

Fall Forum 2023  
*Bracing For Significant Regulatory Changes*

# PERKINS V HOT TOPICS

Michael Brustein and Steven Spillan  
[mbrustein@bruman.com](mailto:mbrustein@bruman.com) [sspillan@bruman.com](mailto:sspillan@bruman.com)



THE  
**BRUMAN**  
GROUP PLLC



# SUBRECIPIENT MONITORING REQUIREMENTS

## 2 CFR 200.332

- Subaward Information
- Evaluate Subrecipient Risk
- Specific Conditions (200.208)
- Monitoring
- Verify Subrecipient Has Single Audit; Management decisions



## SUBAWARD INFORMATION – 200.332(a)(1)

- Federal award information
- All requirements imposed by the PTE on the subrecipient to ensure compliance;
- Any additional requirements that the PTE imposes on the subrecipient in order to meet its own responsibility;
- Indirect Cost Rate
- Access to Records
- Appropriate Terms & Conditions on Closeout



## RISK ASSESSMENT – 200.332(d)

- Evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring
  - Prior experience
  - Previous Audits
  - New personnel or substantially changed systems
  - Agency monitoring
- Specific Conditions



## MONITORING ACTIVITIES – 200.332(d)-(e)

- Providing subrecipients with training and technical assistance on program-related matters (all subrecipients)
- Reviewing financial and performance reports (low risk)
- Performing desk reviews of subrecipient program documentation (medium risk)
- Performing on-site reviews (observations) of the subrecipient's program operations (high risk)



# AUDITS & MANAGEMENT DECISIONS

## 200.332(d)(2-4) & (f)

- Ensure subrecipients have Single Audits, as applicable
- Ensure corrective actions by subrecipients
- Issue management decision only for applicable audit finding pertaining to the subaward from the pass-through entity
- Pass-through is responsible only for non-systemic audit findings
  - Audit follow-up and management decisions for systemic issues responsibility of the “auditors and cognizant agency”
  - Pass-through still must “manage risk through ongoing subaward monitoring,” including follow-up on finding specifically related to the subaward



# RECENT MONITORING FINDINGS

- Incomplete CLNAs
- Incomplete Local Application
- Funding Formula Issues
- Failure to Disaggregate Data
- Failure to Address Performance Gaps/Disparities
- Failure to Monitor



# INCOMPLETE CLNAs

- **Finding:** The State failed to require secondary and postsecondary eligible recipients to conduct complete comprehensive local needs assessments (CLNAs) as required by section 134(c)(2)(A-E) of Perkins V
- **Evidence:** eligible recipients submitted incomplete CLNAs. For example, CLNAs did not address Labor Market Alignment or "Recruitment, Retention, and Training of CTE Teachers."
- **Corrective Action:** State procedures, updated CLNA templates, submit samples of complete CLNAs





# INCOMPLETE LOCAL APPLICATIONS

- **Finding:** State failed to require eligible recipients to submit local applications that fully describe the programs of study to be supported with Perkins funds pursuant to section 134(b)(2) of Perkins V
- **Evidence:** Eligible recipients were not required to describe the course offerings that the eligible recipient will provide with Perkins funds
- **Corrective Action:** State must update its local applications templates explicitly requiring eligible recipients to provide information on the course offerings that the eligible recipient will provide with Perkins funds



## FAILURE TO ADDRESS FUNDING FORMULA REQUIREMENTS

- **Finding:** The State failed to properly address the postsecondary formula waiver requirements in section 132(a)(4) of Perkins V
- **Evidence:** State allocated Perkins funds to a postsecondary subrecipient that failed to generate the minimum \$50,000 funding level via the postsecondary allocation formula in section 132 of Perkins V.
- **Corrective Action:** State policies requiring local recipient to join consortia if failure to meet minimum allocation level



## FAILURE TO DISAGGREGATE DATA

- **Finding:** State failed to require eligible recipients to submit local reports that disaggregate data for each of the indicators of performance by the subgroups of students described in section 1111(h)(1)(C)(ii) of the ESEA and special populations defined in section 3(48) of Perkins V as required by section 113(b)(4)(B)(ii)(I)
- **Evidence:** Local report lacked required information
- **Corrective Action:** State must update its local reports requirements to include the disaggregated data for each of the indicators of performance for the subgroups



## FAILURE TO IDENTIFY/QUANTIFY DISPARITIES/GAPS

- **Finding:** State failed to require postsecondary eligible recipients to identify and quantify any disparities or gaps in performance as required by section 113(b)(4)(B)(ii)(II) of Perkins V
- **Evidence:** Recipients are not required to identify and quantify any disparities or gaps in performance among CTE concentrators in local reports
- **Corrective Action:** State must update its local report requirements to include the identification and quantification of any disparities or gaps in performance



## FAILURE TO DISAGGREGATE STUDENT PLACEMENT DATA

- **Finding:** State failed to require postsecondary eligible recipients to disaggregate student placement data as required by section 113(b)(4)(B)(ii)(IV) of Perkins V
- **Evidence:** Local reports did not require recipients to provide disaggregated student placement data
- **Corrective Action:** local report requirements must include (1) Individuals enrolled in postsecondary education, (2) Individuals in advanced training, (3) Individuals in military service or other service program, and (4) Individuals in employment (including those individuals who are employed in a high skill, high-wage, or in-demand sector or occupation)



# FAILURE TO MONITOR

- **Finding:** State failed to monitor the activities of subrecipients pursuant to 2 CFR §200.332
- **Evidence:** Review of documentation showed that the State did not complete required monitoring under 2 CFR §200.332
- **Corrective Action:** State must submit completed monitoring reports that demonstrate how the State fulfilled all the requirements pursuant to the 2 CFR §200.332



QUESTIONS?





# LEGAL DISCLAIMER

This presentation is intended solely to provide general information and does not constitute legal advice or a legal service. This presentation does not create a client-lawyer relationship with The Bruman Group, PLLC and, therefore, carries none of the protections under the D.C. Rules of Professional Conduct. Attendance at this presentation, a later review of any printed or electronic materials, or any follow-up questions or communications arising out of this presentation with any attorney at The Bruman Group, PLLC does not create an attorney-client relationship with The Bruman Group, PLLC. You should not take any action based upon any information in this presentation without first consulting legal counsel familiar with your particular circumstances.





# Save The Date!!!

The Bruman Group, PLLC

Spring Forum 2024

APRIL 30 - MAY 2, 2024

BALTIMORE, MD