UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

ED-OIG/A03-A0022

JAN 15 2002

Dr. Scott Miller, President
Wesley College
120 North State Street
Dover, Delaware 19901-3875

Dear Dr. Miller:

This ***Final Audit Report*** (Control Number ED-OIG/A03-A0022) presents the results of our Audit of Commissioned Sales and Course Length at Wesley College (the College). Our objectives were to determine whether the College complied with the Higher Education Act (HEA) and applicable regulations pertaining to (1) the prohibition against the use of incentive payments for recruiting activities, and (2) course length.

A draft of this report was provided to Wesley College. In its response, the College did not concur with our findings and recommendations. We summarized the College's comments and provided our response following each finding. The full text of the College's comments is included as an attachment to the report.

AUDIT RESULTS

We found that the College was not in compliance with the statutory prohibition on the use of incentive payments for recruiting based on success in securing student enrollments when it paid the Institute for Professional Development (IPD) a percentage of tuition for all students enrolled in its Center for Adult Studies (CAS) programs. As a result of incentive payments to IPD, the College is liable for $1,431,560 in Title IV funds awarded to students in the CAS programs who were improperly recruited.

We also found that the College's documentation supporting the actual number of instructional hours scheduled or spent in study groups used to meet the definition of an academic year for its CAS programs did not provide the number of instructional hours required to meet the statutory definition of an academic year. The statutory definition of an academic year is set forth in Title 34, Code of Federal Regulations (CFR), Section 668.2(b). The regulations in this section that apply to institutions not using semester, trimester, or quarter systems are commonly known as the 12-Hour Rule. The 12-Hour Rule requires the equivalent of at least 360 instructional hours per academic year. An institution's academic year and the credit hours that a student is enrolled in are used, in part, to determine the amount of funds a student is eligible to receive from the

Title IV programs. We estimated that the College over awarded and disbursed $68,863 in Title IV funds during the period February 10, 1998, through June 30, 2000.[1]

<u>Finding No. 1</u> - Institutions Participating in the Title IV Programs Must Not Provide Payments for Securing Enrollments

Sections 487(a) and 487(a)(20) of the HEA require that:

> In order to be an eligible institution for the purposes of any program authorized under this title, an institution . . . shall, . . . enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:
>
> . . . The Institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance . . . .

The regulations at 34 CFR § 668.14(b)(22) codify the statutory prohibition on incentive payments based on securing enrollment.

> By entering into a program participation agreement, an institution agrees that . . . it will not provide, nor contract with any entity that provides, any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the awarding of student financial assistance...

IPD Received Payments Based on Student Enrollment in CAS Programs

The College entered into a contract with IPD that provided for incentive payments to IPD based on success in securing student enrollments for its CAS programs. The contract included the following responsibilities for IPD:

- IPD shall recruit students to enroll in the courses of study in the [CAS] programs.
- IPD shall provide representatives to recruit students for the programs covered under this agreement.
- IPD will submit to the College a sufficient number of qualified applicants for admission to the programs such that a minimum of 75 and a maximum of 1,500 students are enrolled in courses of study during each academic year . . . .

[1] The dollars we estimated as over awarded here are duplicative of the dollars we determined as over disbursed in Finding No. 1.

- IPD shall collect, on behalf of the College, all tuition, application fees, book and material fees, and other fees applicable to the programs.
- IPD shall maintain the official program accounting books and records. . . .

Book, material, and computer fees were remitted in full to the College. Tuition and fees were divided between the parties on a weekly basis. During the period of our audit, in accordance with the contract, the division was 50 percent to the College and 50 percent to IPD. Refunds were paid from the joint bank account according to these percentages. In contracting with IPD to provide recruiting services, the College violated the statutory and regulatory provisions quoted above by paying IPD a percentage of tuition for each enrolled student IPD recruited.

The College Violated the HEA by Paying IPD Based on Success in Securing Enrollments for the CAS Programs Which Resulted in $1,431,560 of Improperly Disbursed Title IV Funds

Because the College did not comply with the law and regulations by paying incentives to IPD based on success in securing student enrollments for its CAS programs, the College must return all Title IV funds that were disbursed on behalf of students enrolled in the CAS programs who were improperly recruited. Since the College paid incentives for each student enrolled in the CAS programs, all students in the CAS programs were improperly recruited. We determined that the amount of Stafford loan funds disbursed by the College during our audit period, February 10, 1998 through June 30, 2000, was $1,376,670. The amount of Pell Grant funds disbursed for the same period was $54,890.

