
Saint Mary-of-the-Woods College's Administration of the Title IV Programs

FINAL AUDIT REPORT



ED-OIG/A05K0012
March 2012

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U.S. Department of Education
Office of Inspector General

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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

AUDIT SERVICES
Chicago/Kansas City Audit Region

March 29, 2012

Dr. Dottie King
President
Saint Mary-of-the-Woods College
Office of the President
1 Saint Mary-of-the-Woods College
Saint Mary-of-the-Woods, IN 47876-0067

Dear Dr. King:

Enclosed is our final audit report, Control Number ED-OIG/A05K0012, titled "Saint Mary-of-the-Woods College's Administration of the Title IV Programs." This report incorporates the comments that Saint Mary-of-the-Woods College (College) provided in response to the draft report. If the College has any additional comments or information that it believes might have a bearing on the resolution of this audit, the College should send them directly to the following Department of Education official, who will consider them before taking final Departmental action on this audit:

James Runcie
Chief Operating Officer
Federal Student Aid
U.S. Department of Education
Union Center Plaza, Room 112G1
830 First Street, N.E.
Washington, D.C. 20202

It is the policy of the U. S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of any additional comments within 30 days would be 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.

Sincerely,

/s/

Gary D. Whitman
Regional Inspector General for Audit

Acronyms, Abbreviations, and Short Forms Used in this Report

C.F.R.	Code of Federal Regulations
COA	Cost of attendance
College	Saint Mary-of-the-Woods College
COO	Chief Operating Officer
Department	U.S. Department of Education
FFEL	Federal Family Education Loan
FSA	Federal Student Aid
FWS	Federal Work-Study
HEA	Higher Education Act of 1965, as amended
HLC	The Higher Learning Commission
NSLDS	National Student Loan Data System
OIG	Office of Inspector General
Pell	Federal Pell Grant
Records	Academic and financial aid records
Title IV	Title IV of the Higher Education Act of 1965, as amended
WED	Woods External Degree
WED Handbook	“Student Handbook for the Woods External Degree Program of Saint Mary-of-the-Woods College 2009-2010”

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EXECUTIVE SUMMARY

The objectives of our audit were to determine whether Saint Mary-of-the-Woods College (College), located in Saint Mary-of-the-Woods, Indiana, complied with selected provisions of the Higher Education Act of 1965, as amended (HEA), and selected regulations governing (1) the 50 percent correspondence limit, (2) program eligibility for distance education programs, (3) incentive compensation, (4) award calculations, (5) student eligibility, (6) disbursements, and (7) return of Title IV aid. We limited our review to the Federal Family Education Loan (FFEL), Federal Pell Grant (Pell), and Federal Work-Study (FWS) programs. Initially, our audit for all the objectives covered the period July 1, 2009, through June 30, 2010 (award year 2009-2010). We then expanded our audit period to include July 1, 2005, through June 30, 2010, specifically for the 50 percent correspondence limit objective. Beginning in award year 2009-2010, a portion of the funding for the Pell and FWS programs was provided under the American Recovery and Reinvestment Act of 2009.

We concluded that the College was not eligible to participate in the Title IV of the HEA (Title IV) programs and has not been eligible since at least July 1, 2005, because 50 percent or more of its students were enrolled in correspondence courses. For award years 2005-2006 through 2009-2010, the College received almost \$42.4 million that it was not eligible to receive.

According to Section 102(a)(3)(B) of the HEA, an institution is not eligible to participate in the Title IV programs if 50 percent or more of its students were enrolled in correspondence courses during its latest complete award year. The College considered its programs to be offered in either on-campus or telecommunications formats. It did not consider any of its programs to be offered through correspondence. However, based on our review of the College's documentation and interviews with College officials and students, we concluded that courses were in fact offered in a correspondence format.

