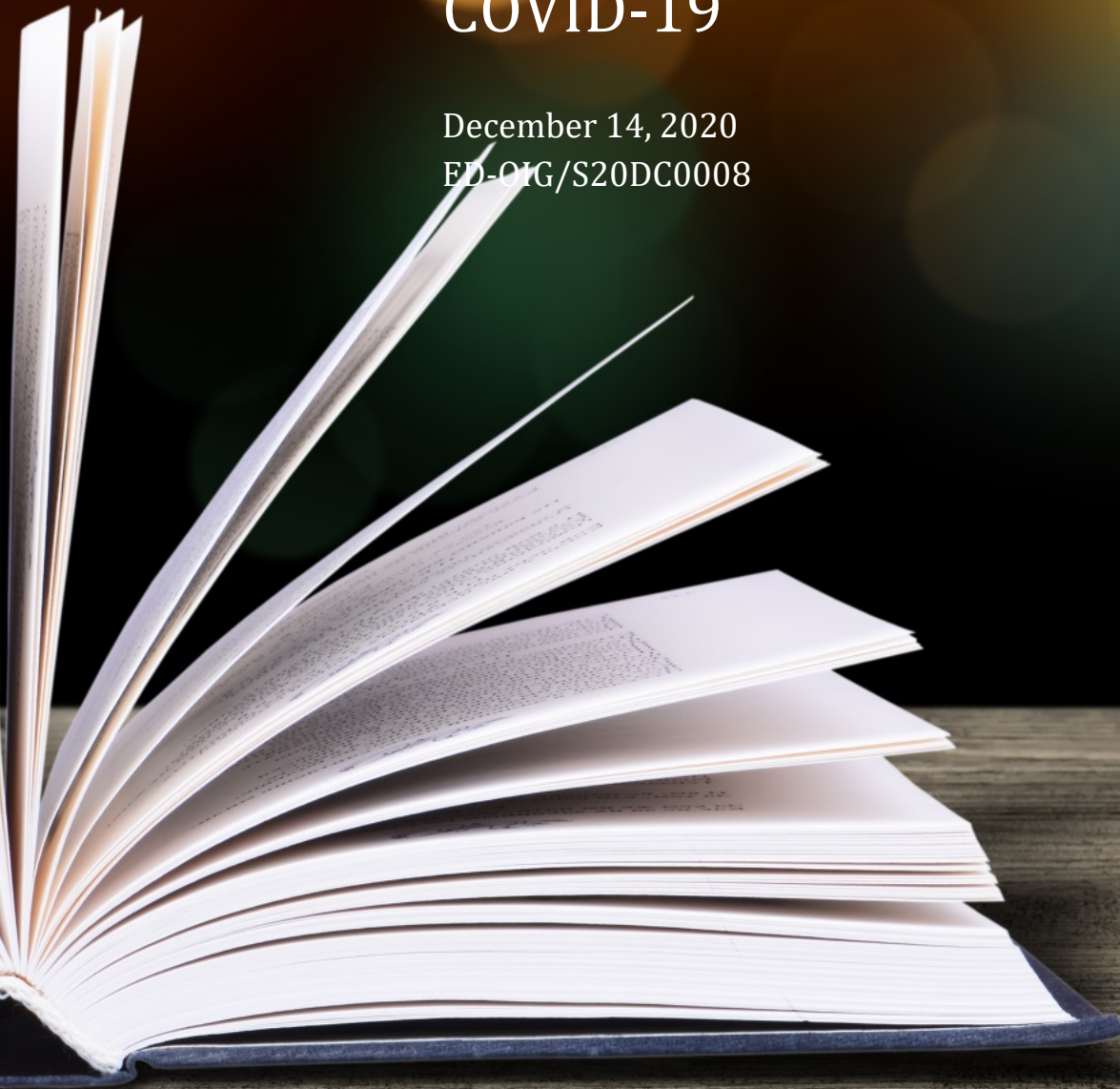




U.S. Department of Education
Office of Inspector General

Assessment of the Department's Reconstitution Plans Following COVID-19

December 14, 2020
ED-OIG/S20DC0008



NOTICE

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. The appropriate Department of Education officials will determine what corrective actions should be taken.

In accordance with Freedom of Information Act (Title 5, United States Code, Section 552), reports that the Office of Inspector General issues are available to members of the press and general public to the extent information they contain is not subject to exemptions in the Act.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

Audit Services

December 14, 2020

TO: Denise L. Carter
Acting Assistant Secretary
Office of Finance and Operations

FROM: Bryon S. Gordon /s/
Assistant Inspector General for Audit

SUBJECT: Final Inspection Report, "Assessment of the Department's Reconstitution Plans Following COVID-19," Control Number ED-OIG/S20DC0008

Attached is the subject final inspection report that consolidates the results of our assessment of the U.S. Department of Education's reconstitution plans following COVID-19. We have provided an electronic copy to your audit liaison officer. We received your comments responding to our draft report.

U.S. Department of Education policy requires that you develop a final corrective action plan within 30 days of the issuance of this report. The corrective action plan should set forth the specific action items and targeted completion dates necessary to implement final corrective actions on the findings and recommendations contained in this final report. Corrective actions that your office proposes and implements will be monitored and tracked through the Department's Audit Accountability and Resolution Tracking System.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on the reports that remain unresolved after 6 months from the date of issuance.