IPD's Compensation Plan for Recruiters Based Salary and Bonuses on the Number of Students Enrolled in the CAS Programs

Our review of IPD's compensation plan for fiscal year 1999 disclosed that IPD provided incentives to its recruiters through salary levels that were based on the number of students recruited and enrolled in the programs. According to the plan, recruiters were assigned a salary within the parameters of performance guidelines (i.e., knowledge of basic policies and procedures, organization and communication skills, and working relationships). The plan provided for an annual goal of at least 100 students each fiscal year, and performance was assessed on a regular basis throughout the year. The plan called for formal evaluations biannually and after the first six months of employment, salary was determined on an annual basis. The plan showed that recruiters' success in recruiting students who enrolled into the CAS program determined whether the salary was adjusted upward, downward, or remained the same. In addition, the fiscal year 1999 compensation plan required IPD to pay recruiters hired prior to September 1, 1998, bonuses based on the number of students recruited. The bonus amount increased as the number of students recruited increased, and ranged from $1,344 for 100-149 students to $29,600 for over 200 students. The fiscal year 1999 plan indicated that recruiters hired on or after September 1, 1998, who recruited 100 or more students by the end of the fiscal year were entitled to a one-time bonus of $1,500. In contracting with IPD, the College was not in compliance with 34 CFR § 668.14(b)(22) because IPD paid its recruiters incentive compensation based on success in securing enrollment.

Recommendations

We recommend that the Chief Operating Officer for Student Financial Assistance require the College to:

1.1 Amend or terminate immediately its present contractual relationship with IPD to eliminate incentive payments based on student enrollment.

1.2 Return to lenders $1,376,670 of Stafford loan funds disbursed on behalf of students enrolled in the CAS programs during the period of February 10, 1998, through June 30, 2000, and repay the Department for interest and special allowance costs incurred on Federally subsidized loans.

1.3 Return to the Department $54,890 of Pell Grant funds disbursed on behalf of students enrolled in the CAS programs during the period of February 10, 1998, through June 30, 2000.

1.4 Determine the amounts of Stafford loan and Pell Grant funds improperly disbursed since the end of our audit period and return the funds to lenders and the Department.

College's Reply:
IPD received payments based on student enrollments at CAS.

The College did not concur with our finding and recommendations.

In summary, the College stated the following:

- The contract between the College and IPD was designed to compensate IPD for a wide range of professional services the costs of which are dependent on student enrollment. Those services include but are not limited to site management, financial management, and management consultation.
- The OIG implied that student recruitment was the sole function performed by IPD because the draft report seemingly ignores those non-enrollment services performed under the terms of the contract.

OIG Response:
The OIG did not overlook or ignore the fact that IPD provided other services to the College under the terms of the agreement. In our draft audit report, we acknowledged that IPD provided additional services, such as maintaining official program accounting books and records. Since it was not within the scope of our audit, we did not determine the extent of additional services under the agreement that were actually provided by IPD at the request of the College and at IPD's cost. We did verify that the revenue to IPD was generated only by the success in securing enrollments for which IPD was performing recruiting services. This constitutes the statutory violation of providing a commission, bonus, or other incentive payment based directly or indirectly on the success in securing enrollment.

While we recognize that IPD logically had to incur expenses to provide the program accounting services, and any additional services that may have been provided by IPD, these expenses are irrelevant in determining whether the structure of the revenue allocation is a violation of the HEA. No compensation was to be provided to IPD unless IPD was successful in recruiting and securing student enrollment. The agreement also included a minimum enrollment guarantee that, if not achieved, would result in a reduction in revenue to be allocated to IPD, despite other services that might have been provided. This further emphasizes that the revenue stream is completely generated by, and dependent on, student enrollment.

The College does not dispute that the payments it made to IPD were based on a percentage of the tuition and fees paid by students enrolled in the CAS programs. The College likewise does not dispute that IPD was responsible for recruiting students. Nor does the College dispute that some portion of the amount it paid to IPD was directly related to IPD's success in securing enrollment for its CAS program. Our audit report did not focus on what other services may have been provided by IPD because once IPD became responsible for recruiting students, even among other activities, and received compensation from the College based on the number of students enrolled in the program, the College was in violation of the HEA.