In addition, for award year 2009-2010, we identified instances of noncompliance with the requirements governing award calculations, student eligibility, disbursements, and return of Title IV aid. Specifically, the College

- Incorrectly calculated Title IV awards for students enrolled in correspondence courses;
- Could not provide documentation supporting its cost of attendance budgets;
- Improperly disbursed Title IV funds to students who should not have received the funds;
- Did not return all Title IV funds for students who never began attendance;
- Did not return the proper amounts of Title IV funds for students who unofficially withdrew; and
- Did not provide required notifications for disbursements of Title IV funds or provide timely FFEL Program exit counseling.

Based on our limited testing, we did not identify any instances of noncompliance with the other requirements governing distance education programs or the requirements governing incentive compensation.

We recommend that the Chief Operating Officer (COO) for Federal Student Aid (FSA) terminate the College's participation in the Title IV programs and require the College to return to the U.S. Department of Education or the appropriate FFEL Program lenders the \$42,362,291 in Title IV funds disbursed during award years 2005-2006 through 2009-2010 and all funds disbursed during award year 2010-2011. If the COO for FSA does not terminate the College's participation in the Title IV programs and require the return of all Title IV funds disbursed during award years 2005-2006 through 2010-2011, then we recommend that the COO for FSA take the actions described in the recommendations for Finding Nos. 2 through 7 of this audit report.

We provided a draft of this report to the College for review and comment on August 30, 2011. We received the College's comments and additional documentation on November 30, 2011. The College disagreed with all aspects of Finding Nos. 1 through 3 and the corresponding recommendations. The College agreed, in part, with Finding Nos. 4 through 7 but did not agree with all the recommendations for those findings. We summarized the College's comments at the end of each finding and included the College's written comments in their entirety as Appendix B of this report. Copies of the College's additional documentation, less any personally identifiable information protected under the Privacy Act of 1974 (5 U.S.C. § 552a) or other information exempt under the Freedom of Information Act (5 U.S.C § 552(b)), are available upon request.

We did not revise our findings or recommendations based on the College's comments and additional documentation. For Finding No. 1, the College did not provide any additional information or documentation that caused us to alter our conclusion that the courses were correspondence or to revise our calculations of the percentage of students enrolled in correspondence courses. Although we clarified our discussion of applicable regulations in Finding No. 1, the courses described in our report are correctly classified as correspondence courses based on the regulatory definitions of correspondence and telecommunications courses that were in effect throughout the audit period. We also made minor technical corrections in Finding Nos. 2 and 4.

BACKGROUND

Saint Mary-of-the-Woods College (College) was founded in 1840 as a nonprofit, private college. During the period July 1, 2009, through June 30, 2010 (award year 2009-2010), the College had 1,601 students enrolled in its programs, including 356 in its on-campus undergraduate programs, 1,021 in its distance learning undergraduate programs, and 224 in its distance learning graduate programs. The College is accredited by The Higher Learning Commission (HLC).

The College offered associate's degrees in 5 programs and bachelor's degrees in 36 programs on campus. It offered associate's degrees in 6 programs, bachelor's degrees in 26 programs, and master's degrees in 6 programs through distance learning. The College offered two types of undergraduate distance learning formats.

- **Woods External Degree (WED).** The WED program started in 1973. During award year 2009-2010, the WED program offered 32 majors and 14 teacher licensure options and had an enrollment of 1,010 students of the College's 1,601 students. The WED program was offered in a self-paced, independent study format. Coursework was assigned to the student at the beginning of the term. The student was allowed to return the completed coursework to the instructor, at his or her own pace, during the 16-week term by mail or email or by uploading the completed coursework to the College's online learning management system.
- **Woods Online.** The Woods Online program started in January 2010 and offered 6 majors during award year 2009-2010: Accounting, Business Administration, Human Resource Management, Computer Information Systems, Marketing, and Journalism. The program was offered in a structured format with 8-week courses that had regular due dates for the completion of coursework and required online interaction between students and instructors.