We appreciate your cooperation during this review. If you have any questions, please contact Michele Weaver-Dugan at (202) 245-6941 or Michele.Weaver-Dugan@ed.gov.

Attachment

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Results in Brief

What We Did

The objective of our inspection was to assess the U.S. Department of Education's (Department) plans and procedures for returning employees to the federal office in the wake of the coronavirus pandemic, including what existing guidance the Department considered when developing its plans and procedures. Specifically, we reviewed the Department's reconstitution plans and procedures in response to the coronavirus pandemic and described how the Department developed these plans. This also included noting whether the Department's plans appear to be in alignment with existing guidance and noting any apparent weaknesses in the plan with regard to the guidance.

What We Found

We found that the Department generally incorporated available guidance, which was intended to provide for a safe and gradual return to federal offices, in its Workplace Reconstitution Transition Plan (Reconstitution Plan). The Department developed a Reconstitution Plan that is based on White House guidelines and Office of Management and Budget (OMB) and Office of Personnel Management (OPM) guidance. The Department's Reconstitution Plan, along with a Reconstitution Plan Frequently Asked Questions (FAQs) document, incorporates practices from the Centers for Disease Control and Prevention (CDC) and the Department of Labor Occupational Safety and Health Administration (OSHA). However, we noted that the Department's Reconstitution Plan does not address anti-retaliation as recommended in OSHA guidance. In addition, we found that the Department did not periodically reassess and update self-screening questions as necessary in its Reconstitution Plan as suggested by OMB.

The Department's Reconstitution Plan was developed between the Office of Finance and Operations (OFO), senior leaders across the Department, the Deputy Secretary of Education (Deputy Secretary), and the Secretary of Education (Secretary). The Acting Assistant Secretary of OFO took the lead on developing the Department's Reconstitution Plan. With the support of senior leadership, the Acting Assistant Secretary was able to leverage available resources to discuss ideas, best practices, and receive real-time input and feedback to develop what was described by OFO's Director of the Workforce Relations Division as an employee-focused plan. By developing a Reconstitution Plan that incorporates available guidance, the Department is helping to provide for a safe and gradual return of federal employees to federal offices. The Department is also in a better position to continue its mission in addition to its critical role to assist and lead national recovery efforts in the wake of the coronavirus pandemic.

What We Recommend

We recommend that the Department update its Reconstitution Plan to address anti-retaliation, including practices for ensuring that no adverse or retaliatory action is taken against an employee who adheres to guidelines or raises workplace safety and health concerns. Further, we recommend that the Department reassess self-screening questions and update the information in the Reconstitution Plan as necessary, or include a link in the self-assessment section of the Reconstitution Plan to the relevant CDC guidance for employees to access and reference.

We provided a draft of this inspection report to OFO for comment. In its response, OFO noted it will draft and implement the appropriate action plans to address the recommendations, including continuing to monitor CDC guidance and updating the Department's Reconstitution Plan accordingly.

We did not make any substantive changes to the report as a result of OFO's comments. OFO provided clarification regarding its response to a suggestion made by OMB that was referenced in our draft report, for which we made corresponding edits. The full text of OFO's response is included at the end of this report.

Introduction

Background

The outbreak of Coronavirus Disease 2019 (COVID-19), a novel—or new—strain of coronavirus to which the public does not have immunity, was first reported on December 31, 2019, in Wuhan, China. A respiratory illness that can spread from person-to-person, the virus quickly spread around the globe, to include the United States. On January 31, 2020, the Secretary of Health and Human Services declared a public health emergency for the United States, and on March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic.

In response to the COVID-19 pandemic, and in order to limit social contact and slow the spread of the virus, nearly all States, as well as many localities, implemented policies that had the effect of limiting certain economic activities. Many businesses and organizations limited, substantially altered, or ceased operations in response to falling demand or in order to reduce the risk of contagion among their employees, including the federal government.¹

On April 16, 2020, the White House issued guidelines on three phases for reopening titled, “Opening Up America Again” (National Guidelines). On April 20, 2020, OMB and OPM issued joint guidance in a memorandum titled, “Aligning Federal Agency Operations with the National Guidelines for *Opening Up America Again*” (OMB/OPM M-20-23), to assist agencies with a gradual, safe, transition to normal operations.

On June 15, 2020, the Subcommittee on Government Operations within the House Committee on Oversight and Reform requested that the Department’s Office of Inspector General examine the Department’s plans and procedures for returning employees to federal offices in the wake of the coronavirus pandemic.² It specifically requested that the Office of Inspector General conduct a review of whether the Department and its managers are employing best practices and existing guidance when

¹ Beginning in February, a month before the World Health Organization declared the COVID-19 outbreak a pandemic, OMB and OPM began facilitating the first-ever transition to Federal government-wide maximum telework.

² The Subcommittee on Government Operations within the House Committee on Oversight and Reform sent letters to 24 federal agency Inspectors General requesting that they review their agencies’ plans for returning employees to federal offices.

deciding whether or when to require federal employees and contractors to return to federal office buildings.

