presently conducting a criminal investigation into this matter with TIGTA and the IRS Criminal Investigations Division.

Closing

You will find more details on the issues presented here today in our improper payments audits, all of which are available on our web site. We are seeing that the Department is making progress in its efforts to measure improper payments and we remain committed to identifying improper payments and recommending corrective actions.

I would like to thank this Committee for continuing to shine a spotlight on an issue that is such a vital part of good government. This concludes my remarks. I am happy to answer your questions.