The purpose of the programs authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV), is to provide loans, grants, and work-study financial assistance to students to meet the costs of attending eligible institutions of higher education. During award year 2009-2010, the College participated in the (1) Federal Family Education Loan (FFEL), (2) Federal Pell Grant (Pell), (3) Federal Work-Study (FWS), (4) Federal Supplemental Educational Opportunity Grant, (5) Federal Perkins Loan, (6) Teacher Education Assistance for College and Higher Education Grant, (7) Academic Competitiveness Grant, and (8) National Science and Mathematics Access to Retain Talent Grant programs. The College received approximately 98.6 percent of its Title IV funding through the following three programs—

- **FFEL.** This program encouraged private lenders to make loans available to students and their parents. The loans are guaranteed by the Federal government against default and are subject to annual and aggregate limits. The loans are subsidized or unsubsidized, depending on financial need. For subsidized loans, the Federal government pays the interest while a student is in school, as well as during grace and deferment periods. For unsubsidized loans, the borrower is responsible for the

interest. The Health Care and Education Reconciliation Act of 2010 (Pub. Law 111-152), enacted on March 30, 2010, ended the origination of FFEL Program loans after June 30, 2010. Beginning July 1, 2010, all Stafford, PLUS, and consolidation loans originate through the William D. Ford Federal Direct Loan Program.

- Pell. This program provides grants to the most financially needy students. The amounts of the grants are subject to annual maximums and minimums and are calculated based on the student’s expected family contribution, enrollment status, and cost to attend the institution.
- FWS. This program provides part-time employment to students attending the institution who need earnings to meet their cost of attendance.

For award years 2005-2006 through 2009-2010 (July 1, 2005, through June 30, 2010), the College received almost \$42.4 million in Title IV funds. For award years 2005-2006 through 2008-2009, the College received almost \$32 million in Title IV funds (See Table 1).

Table 1. Title IV Funds Received by Award Year

Award Year	Title IV Funds
2005-2006	\$ 7,519,635
2006-2007	\$ 7,544,601
2007-2008	\$ 7,685,553
2008-2009	\$ 9,206,509
Total	\$31,956,298

For award year 2009-2010, the College received more than \$10.4 million in Title IV funds. Beginning in this award year, a portion of the funding for the Pell and FWS programs was provided under the American Recovery and Reinvestment Act of 2009 (See Table 2).

Table 2. Title IV Funds Received During Award Year 2009-2010

Title IV Program	Funding
FFEL	\$ 8,344,296
Pell	\$ 1,814,737
FWS	\$ 97,500
Federal Supplemental Educational Opportunity Grant	\$ 74,961
Federal Perkins Loan	\$ 40,324
Teacher Education Assistance for College and Higher Education Grant	\$ 22,000
Academic Competitiveness Grant	\$ 10,175
National Science and Mathematics Access to Retain Talent Grant	\$ 2,000
Total	\$10,405,993

AUDIT RESULTS

The College was not eligible to participate in the Title IV programs and has not been eligible since at least July 1, 2005, because 50 percent or more of its students were enrolled in correspondence courses. For award years 2005-2006 through 2009-2010, the College received almost \$42.4 million in Title IV funds that it was not eligible to receive.

For award year 2009-2010, we also identified instances of noncompliance with the requirements governing award calculations, student eligibility, disbursements, and return of Title IV aid. Specifically, the College (a) incorrectly calculated Title IV awards for students enrolled in correspondence courses; (b) could not provide documentation supporting its cost of attendance (COA) budgets; (c) improperly disbursed Title IV funds to students; (d) did not return all Title IV funds for students who never began attendance; (e) did not return the proper amounts of Title IV funds for students who unofficially withdrew; and (f) did not provide required notifications for disbursements of Title IV funds or provide timely FFEL Program exit counseling.

Based on our limited testing, we did not identify any instances of noncompliance with the other requirements governing distance education programs or the requirements governing incentive compensation.

The College disagreed with Finding Nos. 1 through 3 and the corresponding recommendations. The College agreed, in part, with Finding Nos. 4 through 7 but did not agree with all the recommendations for those findings. We summarized the College's comments at the end of each finding. The College's written comments on the draft report are included in their entirety as Appendix B of this report.