Department of Education Structure and COVID-19 Response

The Department of Education consists of 17 principal operating components.³ The Secretary is responsible for the overall direction, supervision, and coordination of all activities of the Department. The Deputy Secretary assists the Secretary in the discharge of Secretarial duties and responsibilities. OFO serves as a principal advisor to the Secretary and senior officials. OFO is currently led by an Acting Assistant Secretary and is comprised of seven service area organizations. The Office of Security, Facilities and Logistics Services within OFO oversees the Department's physical, personnel, and classified information security programs as well as oversight of the Department's Continuity of Operations Program. The Office of Human Resources, within OFO, provides leadership and direction in the formulation and implementation of policies, programs, and systems to promote efficient and effective federal workforce management.

The Department's Reconstitution Plan was developed between OFO and senior leaders across the Department, to include the Deputy Secretary and the Secretary. The Secretary tasked the Deputy Secretary to convene, and serve as the coordinator of, a Coronavirus Working Group to plan and coordinate the Department's response to the COVID-19 pandemic.⁴ The Acting Assistant Secretary of OFO took the lead on the operational aspects of the response.⁵ The objective was to develop a plan whereby the Department could reopen offices while keeping employees safe and continuing to support the Department's mission.

³ The Office of Inspector General is one of the 17 principal operating components. While the Office of Inspector General coordinated with the Department to obtain the latest information about preparedness, the Office of Inspector General developed a separate plan/response, which varied from the Department's Reconstitution Plan as needed to address unique Office of Inspector General mission requirements.

⁴ The Coronavirus Working Group has a programs aspect and operations aspect. The programs aspect focuses on K-12 and higher education while the operations aspect focuses on the Department's reconstitution plans.

⁵ Operations are a part of the Acting Assistant Secretary of OFO's normal scope of duty. As a result, the Department's operations response naturally fell to the Acting Assistant Secretary of OFO.

Finding. The Department Generally Incorporated Available Guidance, Which was Intended to Provide for a Safe and Gradual Return to Federal Offices, in Its Workplace Reconstitution Plan

We found that the Department generally incorporated available guidance, which was intended to provide for a safe and gradual return to federal offices, in its Reconstitution Plan. The Department developed a Reconstitution Plan and a Reconstitution Plan FAQs document. The Reconstitution Plan is based on the National Guidelines as well as OMB/OPM M-20-23. The Reconstitution Plan and FAQs incorporate practices from the CDC and OSHA.⁶

The National Guidelines establish a three-phased approach for re-opening America based on data-driven conditions each region or State should satisfy before proceeding to the next phased opening and also incorporates gating criteria which must be met in a State or county (in addition to core preparedness responsibilities) before proceeding to the phased reopening process. The National Guidelines state that during the phased reopening approach, employers should develop and implement appropriate policies, in accordance with Federal, State, and local regulations and guidance, and informed by industry best practices, regarding social distancing and protective equipment, temperature checks, testing, isolating, contact tracing, sanitation, use and disinfection of common and high-traffic areas, and business travel. In addition, the National Guidelines state employers should monitor the workforce for indicative symptoms, not allow symptomatic people to physically return to work until cleared by a medical provider, and develop and implement policies and procedures for workforce contact tracing following employee COVID tests during all phases. During Phase 1 and Phase 2, telework should be encouraged whenever possible and feasible with business operations; during Phase 3 employers should resume unrestricted staffing of worksites.

⁶ The General Services Administration also recently made available a Return to Workplace Strategy Book that can be used by agencies as a framework of considerations for returning to General Services Administration owned and leased facilities. The Department noted that the Facilities Services Division within the Office of Security, Facilities and Logistics Services reviewed a version of the book in July and took it into account. The Facilities Services Division is currently reviewing the final version and will identify actions to incorporate in the Department's Reconstitution Plan as appropriate.

Paralleling the National Guidelines, OMB and OPM released Memorandum M-20-23 which provides the framework for agencies to take immediate actions to begin adjusting their operating status for a controllable, steady return to normal operations, and align agency operations through a gating period and the 3-Phase framework in the National Guidelines. OMB/OPM M-20-23 states that agency heads must make decisions in the following operational areas: geographic-based decisions; telework status guidelines; personnel guidelines; facilities, service, and operations guidelines; and federal employee and contractor travel guidelines. It also states that agencies should review the relevant CDC and U.S. Department of Labor guidance, as well as other appropriate resources, when developing and implementing new or modified policies and processes.

The CDC released interim guidance for businesses and employers responding to COVID-19.⁷ In addition to stating that employers should follow the National Guidelines, the CDC guidance states that employers and businesses should identify a workplace coordinator who will be responsible for COVID-19 issues and their impact at the workplace. The guidance also lists ways in which employers and businesses can prevent and reduce transmission among employees, maintain healthy business operations, and maintain a healthy work environment. Some of these items include actively encouraging sick employees to stay home; implementing flexible sick leave and supportive policies and practices; providing employees, customers, and visitors what they need to clean their hands and cover their coughs and sneezes; and performing routine cleaning and enhanced cleaning and disinfection after persons suspected/confirmed to have COVID-19 have been in the facility.

