

CLIENT ALERT

Eighth Circuit Applies *Escobar's* Materiality Standard

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In *U.S. ex rel. Miller v. Weston Educ. Inc.* (Oct. 19, 2016), the Eighth Circuit became the first appellate court to apply the materiality standard recently articulated by the Supreme Court in *Escobar* (discussion of *Escobar* [available here](#)), holding that defendant's promise to keep accurate grade and attendance records was material in inducing the government to enter into an agreement under the Higher Education Act. The court rejected defendant's argument that no individual false record caused payment by the government, reasoning instead that the false promise to keep accurate records was material based on the express regulatory conditions of participation, their reasonable importance to payment, and evidence that the government had terminated other institutions that falsified similar records.

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