FINDING NO. 1 – The College Was Not Eligible to Participate in the Title IV Programs

The College was not eligible to participate in the Title IV programs and has not been eligible since at least July 1, 2005, because it exceeded the statutory limitation on the percentage of students (50 percent) who can be enrolled in correspondence courses. For each award year since 2004-2005, 50 percent or more of the College's students have been enrolled in correspondence courses. The College considered its programs to be offered in either on-campus or telecommunications formats. It did not consider any of its programs to be offered through correspondence. However, our review of program descriptions, course syllabi, course content, and interviews with College officials and students indicated that the courses were in fact offered in a correspondence format. The courses did not qualify as telecommunications courses. They were not principally offered through a technological medium, and there was not regular and substantive interaction between students and instructors. For award years 2005-2006 through 2009-2010, the College received almost \$42.4 million in Title IV funds that it was not eligible to receive.

When the 50 Percent Correspondence Limitation Is Exceeded, an Institution Is Ineligible to Participate in the Title IV Programs

According to Section 102(a)(3)(B) of the Higher Education Act of 1965, as amended (HEA), an institution is not eligible to participate in the Title IV programs if 50 percent or more of its students were enrolled in correspondence courses during its latest complete award year.¹ Congress established the “50 percent rule” for correspondence courses in 1992 to address numerous instances of abuse. However, Congress recognized differences between correspondence and telecommunications courses—that telecommunications courses were analogous to live classes, except in the way that they were delivered—and exempted telecommunications courses from the 50 percent rule in 2005. As a result, correspondence and telecommunications courses have different requirements for the timing of disbursements, determining COA, and determining whether a student is attending full-time.

According to 34 C.F.R. § 600.2, a correspondence course is—

(1) A “home study” course provided by an institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the institution. When students complete a portion of the instructional materials, the students take the examinations that relate to that portion of the materials, and return the examinations to the institution for grading.

(2) A home study course that provides instruction in whole or in part through the use of video cassettes or video discs in an award year is a correspondence course unless the institution also delivers the instruction on the cassette or disc to students physically attending classes at the institution during the same award year.

(3) If a course is part correspondence and part residential training, the Secretary considers the course to be a correspondence course.

According to 34 C.F.R. § 600.2, a telecommunications course is—

A course **offered principally through the use of one or a combination of technologies** including television, audio, or computer transmission through open broadcast, closed circuit, cable, microwave, or satellite; audio conferencing; computer conferencing; or video cassettes or discs to deliver instruction to students who are separated from the instructor and **to support regular and substantive interaction between these students and the instructor**, either synchronously or asynchronously. The term does not include a course that is delivered using video cassettes or disc recordings unless that course is delivered to students physically attending classes at the institution providing the course during the same award year. **If the course does not qualify as a telecommunications course, it is considered to be a correspondence course.** [Emphasis added]

Beginning with the introduction of the definition of telecommunications course in 1994 and continuing throughout our audit period, a course had to be “offered principally” through one of the technologies specified in the regulatory definition to qualify as a telecommunications course (34 C.F.R. § 600.2 (1994)). Effective September 8, 2006, a telecommunications course also needed to include “regular and substantive interaction between these students and the instructor.” (71 FR 45666 (August 9, 2006. “Interim final regulations implementing the Higher Education Reconciliation Act of 2005”)).

¹ This restriction also is included at 34 C.F.R. § 600.7(a)(1). All C.F.R. citations are from the July 1, 2009, version unless otherwise noted.

Analyses of Course Formats

The College considers its programs to be offered in either on-campus or telecommunications formats. It does not consider any of the programs to be offered through correspondence. Table 3 shows the College’s programs that the Office of Inspector General (OIG) identified as being offered in on-campus, correspondence, or telecommunications formats and the number of students enrolled in those programs during award year 2009-2010.