OSHA guidance was released on preparing workplaces for COVID-19 and returning employees safely to work.⁸ The OSHA guidance is advisory in nature and intended to assist employers in providing a safe and healthful workplace. The guidance provides recommended steps that all employers can take to reduce workers' risk of exposure to COVID-19, such as preparing to implement basic infection prevention measures; developing policies and procedures for prompt identification and isolation of sick people; and developing, implementing, and communicating about workplace flexibilities and protections. It also focuses on the need for employers to develop and implement strategies for basic hygiene, social distancing, identification and isolation of sick employees, workplace controls and flexibilities, and employee training.

⁷ CDC Interim Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19) dated May 2020.

⁸ OSHA 3990-03 2020, "Guidance on Preparing Workplaces for COVID-19," and OSHA 4045-06 2020, "Guidance on Returning to Work."

The Department's Reconstitution Plan and FAQs

The Department developed a single Reconstitution Plan to be applied to each of its office locations. In addition to being consistent across all locations, the Department's plan is consistent across all principal operating components and applies to both Department employees and contractors. It follows OMB/OPM M-20-23 in establishing a three-phased plan for resuming normal operations.

The Department's Reconstitution Plan provides the primary framework for the Department's transition back to normal operations. It is supported by the FAQs, which answer common questions about how the Department intends to execute its plan, and expanded workplace flexibilities that the Department made available to assist employees and managers in meeting the challenges of COVID-19.⁹

On May 29, 2020, the Department emailed to its staff its Reconstitution Plan. The email noted that a set of FAQs was made available on the Department's intranet site. Since then, both documents have been made available on the Department's intranet site and, according to OFO, have been updated to stay current.

The scope of telework provisions are laid out in the Reconstitution Plan. The duration of telework depends on the Department's progress through the Phases as laid out in the Reconstitution Plan. Under the Reconstitution Plan, Department employees have telework and expanded workplace flexibilities throughout Phases 1 and 2 and only when the Department enters Phase 3 will employees generally be expected to return to the office and resume normal telework schedules.¹⁰

Before entering Phase 1 of the Department's Reconstitution Plan, geographic areas in which Department offices are located must meet the following gating criteria which parallel that of the National Guidelines and those set forth in OMB/OPM M-20-23:

⁹ The Department also developed a Coronavirus Contingency Plan as a companion document to the Department's Continuity of Operations Plan, to be activated if needed. The Coronavirus Contingency Plan serves as a tool to enable the Department to address and mitigate the impact of the virus while ensuring mission essential functions and services continue. The Coronavirus Contingency Plan details the different levels of telework to account for the risk of the disease and how to maintain mission essential functions; it does not address reconstitution.

¹⁰ A small number of employees and contractors involved in physical security, facilities, and Information Technology support, among others, have remained at their duty stations throughout the pandemic. Social distancing, masks, and weather and safety leave (to rotate those on duty), were employed during this time. Some other employees have also chosen to return in offices that have moved to Phase 1.

1. **Stay-at-Home Orders:** National Capital Region (District of Columbia, Maryland, Virginia) and regional office States have modified emergency orders such that employees can commute to and from work.
2. **Influenza-Like / COVID-Like Cases:** Downward trajectory of influenza-like and COVID-like cases for 14 days as determined by State/local jurisdictions.
3. **Documented COVID-19 Cases:** Downward trajectory of documented cases within a 14-day period OR downward trajectory of positive tests as a percent of total tests within a 14-day period (flat or increasing volume of tests) as determined by State/local jurisdictions.
4. **Hospitals:** Local hospitals are at normal capacity for treating patients without crisis care AND jurisdictions have a robust healthcare worker testing program in place as determined by State/local jurisdictions.
5. **Facilities Preparation:** Cleaning services have been modified to align with the prevailing CDC standards and appropriate supplies have been stocked at all facilities (*hand sanitizer, soap, disinfectant, cloth face coverings and disposable gloves*).

The Department's Reconstitution Plan notes that until the gating criteria have been met, maximum telework will remain in effect. Once the gating criteria have been met, Department offices will move to Phase 1 and employees will be allowed to transition back to their official worksites but will not be required to do so.

Department offices will move to Phase 2 when schools and care providers have reopened. Employees may continue the transition back to their official worksites but will not be required to do so. During Phases 1 and 2, flexible work schedules and flexible telework schedules remain in effect. While the Department's plan notes that employees in the vulnerable population category as outlined by the CDC, employees living with individuals in the vulnerable population, and those with dependent care responsibilities may continue to telework full time, the overall practice is to allow all employees the discretion to determine whether to return to the office during Phases 1 and 2.

Department offices will move to Phase 3 when it is safe and appropriate to return to normal operations.¹¹ Under Phase 3, emergency flexible work schedules are no longer in effect and staff will resume normal telework schedules. All employees are to return to their regular onsite duty locations.

¹¹ The Department currently does not have a definition for this or any criteria to apply in determining when it is "safe and appropriate" to return to normal operations in Phase 3. It plans to rely on information from the White House, the OMB, and the CDC on when the country has transitioned to a post-COVID phase and what that means for federal agencies.

The Reconstitution Plan states that the Department will continue to monitor State and local conditions through all phases and will adjust accordingly. The FAQs state that if gating metrics were to deteriorate sufficiently in a region, the affected Department offices would adjust to a more restricted posture, potentially including a return to maximum telework, if appropriate.