The HEA at § 487(a)(20) states:

> The institution will not provide **any** commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to **any persons or entities engaged in any student recruiting**. . . . [Emphasis added.]

Once recruiting was added to the services to be provided under the contract, compensation based on enrollment was no longer permitted. IPD had sole responsibility for recruitment and enrollment, and was paid under the contract only on the basis of its success in securing enrollment regardless of what other services it may have been providing. Whether or not the revenue allocation was intended to provide compensation for other services is irrelevant since the allocation violates the law.

The College's response regarding the services performed by IPD did not always agree with the contract.

The College's included an item in its response under management consulting that is not contained in the contract, namely, program administration, faculty development, and student record management. The contract did not require IPD to provide all of the services. The services were to be provided at the College's request and IPD's expense, or under separate agreement.

College's Reply:
IPD's compensation plan for recruiters based salary and bonuses on the number of students enrolled in the CAS programs.

The College does not believe that the intent of the statute is to preclude schools from basing employee salaries on merit.

In summary, the College stated the following:

- The College has no direct knowledge of IPD's compensation plan, however, the use of performance parameters, specific and measurable goals and objectives for performance and routine assessment of goal attainment are recognized as basic elements of any performance appraisal system.
- The College stated that the law does not speak, nor could it reasonably, speak to using performance and skill to determine salary level; rather it prohibits the use of commissions or bonuses.
- The College does not believe that the intent of the statute is to preclude schools from basing employee salaries on merit.
- The College has no direct knowledge of or access to IPD personnel files. Informal data indicates that no recruiters were employed by IPD at CAS prior to September 1, 1998.

OIG Response:
Contrary to IPD's representation, the compensation plan we reviewed did not include factors other than enrollment to adjust recruiter salaries. According to the compensation plan, recruiters' salary and bonuses were determined annually by how many students they enrolled in the programs. Annual salary and bonuses would increase, decrease, or remain the same in accordance with predetermined tables that directly tied students enrolled to particular salary and bonus amounts. The salary and bonus tables did not include factors other than enrollment. The requirements of HEA § 487(a)(20) cannot be avoided by labeling improper incentive compensation as a salary.

Finding No. 2 – Non-term Institutions Must Provide a Minimum of 360 Hours of Instructional Time in an Academic Year

HEA § 481(d)(2) states that the term "academic year" shall:

> Require a minimum of 30 weeks of instructional time, and, with respect to an undergraduate course of study, shall require that during such minimum period of instructional time a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution that measures program length in credit hours . . .

The regulations at 34 CFR § 668.2(b) clarify what constitutes a week of instructional time in the definition of an academic year:

> . . . the Secretary considers a week of instructional time to be any week in which at least one day of regularly scheduled instruction, examinations, or preparation for examinations occurs . . . For an educational program using credit hours but not using a semester, trimester, or quarter system, the Secretary considers a week of instructional time to be any week in which at least 12 hours of regularly scheduled instruction, examinations, or preparation for examinations occurs . . . .

These regulations, commonly known as the 12-Hour Rule, require the equivalent of 360 instructional hours per academic year (12 hours per week for 30 weeks). Institutions were required to comply with the 12-Hour Rule as of July 1, 1995.

In the preamble to the 12-Hour Rule regulations published on November 29, 1994, the Secretary explained that an institution with a program that meets less frequently than 12 hours per week would have to meet for a sufficient number of weeks to result in the required instructional hours. For example, if an institution decided to establish an academic year for a program with classes that met for 10 hours per week, the classes would need to be held for 36 weeks to result in 360 hours.

The College measured its CAS educational programs in credit hours, but did not use a semester, trimester, or quarter system. The CAS programs consisted of a series of courses for which a student generally received three credit hours per course. The College defined its academic year as 24 credit hours in 45 weeks. To comply with the 12-Hour Rule, the College would need to provide 8 hours of instruction per week for each week in its 45-week academic year to equal 360 hours per year.

The College Did Not Have Management Controls in Place to Ensure That the Required 360 Hours of Instruction For Each Academic Year Were Scheduled and Occurred

Management controls are the policies and procedures adopted and implemented by an organization to ensure that it meets its goals, which, as applicable to this situation, are compliance with laws and regulations. According to the CAS student handbook, students were required to meet for four hours per week in regular classroom workshops, and were expected to meet an additional four hours per week in study groups. The College counted the study group time for purposes of the 12-Hour Rule. We found that the College did not establish and implement management controls to ensure that study groups were regularly scheduled and occurred.