Table 3. Academic Programs and Formats

Program	College Classification of Format	OIG Analyses of Format	2009-2010 Enrollment
Undergraduate On-campus	On-campus	On-campus	356
Undergraduate (WED)	Telecommunications	Correspondence	1,010
Undergraduate (Woods Online)	Telecommunications	Telecommunications	11
Graduate (Traditional)	Telecommunications	Correspondence	143
Graduate (Online)	Telecommunications	Telecommunications	81
Teacher Licensure	Telecommunications	Correspondence	Included in WED ⁽¹⁾
(1) Includes teacher licensure program enrollment, because teacher licensure program students take WED courses. We counted 44 of the 1,010 students as on-campus students for purposes of the calculation of the percentage of correspondence students, because the 44 students enrolled only in student teaching field placement courses for the year.			

As detailed below, we based our format analyses on (1) program descriptions on the College’s Web site, in the WED student handbook, and in the College’s informational brochures; (2) interviews with College directors, assistant directors, instructors, and students; and (3) course syllabi and course content in the College’s online learning management system.

College’s Web Site, WED Handbook, and Brochures

We reviewed the descriptions of the College’s distance education programs on the College’s Web site, in the “Student Handbook for the Woods External Degree Program of Saint Mary-of-the-Woods College 2009-2010” (WED Handbook), and in the College’s brochures “Go to College . . . Without Going to Class! Distance Education,” “Go to College . . . Without Going to Class! Woods External Degree Program,” and “Go to College . . . Without Going to Class! Woods Online.” All of these sources described the WED program as a self-paced, independent study program. None indicated that the courses were offered principally through use of any of the technologies described in the regulatory definition of a telecommunications course. These sources indicated that there was interaction between the students and instructors, but they did not indicate the interaction was regular and substantive. In contrast, the sources all described the Woods Online program as an interactive distance education program.

The WED Handbook included a section, titled “Student and Instructor Communication,” that discussed the communication between students and instructors—

The primary method of student-instructor contact is by writing. . . . Other contact may occur by voice mail, phone, or in person on campus. Methods and frequency of contact may be detailed in the course syllabus or through other communication from the instructor. Busy adults, both instructors and students, increasingly find that email is the preferred mode of communication

The College's Web site provided a table, titled "Choosing a Distance Education Program," that compared the WED and Woods Online formats. This comparison showed that the WED program was a self-paced, independent study program with limited interaction and technology requirements. In contrast, the Woods Online program was an interactive program requiring more extensive technology to support the interaction between students and instructors (See Appendix A - "Choosing a Distance Education Program").

Interviews with College Directors, Assistant Directors, Instructors, and Students

We discussed the level of interaction between instructors of and students enrolled in the College's distance education programs with

1. The Director of Distance and Graduate Admissions,
2. Two Assistant Directors of Distance and Graduate Admissions,
3. The Director of WED Programs,
4. The Director of Woods Online,
5. Five instructors, and
6. Four students.

All of the directors, assistant directors, instructors, and students described the WED, traditional graduate, and teacher licensure programs as self-paced, independent study programs, with little or no required interaction between instructors and students. None indicated that the programs were offered principally through use of any of the technologies specified in the regulatory definition. Students were provided all instructional materials at the start of the 16-week term and did not attend classes on campus. Instead, the students completed homework assignments and submitted them to instructors by mail, by email, or by uploading the assignments to the College's online learning management system. This system had features for submitting assignments, participating in discussion boards and chat rooms, and viewing videos, but use of these features was not required. Instructors graded assignments and returned them to the students, were available to answer questions, and periodically sent messages to students if the students were not submitting assignments. However, instructors did not deliver lectures or initiate discussions with students. Tutoring and other instructional resources were provided at the student's discretion. Eighty percent of assignments were due 2 weeks before the term ended, and the remaining 20 percent of assignments were due at the end of the term. Students who had not completed all of the assignments by the end of the term could request up to three, 1-month extensions. Most of the courses did not have examinations.