The Acting Assistant Secretary for OFO has primary decision-making authority as supported by OFO staff. The decisions to open regional offices are made based on a review of detailed regional data in accordance with the gating criteria. This includes closely tracking regional COVID-19 data provided by GeoHEALTH, a resource provided through a collaboration between the Federal Emergency Management Agency and the Department of Health and Human Services. In addition, we found that the Department tracks data including the number of cases, number of new cases, and total number of deaths by state. The Department also checks news and media outlets two to three times a week to see how local conditions may impact a location's move to a different phase. Information collected by the Department covers a variety of topics including, but not limited to, stay-at-home orders, travel restrictions, mask mandates, school and business closures and reopenings, and civil unrest.

While the Acting Assistant Secretary of OFO has the ultimate responsibility for deciding to open a regional or field office, the Secretary and Deputy Secretary will be notified prior to the announcement. Employees will be notified via an OFO alert email once their office location clears the gating criteria applicable to a particular Phase.

OSHA guidance on returning to work¹² notes that employers' reopening plans should address anti-retaliation, including practices for ensuring that no adverse or retaliatory action is taken against an employee who adheres to guidelines or raises workplace safety and health concerns. We found that the Department's Reconstitution Plan does not address anti-retaliation. The Department's Chief Human Capital Officer explained that coming into the office is completely voluntary during Phase 1 and Phase 2. The Chief Human Capital Officer noted that if a dispute over returning to the office occurs, the Department will provide case-by-case support and the incident will go through the normal employee relations channels and be tracked by the Department's Workforce Relations Group.

¹² OSHA 4045-06 2020, "Guidance on Returning to Work."

As of November 20, 2020, Department facilities in 10 of its 12 regional office locations (83 percent) have cleared the gating criteria and entered Phase 1.¹³ No regions have moved to Phase 2 or Phase 3.

Safety Precautions

Both the Reconstitution Plan and the FAQs discuss ways the Department is implementing safeguards and precautions to protect the health and safety of Department employees, contractors, vendors, and the visiting public. The Department is working with the General Services Administration and following CDC guidelines to make Department offices as safe as practicable.

As described in the Department's Reconstitution Plan, staff and visitors are not allowed into Department facilities if they have experienced any of a series of listed symptoms or may have been exposed to an illness; travel and work outside of Department buildings is limited; face coverings and social distancing are required; cleaning services have been modified to align with the prevailing CDC standards; and appropriate supplies are being procured for all facilities.

- **Facility Access** – The Department's Reconstitution Plan asks that employees, contractors, and visitors conduct a self-assessment prior to heading to a building. The FAQs state that the Department is not taking temperatures or testing for COVID-19 at entry to the office; instead, employees will be required to self-monitor. The FAQs state that per CDC guidelines, employees should stay home: (1) if they feel ill in any way (particularly if they have a fever or other symptoms of COVID-19); (2) if they believe they have been exposed to a person who may have COVID-19; or (3) if for any other reason they believe they may have been exposed to COVID-19.
- **Travel and Outside Work** – The FAQs state the Department will follow CDC guidance to determine whether it is safe for the employee to go into the office after personal travel. Regarding work-related travel, employees may attend outside conferences if travel is within existing Department guidelines, social distancing guidelines can be followed, and the conference is in compliance with prevailing guidance in its State. The Department's Reconstitution Plan states that essential travel will be approved on a case-by-case basis during Phase 1.

¹³ For our purposes, the National Capital Region, the location of the Department's headquarters, is included in our count of the Department's regional office locations. While there are 12 regional office locations, there are 25 facilities in which the Department has space.

Essential travel will be determined based on state and local conditions in Phases 2 and 3.

Currently, employees are either working from home or from an office that has entered Phase 1. Examples of situations where Department employees may work outside of Department buildings are when conducting site visits or attending live conferences; however, both activities are currently suspended. Department officials noted that the Secretary, accompanied by a few staff, has traveled and that while traveling, staff have observed social distancing, appropriate hygiene practices, and used face coverings.

- Social Distancing and Face Coverings - The phased approach to returning to work will help to mitigate employees working close together. The FAQs note that during Phases 1 and 2 there should be enough open desks to ensure that seating is at least 6 feet apart and that employees should work with their supervisor to resolve any concerns regarding office configurations or work arrangements. First line supervisors will coordinate employee telework and onsite schedules to ensure appropriate social distancing.

The Department's Reconstitution Plan also notes that during Phases 1 and 2, social distancing (6 feet) requirements will apply everywhere -- offices and cubicles, elevators and stairwells, cafeterias and pantries, internal lobbies, and external plazas. The Department stated that it has installed protective plexiglass and social distancing indicators in appropriate locations. In addition, the FAQs state that in-person meetings are limited to 10 persons or fewer so that social distancing guidelines may be observed.

The Department's Reconstitution Plan states that face coverings will be required when entering a Department building and when within 6 feet of another person.