The College's policy was that an instructor be present at regular classes and maintain attendance records for the classes. However, the College did not apply this policy to study groups. The College's policy was to check the instructor's class attendance records weekly and, if a student missed more than two classes, the student received a failing grade. The College did not have an equivalent policy for study group attendance.

During our audit period, there were 22 cohort groups that began the CAS program. College officials stated that each cohort group had 4 or 5 study groups within each cohort. Based on these figures, approximately 88 study groups would have existed during our audit period.

We reviewed CAS student academic records to determine if there was documentation of the study group meetings. According to the CAS student handbook, each study group was required to create a study group "constitution" to govern the operation of the group. Although approximately 88 study groups would have existed during our audit period, we found only 28 study group constitutions. Only 18 of the 28 constitutions included any information about study group meeting days or times. None of the 18 constitutions provided enough information to conclude that the groups' meetings were regularly scheduled for the required number of hours. We found no other documentation that the College scheduled or otherwise confirmed that each group met for the required number of hours.

Based on our review of the College's written policies and procedures, review of academic records, and interviews with College officials, the College had no assurance that study groups were taking place to meet the requirements of the 12-Hour Rule.

Failing to Comply With the 12-Hour Rule Resulted in the College Over Awarding $68,863 of Title IV Funds To Students Enrolled in the CAS Programs

Because the College did not ensure that study groups meetings were scheduled and occurred as required, the meetings do not qualify for inclusion in the 12-Hour Rule calculation. Consequently, the College-defined academic year of 45 weeks only provided 180 hours of the required minimum of 360 hours of instructional time (four hours of instruction per week for 45 weeks equals 180 hours of classroom hours). In order to meet the 360-hour requirement, the University's academic year would need to be 90 weeks in length. By using an academic year of 45 weeks rather than 90 weeks for awarding Title IV funds, the College disbursed amounts to students that exceeded the maximum amounts for an academic year allowed under the Stafford loan and Pell Grant programs. We estimate that the College over awarded $68,863 of Title IV funds to students enrolled in the CAS programs. The students included in this amount had Stafford loans and Pell Grants with loan/grant periods from February 10, 1998, through June 30, 2000.

- **Stafford Loan Limits**. Title 34 CFR § 682.603(d) stipulates that an institution may not certify a loan application that would result in a borrower exceeding the maximum annual loan amounts specified in 34 CFR § 682.204. We estimated that $41,418 in Stafford loan disbursements exceeded the annual loan limits.

- **Pell Grant Maximum**. Title 34 CFR § 690.62(a) specifies that the amount of a student's Pell Grant for an academic year is based upon schedules published by the Secretary for each award year. The payment schedule lists the maximum amount a student could receive during a full academic year. We estimated that

$27,445 in Pell Grant disbursements exceeded the maximum amount allowed.

Institutions were required to comply with the 12-Hour Rule as of July 1, 1995. Because the College's academic year for its CAS programs did not meet the requirements of the 12-Hour Rule, the College has improperly disbursed Title IV funds for its undergraduate students on Stafford loan and Pell Grants awarded since February 10, 1998.

Recommendation

We recommend that the Chief Operating Officer for Student Financial Assistance require the College to:

2.1 Immediately develop an academic year for its undergraduate CAS programs that satisfies the 12-Hour Rule as a condition for continued participation in Title IV programs.

The dollars we estimated as over awarded due to violating the statutory course length requirements are duplicative of the dollars we determined as over awarded due to violating the statutory prohibition against the securing of incentive payments for recruiting activities. Only those amounts not recovered in Finding No.1 should be recovered by Student Financial Assistance as a result of Finding No. 2.

College's Reply:

The College did not dispute our finding that adequate management controls were not in place to ensure that study groups were regularly scheduled and occurred during the audit period. The College has established the following policies and procedures as of September 2000, which they believe "ensure the integrity of the team component":

- Students are required each week to submit study group tracking logs to their instructor;
- The College has revised the attendance policy to give equal weight to attendance at direct instruction and participation in application/discussion teams;
- The College has hired a full time professional whose responsibilities include ensuring that tracking logs are submitted by instructors weekly and that student attendance records reflect absences from group sessions;
- The faculty is reviewing evaluation criteria to ascertain that students must complete the team component in order to satisfy minimum requirements of the course;
- The College has constructed appropriate space and equipped it with technology so that teams may meet on site at CAS; and
- The College has developed a three-session mandatory student orientation, which addresses the role of the teams in the learning process and the requirements for participation as well as other essential topics.