In contrast, the directors, assistant directors, and instructors all described the Woods Online undergraduate program as an interactive program and confirmed it was offered principally through the use of technology.² Unlike the WED program, the Woods Online program was not a self-paced, independent study program. Students were enrolled in Woods Online 8-week courses as a group, worked on group projects, had assignments due every week, and participated in required discussions with instructors. All of the Woods Online courses were delivered through the College's online learning management system. Students were required to have a computer, high speed Internet connection, a webcam, and a microphone to participate in the classes.

² Three of the five instructors taught both WED and on-campus classes. The other two taught WED, Woods Online, and on-campus courses.

The directors, assistant directors, instructors, and students described the online graduate programs as a hybrid of the WED and Woods Online formats. These courses required students to come to campus for instruction at the beginning and end of each 8-week course. Students were enrolled in the courses as a group and worked on group assignments. The level of interaction between students and instructors was not as regular and substantive as in the Woods Online program, but it was more regular and substantive than in the WED program.

Syllabi and Online Learning Management System

WED program courses were offered in three formats: off-line, online, and alternative. The off-line format was the traditional format in which students submitted their assignments by mail or email. The online format was a format in which students submitted their assignments through the College's online learning management system and had access to interactive features, such as discussion boards and chat rooms. Under the alternative format, students performed the coursework in a self-paced, independent study format but came to campus for 3 to 5 Saturdays during the 16-week term to receive classroom instruction from the instructor. As cited above, according to 34 C.F.R. § 600.2, a course that is part correspondence and part residential is a correspondence course.

We reviewed the level of interaction described in the syllabi for 8 online courses of the 258 WED courses offered by the College. According to the College's academic system and our interviews, we confirmed these 8 online WED courses were in the same format as all of the other online WED courses. We judgmentally selected these eight courses because they were offered by various academic departments and had the highest enrollment of the WED courses. We also reviewed the level of interaction between students and instructors as documented in the College's online learning management system content for these eight courses. We performed this analysis to determine whether the level of interaction and overall format of the courses outlined in the syllabi were the same as described in the College's Web site, WED Handbook, and brochures and by the College's directors, assistant directors, instructors, and students.

Our analysis of the sample of courses disclosed that none of the eight online courses' syllabi described any mandatory or regular and substantive interaction between students and instructors. All eight syllabi described reading and homework assignments and had suggested schedules for completing the work. The College's online learning management system had features available for posting videos, holding meetings, hosting chat rooms, posting to discussion forums, submitting assignments, returning graded assignments to students, and providing grades. However, the content documented in the College's online learning management system showed that the interactive features of the system were not required for the WED courses. Students could post to discussion forums or chat rooms if they wanted, but the postings were student driven and not required. In addition, students' grades were not affected if the students did not use these features. The College's online learning management system was used to post the syllabus and assignments, submit and return assignments, and provide grades to students. We did not find any evidence that instructors used the interactive features available in the College's online learning management system or delivered instruction for the eight WED courses through its online learning management system.

We also reviewed the level of interaction between instructors and students in the alternative format WED courses. Our review of the College's WED Handbook and review of the syllabus of an alternative format course indicated that students met with their instructors on campus for

3 to 5 days during the 16-week term. Otherwise, the course was identical to other WED course formats.

We also reviewed the syllabi and the College's online learning management system for evidence of the technological requirements for WED program courses. None of the eight syllabi indicated that the College used any technology to deliver instruction in WED program courses. The syllabi only stated that students would use email or the College's online learning management system to obtain course materials and submit assignments. We also did not find any evidence that the College used its online learning management system to deliver instruction. The College used its online learning management system to post syllabi, receive assignments from students, and post grades.

On-campus, Internship, and Student Teaching Courses

The WED program offered students the opportunity to take regular on-campus courses and the opportunity to work internships for academic credit. In addition, students in the education and teacher licensure programs were required to enroll in student teaching courses. We discussed these courses with College officials and concluded that WED students who enrolled solely in on-campus, internship, and student teaching courses during an academic year were enrolled in telecommunications, not correspondence, courses for that year.