- Cleaning Services – The Director of the Office of Security, Facilities and Logistics Services stated that the Department worked with the General Services Administration to implement enhanced cleaning for regions in Phase 1.¹⁴ This includes wiping down high touch areas throughout the day and enhanced cleaning in office kitchens. Conference rooms will be cleaned and disinfected

¹⁴ The Department has not implemented above standard or enhanced cleaning for regions that have not entered Phase 1; instead, the Department follows normal General Services Administration cleaning processes. The Department pays additional costs for enhanced cleaning once a region enters Phase 1.

daily, and bathrooms will be cleaned and serviced throughout the day. In addition, the Director noted that the Department has hired two additional people in each of the Washington D.C. buildings and regional buildings that have entered Phase 1 to complete extra custodial cleaning such as wiping down elevator buttons, pantries, and sinks. The Director stated that cleaning is provided through the General Services Administration and custodial contracts and that the General Services Administration has modified its contracts to ensure cleaning is performed within CDC guidelines. The Director confirmed that all Department work sites are either federal owned space or commercial space leased by the General Services Administration.

- Supplies – Department officials noted that they purchased items deemed appropriate based on what was regularly discussed in the news, CDC briefings, and what they gleaned as best practices from OMB led COVID-19 calls with other agencies.¹⁵

The Department's Reconstitution Plan notes that face coverings will be available at building entrances for employees who do not have one. In addition, the Department's FAQs state that disinfectant will be available in several locations on each office/floor. The Director of the Office of Security, Facilities and Logistics Services confirmed that cloth masks were purchased and distributed to principal operating components, and a number of disposable masks are available at building entrances. The Director stated that disinfecting wipes and hand sanitizer are available all over the buildings to include at building entrances, in conference rooms, and at elevator banks. The Department procured these materials via the General Services Administration Schedule and on the open market, depending on availability.

The Department tracked the coordination of supplies and personal protective equipment, consisting of hand sanitizer, soap, disinfectant, cloth face coverings, and disposable gloves, as noted in the Reconstitution Plan's gating criteria above. According to the Director of the Office of Security, Facilities and Logistics Services, the Department's Logistics Division performed on-site coordination for National Capital Region facilities and coordinated with regional office personnel to receive, distribute, and confirm supplies were in place. The Director stated

¹⁵ The Deputy Secretary and Acting Assistant Secretary of OFO participated on President's Management Council COVID calls hosted by OMB.

that if a supply is running low, an employee is able to report it to the facilities help desk via phone or e-mail.

COVID-19 Infection Protocol

The Department's COVID-19 Infection Protocol is also described in the Department's Reconstitution Plan. Under the protocol, an employee is to notify their first line supervisor of a positive test result and begin home or medical facility quarantine, as advised by medical professionals. The FAQs further state that the employee is encouraged to telework until it is safe for them to return in the opinion of their doctor. In line with the National Guidelines, employees who have experienced a confirmed case of COVID-19 will need to provide documentation demonstrating that it is safe for them to return to the office.

In the event that staff have, or may have, COVID-19, supervisors are to gather basic information about location and interactions of the sick staff member, such as where the staff member has been within Department facilities, and any Department personnel with whom they have been in contact during the preceding 14 days. If the employee tests positive for COVID-19 and has been in the office within the last 7 days, the surrounding area of the employee's space and the common spaces the employee could have contacted will be cleaned per CDC guidelines. The Executive Officer overseeing the impacted principal operating component will work with leadership to alert staff and evacuate the affected areas until they are cleaned and ready for occupancy again.

In addition, the FAQs note that if an employee is exhibiting symptoms, supervisors may direct the employee to go home and should consult with their employee relations advisor for guidance. However, neither the Department's Reconstitution Plan nor the FAQs include policies or procedures for immediately isolating an individual who has signs and/or symptoms of the virus. While the Department considered identifying rooms on each floor that could serve as an isolation area for COVID-19 cases, it believed this could lead to increased interaction and touches. As a result, the Department decided that the best course of action would be to get the symptomatic individual outside of the building as quickly possible.

Additional Workplace Flexibilities

In accordance with OPM guidance,¹⁶ the Department expanded workplace flexibilities. The Department implemented an emergency expansion of work schedule flexibilities that is to remain in effect until rescinded by the Department. The purpose of the flexibilities is to assist employees and managers in meeting the challenges of COVID-19 by providing a greater degree of scheduling flexibilities. A summary of the approved temporary emergency flexibilities was provided to Department employees. In addition, the Department released guidance on COVID-19 related sick leave flexibilities. It provides Department employees with Emergency Paid Sick Leave related to COVID-19, effective from April 1, 2020, through December 31, 2020. An employee is entitled to take Emergency Paid Sick Leave related to COVID-19 if the employee is unable to report to work or telework due to qualifying reasons related to COVID-19.

We found that because senior leaders at the Department were supportive of an employee-focused plan, the Department was able to develop a Reconstitution Plan that incorporated available guidance and practices through a collaborative process with input from multiple groups. Specifically, Department leadership worked closely with OMB, OPM, and other Federal partner agencies to discuss thoughts, best practices, and receive feedback. In addition, the Acting Assistant Secretary of OFO, who was in charge of developing the Department's Reconstitution Plan, engaged senior leaders across the Department and was supported by Finance and Operations staff who were able to research and gather information on available guidance and practices. The Department also received input and feedback from the Union for represented employees.