Furthermore, the College states that the "rigor of these controls exceed those routinely used in more traditional configurations such as lecture and assistant led discussion."

OIG Response:
The College stated in their response that they developed policies and procedures believed to be adequate.

Although outside our audit period, during our fieldwork, we reviewed the policies and procedures implemented by the College and concluded that the policies and procedures were inadequate to ensure that study group meetings were scheduled and occurred as required. Out of the 166 group tracking logs we reviewed, we found the following discrepancies:

- There were 7 group tracking logs that did not contain a scheduled meeting time;
- There were 18 group tracking logs that revealed study groups were not meeting for the required amount of hours;
- The objective section in 20 group tracking logs were partially completed or not completed at all;
- There were 48 group tracking logs that did not have a faculty member's (instructor) signature to indicate that the instructor received and reviewed the log; and
- There were 86 group tracking logs that did not have an instructor's signature to indicate a group's location approval.

BACKGROUND

Founded in 1873, the College is an independent, comprehensive, residential, liberal arts college related to the United Methodist Church. The main campus is located in Dover, Delaware. The College is fully accredited by the Middle States Association of Colleges and Secondary Schools.

In June 1998, the Institutional Participation and Oversight Service of the U.S. Department of Education gave its initial approval to the College's CAS programs. The semester for the first cohort group of students started in January 1999 for its Bachelor of Business Administration (BBA) and Associate of Science with a concentration in Business (ASB) programs at their New Castle, Delaware location. During the period of our review, the College only offered the BBA and ASB programs, however a Master of Business Administration program was added in August 2000. A total of 124 semester hours are required for the BBA degree and 64 for the ASB degree. No student may be admitted into the BBA program with fewer than 60 credits of college work. Each program was designed for nontraditional working adults and was structured using a cohort-based format.

On February 19, 1998 the College contracted with IPD for marketing and accounting support for its CAS programs while the College provided curriculum and faculty. Since the effective date of the agreement, IPD and the College have split revenue for tuition and fees equally. However, book, material, and computer fee revenues were remitted in full to the College. The following chart depicts the revenue division during the period of our review.

	Feb. 1, 1999 – June 30, 1999 Division of Revenue	July 1, 1999 – June 30, 2000 Division of Revenue
Wesley	$95,275.01	$637,757.01
IPD	$87,840.34	$620,108.11

The revenue information above is presented after deducting refunds and bank fees, and was derived from accounting reports and bank statement information provided by IPD. As of June 2000, approximately 225 students were enrolled in the CAS program. Total enrollment at all of the College's locations and programs was over 1,800 students.

Students enrolled in CAS programs received assistance under the Federal Family Education Loan Program and the Federal Pell Grant Program. The Department reported a 6.8 percent default rate for the College for fiscal year 1998.

AUDIT SCOPE AND METHODOLOGY

The objective of our audit was to determine compliance with the HEA and Title IV regulations in the areas of recruitment, incentive-based payments, and course length. We focused our review on the following areas:

- The College's contract with IPD.
- Required hours of instruction in an academic year under the 12-Hour Rule.

To accomplish our objectives, we reviewed the College's policies and procedures, accounting and bank records, and student financial assistance and academic files for the CAS programs. We reviewed the College's program participation agreement with the Department, its contract with IPD, and IPD's compensation plans for its recruiters. We reviewed the two most recent Title IV audit reports prepared by the College's Certified Public Accountants, and the program review file maintained by the U.S. Department of Education, Student Financial Assistance. We interviewed College faculty and IPD management officials and staff.

We relied on data taken from the College's academic records and on computer-processed data extracted from IPD's database of Title IV student payment data. Also, we relied on the College's financial aid records maintained for students enrolled in CAS. We used an extract of payment and award data from the National Student Loan Data System (NSLDS) to corroborate information obtained from the College's records and IPD's systems. To test data reliability, we traced from bank statements, cancelled checks, and lender disbursement register reports to IPD's individual student activity files. The sample of student files checked for data reliability were randomly selected. Based on these tests and assessments, we concluded that the data was sufficiently reliable to use in meeting the audit's objectives.