Accreditation

Prior to June 2009, HLC, the agency that accredits the College, classified the WED program as a correspondence program. At the College's request, HLC visited the campus in March 2009 to reevaluate the correspondence classification of the WED program. The HLC site visit team recommended removing the correspondence classification from the WED program based on the College's plans to replace its off-line WED courses with online WED courses. The report stated—

The institution has used the evidence gathered through the years to carefully develop an Institutional Plan that includes an online degree and online courses replacing more traditional methods used in the institution's correspondence courses. This Institutional Plan is thorough and provides clear guidance and a structure for future programming.

In June 2009, HLC removed the WED program's correspondence classification. College officials informed us that the fact that HLC removed the correspondence classification from the WED program supported the College's classification of the WED program as telecommunications rather than correspondence.

HLC's reclassification does not affect our conclusion that the College has been ineligible to participate in the Title IV programs since at least July 1, 2005. HLC's change of classification does not represent a determination by HLC that the College's WED program offered from 2004 through May 2009 was not correspondence. Our review of HLC's documentation indicated that HLC changed the WED program classification in June 2009 based on the College's plans to implement a "transition from correspondence to online delivery" by January 2010. HLC did not reexamine the program as offered in the past. In addition, HLC's determination that the WED program was no longer a correspondence program is not binding on the U.S. Department of Education (Department). Only the Department has the authority and responsibility to

determine compliance with the institutional eligibility requirements in the HEA and implementing regulations.

50 Percent Limitation Exceeded Since at Least Award Year 2004-2005

Based on our conclusion that the College offered correspondence courses, we analyzed enrollment information for award years 2004-2005 through 2009-2010. We determined that at least 69 percent of the College’s students were enrolled in correspondence courses every year (See Table 4).

Table 4. Annual Percentage of Students Enrolled in Correspondence Courses

Award Year	Number of Students			Percentage of Students Enrolled in Correspondence Courses (%) (B/(A+B))
	Not Enrolled in Correspondence Courses (A)	Enrolled in Correspondence Courses (B)	Total (A+B)	
2004-2005	401	1,256	1,657	75.80
2005-2006	379	1,268	1,647	76.99
2006-2007	378	1,179	1,557	75.72
2007-2008	428	1,196	1,624	73.65
2008-2009	478	1,188	1,666	71.31
2009-2010	492	1,109	1,601	69.27

Because the College exceeded the statutory limitation on the percentage of students (50 percent) who can be enrolled in correspondence courses since at least award year 2004-2005, it has not been eligible to participate in the Title IV programs since award year 2005-2006. For award years 2005-2006 through 2009-2010, the College received almost \$42.4 million in Title IV funds that it was not eligible to receive.

RECOMMENDATIONS

We recommend that the chief operating officer (COO) for Federal Student Aid (FSA)—

- 1.1 Terminate the College’s participation in the Title IV programs.
- 1.2 Require the College to return to the Department or the appropriate FFEL Program lenders the \$42,362,291 in Title IV funds disbursed during award years 2005-2006 through 2009-2010 and all funds disbursed during award year 2010-2011.

Note: Finding Nos. 2 through 7 describe additional noncompliance for which corrective action and applicable return of funds might be required if the COO for FSA does not terminate the College’s participation in the Title IV programs and require the return of all Title IV funds disbursed during award years 2005-2006 through 2010-2011.