Senior Leadership Support

In late February 2020, the Secretary tasked the Deputy Secretary to convene the Coronavirus Working Group. As part of the Coronavirus Working Group, the Acting Assistant Secretary of OFO took the lead in developing a plan where the Department could reopen offices while keeping employees safe and continuing to support the Department's mission. In addition, the Department's internal website was updated in March 2020 to consolidate all COVID-19 resources. The landing page notes that the health and safety of all Department employees, and of those the Department serves,

¹⁶ OPM released guidance on "Options for Telework-Eligible Employees with Caregiving Responsibilities," <https://www.opm.gov/policy-data-oversight/covid-19/options-for-telework-eligible-employees-with-caregiving-responsibilities/>.

are of top concern, and the Department's leadership team is committed to helping to safeguard staff and stakeholders.

The Workforce Relations Division, Office of Human Resources, OFO, was tasked with providing recommendations, input, and research regarding actions for reconstitution. The Director of the Workforce Relations Division stated that the Reconstitution Plan was approached from the viewpoint of the employee and determining what would be in the best interest of the agency while at the same time considering employee safety. The Director stated that if employees did not feel safe or were scared to work, then the mission of the Department would be impacted. The Director added that from the group's perspective and OFO's perspective, that was the driving force for developing an exceptionally employee-focused plan.

External Collaboration

The Deputy Secretary and Acting Assistant Secretary of OFO participated on daily President's Management Council COVID calls hosted by OMB.¹⁷ According to the Acting Assistant Secretary of OFO, the calls included Deputy Secretaries across the government as well as CDC officials. The Acting Assistant Secretary of OFO stated they were able to share their thoughts and best practices during these calls. The Department also reviewed or was briefed on the plans of other agencies. In addition, the Department coordinated with OMB during the development of its Reconstitution Plan. The Department submitted a draft of its Reconstitution Plan to OMB for review and received feedback on May 8, 2020.

According to the Acting Assistant Secretary for OFO, agencies were required to submit their draft to OMB for review, but not for approval. Once feedback was received, there was no requirement to send the final plan to OMB. During our review, we found that the Department generally agreed with and implemented the suggestions from OMB. However, we identified an instance where the Department did not fully address OMB's comment. Specifically, OMB suggested that the Department reassess its self-screening questions or create a separate standard operating procedure, which the Department could periodically reassess and update as necessary, as there are now several new symptoms in the CDC guidelines. The Department updated the plan to include seven potential COVID-19 symptoms in line with the CDC guidance, as well as the CDC's fever definition based on OMB's suggestion. However, when asked if the Department has since reassessed and updated this information as necessary, the Acting Assistant Secretary responded that the Department has not updated the guidance, as it remains

¹⁷ These calls began daily in March 2020; in April they went to three times a week. In May they went to weekly, and across the summer went to every second week.

correct and references the CDC as the authoritative source. The Acting Assistant Secretary stated that while there have been many changes to the CDC guidance, the simpler guidance to Department employees is consistent with the CDC's core guidance. We reviewed the current list of coronavirus symptoms according to the CDC and compared them to what is noted in the Department's Reconstitution Plan under the self-assessment section. We found that there are several symptoms on the CDC's website that are not included in the Reconstitution Plan, some of which include the most common symptoms of the coronavirus according to the CDC. In addition, the CDC's website notes that as it learns more about COVID-19, CDC will continue to update the list.

Internal Collaboration

The Workforce Relations Division was tasked with researching and collecting information regarding actions for reconstitution for senior leadership to consider. The Director of the Workforce Relations Division stated that this research included anything they could get their hands on -- guidance from the CDC, the Equal Employment Opportunity Commission, the White House, OPM, OMB; any legal guidance; state and local news where Department offices are located; news articles; and best practices used across the country and the world. The Director stated that they searched for any information they could find on how to best develop the Reconstitution Plan, how to keep employees safe, and what would work best for the Department.

In addition to relying on the research collected by the Workforce Relations Division, the Acting Assistant Secretary of OFO consulted with Assistant Secretaries across the Department and briefed the Secretary, Deputy Secretary, Senior Executive Service members, and Department Assistant Secretaries regularly during the development of the Department's Reconstitution Plan, receiving feedback and edits along the way. The Acting Assistant Secretary of OFO also sought input from principal operating components. Offices were asked to submit ideas or questions regarding reopening to OFO to be considered while developing the plan. In addition, a COVID-19 inquiry email box was set up for employees with additional questions concerning the plan. Questions that are universal would be added to the FAQs document.

By developing an employee-focused Reconstitution Plan that incorporates available guidance, the Department is helping to provide for a safe and gradual return of federal employees to federal offices. This in turn can limit social contact and slow the spread of the virus. By supporting and protecting Department employees, the Department is in a

better position to continue its mission in addition to its critical role to assist and lead national recovery efforts in the wake of the coronavirus pandemic.¹⁸

Recommendations

We recommend that the Acting Assistant Secretary for OFO:

- 1.1 Ensures that the Department's Reconstitution Plan addresses anti-retaliation, including practices for ensuring that no adverse or retaliatory action is taken against an employee who adheres to guidelines or raises workplace safety and health concerns.
- 1.2 Ensures that the Department reassesses the self-screening questions and updates the information in the Reconstitution Plan as necessary, or includes a link to relevant CDC guidance in the self-assessment section of the Department's Reconstitution Plan for employees to access and reference.