The audit covered the period February 10, 1998, through June 30, 2000. We performed fieldwork on-site at the College's CAS New Castle, Delaware location and it's main campus in Dover, Delaware during the period October 12, 2000, through January 24, 2001. We held an exit conference with the College on March 13, 2001. We conducted the audit in accordance with government auditing standards appropriate to the scope of review described above.

STATEMENT ON MANAGEMENT CONTROLS

As part of our review, we gained an understanding of the College's management control structure, as well as its policies, procedures, and practices for the CAS and applicable to the scope of the audit. Our purpose was to assess the level of control risk for determining the nature, extent, and timing of our substantive tests. We assessed the significant controls in the areas of institutional eligibility, student enrollment, and course length.

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the management controls. However, our assessment disclosed significant management control weaknesses that adversely affected Wesley College, Center for Adult Studies' ability to administer the Title IV programs. These weaknesses included incentive-based payments for student enrollment that violated the statutory prohibition against commissioned sales and inadequate control over the amount of time spent in instruction that violated the requirements of the HEA and the regulations. These weaknesses and their effects are fully discussed in the *Audit Results* section of this report.

FINAL

ADMINISTRATIVE MATTERS

If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Department of Education official, who will consider them before taking final Departmental action on the audit.

Mr. Greg Woods
Chief Operating Officer
Student Financial Assistance
U.S. Department of Education
Regional Office Building, Room 4004
7th and D Streets, SW
Washington, DC 20202

Office of Management and Budget Circular A-50 directs Federal agencies to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be greatly appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

If you have any questions or if you wish to discuss the contents of this report, please contact Bernard Tadley, Regional Inspector General for audit at (215) 656-6279. Please refer to the control number in all correspondence related to the report.

Sincerely,

Thomas A. Carter
Thomas A. Carter
Assistant Inspector General for Audit Services

Enclosure

Wesley College
Office of The President
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Dover, Delaware 19901-3875

WESLEY
Delaware's Oldest Private College
Founded 1873

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September 21, 2001

Mr. Bernard Tadley
Area Manager, Philadelphia Office
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 502
Philadelphia, PA 19107

RE: Draft Audit Report: Wesley College
Control Number: ED-OIG/A03-A0022

Dear Mr. Tadley:

We appreciate the extension granted us in light of the recent national tragedies.

Attached is Wesley College's response to the Draft Audit Report issued on August 17, 2001 by the United States Department of Education, Office of the Inspector General, Division of Audit. The College does not concur with the Findings and Recommendations set forth in the Draft Report.

We appreciate the opportunity to comment on the Draft Report, and the College reserves the right and opportunity to respond further to any final report.

Respectfully submitted,

Scott D. Miller, Ph.D.
President

SDM:ec

Enclosure

WESLEY COLLEGE
Dover, Delaware 19901
September 21, 2001

Wesley College is a fully accredited, coeducational, liberal arts institution located in Dover, Delaware. Wesley was established in 1873 and is affiliated with the United Methodist Church. It represents a learning community of approximately 2000 collegiate learners enrolled in programs from the Associate to the Masters level.

The draft audit report (Control Number ED-OIG/A03-A0022) focuses on student aid funds received by students enrolled at Wesley College's Center for Adult Studies (C.A.S.) located in New Castle, Delaware. Programs at the New Castle site are offered in conjunction with The Institute for Professional Development (I.P.D.). The audit covered the period February 10, 1998 through June 30, 2000. The draft report finds the College in non – compliance with the HEA and Title IV regulations in the areas of incentive based payments for recruiting activities and course length. The College believes it has met both the letter and the intent of the law in both areas.

Finding No. 1: Institutions participating in Title IV Programs must not provide payments for securing enrollments.

1A- IPD received payments based on student enrollments at CAS.

The draft report contends that the College "entered into a contract with IPD that provided for incentive payments to IPD based on success in securing student enrollments for its CAS programs."

Institutional Response:

The Wesley College/IPD contract executed February 19, 1998, identifies IPD's responsibilities to include provision of services in the areas of:

A. Management Consulting and Training;
B. Program Development;
C. Program Administration;
D. Instructional Facilities;
E. Instructor Recruiting;
F. Off-Campus Office Facilities;
G. Recruitment of Students;
H. Program Enrollments;
I. Accounting;
J. Outcomes Assessment.

Clearly the contract compensates IPD on a wide range of professional services the costs of which are dependent on the numbers of students served. These services include but are not limited to those related to site management (facilities, phones, classrooms, furniture, security and technology); financial management (bill preparation, processing, collection and financial planning) and management consultation (program administration, student record systems and faculty development).

The draft audit report seemingly ignores those non-enrollment services performed under the terms of the contract; finding that "in contracting with IPD to provide recruiting services, the College violated the statutory and regulatory provisions ...by paying IPD a percentage of tuition for each enrolled student IPD recruited." This implies that student recruitment was the sole function performed by IPD. In reality the cost of many of the non-recruitment services identified above and provided by IPD varies directly with the numbers of students, and consequently faculty and staff, at an institution.

For these reasons the College does not concur that IPD received payments based on student enrollment in CAS programs. The College did not violate the provisions of HEA by paying IPD based on success in securing enrollments but for a wide array of services.

1B-IPD's compensation plan for recruiters based salary and bonuses on the number of students enrolled in the CAS programs.

The draft audit report reviewed IPD's compensation plan for FY 1999 indicating that " IPD provided incentives to its recruiters through salary levels that were based on the number of students and enrolled in the programs. According to the plan, recruiters were assigned a salary level within the parameters of performance guidelines (i.e. knowledge of basic policies and procedures, organization and communication skills and working relationships. The plan provided an annual goal of at least 100 students each fiscal year, and performance was assessed on a regular basis throughout the year. The plan called for formal evaluations biannually ...and salary determined on an annual basis."

Institutional Response:

The College has no direct knowledge of IPD's compensation plan however the use of performance parameters, specific and measurable goals and objectives for performance and routine assessment of goal attainment are recognized as basic elements of any performance appraisal system. The law does not speak, nor could it reasonably, speak to using performance and skill to determine <u>salary</u> level; rather it prohibits the use of <u>commissions</u> or <u>bonuses.</u> The College does not believe that the intent of the statute is to preclude schools from basing employee salaries on merit.

The draft audit report continues "the FY 1999 compensation plan required IPD to pay recruiters prior to September 1, 1998, bonuses based on the number of students recruited."

Once again the College has no direct knowledge of or access to IPD personnel files. However informal data indicate **no recruiters were employed by IPD at CAS prior to September 1, 1998.**

For these reasons the College does not concur that it is in non-compliance because IPD's compensation plan for recruiters based salary and bonuses on the number of students enrolled in the CAS program.

<u>Finding No. 2: Non term institutions must provide a minimum of 360 hours of instructional time in an academic year.</u>

The CAS program consists of a sequence of courses for which the student generally receives three (3) credits. The College defines its academic year as 24 credits in 45 weeks. Classes meet for four (4) hours of direct instruction and four (4) hours in application/discussion each week.

2 A: The College did not maintain documentation to show that students received the required 360 hours of instruction for each academic year.

Institutional Response:

The delivery system employed at CAS is based on the basic-and widely accepted-principle that students, especially adults, learn best when they are active participants in a collaborative learning environment. This basic tenant is reflected in the application/discussion component (study group) and is highlighted in all promotional materials describing the programs. It is stressed at orientation meetings and admissions interviews and is reflected in the syllabus and assignments for each course.

During the summer of 2000, the College instituted mandatory study group tracking logs which are required to be submitted to the instructor each week. The instructor must verify, by signature, that he/she has received the log.

The College has revised the attendance policy to give equal weight to attendance at direct instruction and participation in application/discussion teams. The College has hired a full time professional whose responsibilities include ensuring that tracking logs are submitted by instructors weekly and that student attendance records reflect absences from group sessions.

The faculty are reviewing evaluation criteria in each course to ascertain that students must complete the team component in order to satisfy minimum requirements of the course.

The College has constructed appropriate space and equipped it with technology so that teams may meet on site at CAS. Professional staff supervise these facilities which are available from 8:30 AM until 10 PM.

The College has developed a three (3) session mandatory student orientation which addresses the role of the teams in the learning process and the requirements for participation as well as other essential topics.

Faculty and student handbooks have been revised to reflect these changes.

The College believes it has developed policies and procedures to ensure the integrity of the team component. We believe the rigor of these controls exceed those routinely used in more traditional configurations such as a lecture and assistant led discussion session.