Office of Finance and Operations Comments

OFO stated that it will draft and implement the appropriate action plans to address the recommendations, including continuing to monitor CDC guidance and updating the Department's Reconstitution Plan accordingly.

In addition, OFO provided clarification regarding its response to OMB's suggestion to update the self-screening questions in its Reconstitution Plan. OFO clarified that the Department agreed with OMB's feedback and updated the plan accordingly to include seven potential COVID-19 symptoms in line with the CDC guidance, as well as CDC's fever definition.

OIG Response

OIG acknowledges the clarification provided by OFO and has made corresponding edits. The edits did not result in any substantive changes to the report. OIG also acknowledges OFO's plans to implement the appropriate action plans to address the recommendations.

¹⁸ The Coronavirus Aid, Relief, and Economic Security Act or, CARES Act, was signed into law on March 27th, 2020. The CARES Act provides \$30.75 billion for an Education Stabilization Fund to prevent, prepare for, and respond to coronavirus, domestically or internationally.

Appendix A. Scope and Methodology

To answer our objective, we gained an understanding of the Department’s reconstitution plans and how the Department developed these plans. We reviewed applicable guidance from the White House, OMB, OPM, CDC, and OSHA. We also conducted interviews with OFO and other Department officials involved in the development of the Department’s plans for returning employees to federal offices. We obtained copies of e-mail correspondence, meeting agendas, and other documentation related to the Department’s reconstitution plans and procedures. We also reviewed Department responses to related information requests from the Government Accountability Office and the Senate Committee on Homeland Security and Governmental Affairs.

We reviewed the Department’s plans and procedures for returning employees to federal offices and compared them to existing guidance to determine if the Department’s plans had any apparent weaknesses or if the Department’s plans appeared to align with the guidance.

Use of Computer-Processed Data

While we reviewed whether the Department collected and tracked gating criteria data from electronic platforms such as GeoHEALTH, we did not utilize the data itself. We reviewed the data to determine the nature of information the Department collected and did not evaluate whether the Department appropriately made gating determinations using the data. Therefore, we determined that an assessment of the reliability of computer-processed data was not required.

We conducted fieldwork at Department offices in Washington, D.C., from August 2020 through November 2020. We provided our inspection results to OFO officials during an exit conference conducted on November 2, 2020.

We conducted this inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency’s “Quality Standards for Inspection and Evaluation” as appropriate to the scope of the inspection described above. Those standards require that we plan the work to obtain sufficient and appropriate data and other information to provide a reasonable basis for our conclusions. We believe that the information obtained provides a reasonable basis for the conclusions contained in the report.

Appendix B. Acronyms and Abbreviations

| | |
|---------------------|--|
| CDC | Centers for Disease Control and Prevention |
| COVID-19 | Coronavirus Disease 2019 |
| Department | U.S. Department of Education |
| Deputy Secretary | Deputy Secretary of Education |
| FAQs | Workplace Reconstitution Transition Plan Frequently Asked Questions |
| National Guidelines | “Opening Up America Again” |
| OFO | Office of Finance and Operations |
| OMB | Office of Management and Budget |
| OMB/OPM M-20-23 | “Aligning Federal Agency Operations with the National Guidelines for <i>Opening Up America Again</i> ” |
| OPM | Office of Personnel Management |
| OSHA | Department of Labor Occupational Safety and Health Administration |
| Reconstitution Plan | Workplace Reconstitution Transition Plan |
| Secretary | Secretary of Education |

Office of Finance and Operations Comments



UNITED STATES DEPARTMENT OF EDUCATION OFFICE OF FINANCE AND OPERATIONS

December 4, 2020

TO: Michele Weaver-Dugan,
Regional Inspector General for Audit, Internal
Operations/Philadelphia Audit Team

Bryon S. Gordon, Assistant Inspector General for Audit

FROM: Denise L. Carter
Acting Assistant Secretary
Office of Finance and Operations

SUBJECT: Response to Draft Assessment of the Department's Workplace Reconstitution
Plans Following COVID-19 (Control Number ED-OIG/S20DC0008)

Thank you for the opportunity to review the referenced Draft Report regarding the Department's Workplace Reconstitution Plan. The Department will draft and implement the appropriate action plans to address the recommendations.

I would like to clarify my response with respect to the finding that, "the Department did not update self-screening questions in its Reconstitution Plan as suggested by the Office of Management and Budget (OMB)."

On May 7, 2020, the Department submitted the draft Reconstitution Plan to OMB for review, including self-screening questions referencing three potential COVID-19 symptoms and making no reference to the definition of a fever. On May 8, OMB responded with the suggestion that we revisit the list of COVID-19 symptoms in light of new Center for Disease Control (CDC) guidance and consider providing details on the definition of a fever. We agreed with their feedback and updated the plan accordingly to include seven potential COVID-19 symptoms in line with the CDC guidance, as well as CDC's fever definition.

We will continue monitoring the CDC guidance and will update the Department's Plan accordingly.

Please convey our thanks to your audit team for their work on this review.

Please contact Daniel Currell, OFO Senior Advisor, at (202) 615-6862 with any questions or comments.

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