College Comments

The College stated that the finding is based on standards and criteria for the classification of correspondence versus telecommunications courses that were not in effect during the audit period (July 1, 2005, through June 30, 2010). The improper application of these standards

resulted in the OIG misclassifying WED and graduate courses as correspondence courses when, in fact, they were telecommunications courses under regulation in effect during the audit period. Therefore, the College did not exceed the 50 percent threshold for students in correspondence courses and was an eligible participant in the Title IV programs during the entire audit period. The College stated that:

- The definition of a telecommunications course cited in Finding No. 1 contained the phrase “to support regular and substantive interaction between these students and the instructor.” However, this phrase did not appear in the definition of telecommunications course prior to September 8, 2006, and it cannot be applied retroactively.
- Whether interaction is initiated by the student or faculty is not relevant in characterizing a course as telecommunications or correspondence. Also, this criterion did not appear in the definition of correspondence course prior to July 1, 2010, and it cannot be applied retroactively.
- Whether a course is or is not “self-paced” bears no relationship to the classification of a course as telecommunications or correspondence. Also, this criterion did not appear in the definition of correspondence course prior to July 1, 2010, and it cannot be applied retroactively.
- During the audit period, the College’s WED and graduate courses met the definition of telecommunications course because they used the Internet and other forms of delivery that could provide for regular interaction between students and the instructor.
- The College determined that the level and nature of the interactions were appropriate for the success of the programs. The Department acknowledged, when it clarified the term “regular and substantive,” that it is prohibited from engaging in any activity directing the content or nature of academic programs.
- Courses in the WED Education Program are telecommunications courses because of the regular and substantive interaction between students and faculty through supervised field experiences, student teaching, telecommunicated learning, and on-campus residencies. This interaction was facilitated through video, telephone and web conferences, email, and the College’s online learning management system. The WED Education Program represented nearly half of total WED enrollments.
- The liabilities contained in Finding No. 1 are overstated, because the estimated loss formula is required to be applied.

OIG Response

The College provided no additional information or documentation that caused us to alter our conclusion that the courses were correspondence or to revise our calculations of the percentage of students enrolled in correspondence courses. As discussed below, the courses described in our report are correctly classified as correspondence courses based on the regulatory definitions of correspondence and telecommunications courses that were in effect throughout the audit period.

Regular and Substantive Interaction Between Students and Instructors

The College is correct that the phrase “to support regular and substantive interaction between these students and the instructor” was not contained in the definition of telecommunications course prior to September 8, 2006. However, our conclusion that the WED courses were correspondence courses does not depend on that provision for the portion of our audit period prior to September 8, 2006. Throughout our audit period, the definition always required that telecommunications courses be “offered principally” through use of one of the technologies specified in the regulatory definition.

Based on the program descriptions contained in the College’s publications; interviews with College directors, assistant directors, instructors, and students; and reviews of course syllabi and content on the College’s online learning system, the courses were not principally offered through a technological medium; the courses were described as independent study programs, with no instruction delivered by technology; with few exceptions, the students did not physically attend the College; and assignments were due at or near the end of each term. As such, the courses did not qualify as telecommunications courses under the regulatory definition as it existed throughout the audit period. We clarified our finding to show that our conclusion is not dependent solely on the September 8, 2006, regulatory definition.

Use of Initiation of Interaction by the Student or Faculty as Criterion

In the Finding No. 1 discussion of “*Interviews with College Directors, Assistant Directors, Instructors, and Students*,” we did not cite the party (that is, the student or instructor) who initiated the interaction as a factor in determining whether a course was correspondence or telecommunications. As such, we did not retroactively apply the definition of correspondence course contained in regulations effective July 1, 2010. All the people we interviewed described the WED, traditional graduate, and teacher licensure programs as self-paced, independent study programs, with little or no required interaction between instructors and students. Our conclusion was not dependent on who initiated the limited contacts that did exist.

Use of Self-paced as Criterion

We agree that the term “self-paced” did not appear in the regulatory definition of correspondence course until the phrase “[c]orrespondence courses are typically self-paced” was added effective as of July 1, 2010. Before July 1, 2010, the definition of “correspondence course” in 34 C.F.R. § 600.2 described the typical process for a correspondence course as follows: “When students complete a portion of the instructional materials, the students take the examinations that relate to that portion of the materials, and return the examinations to the institution for grading.” The definition thus included the concept that the course proceeded according to a student’s individual pace prior to July 1, 2010. We used the term self-paced to be factually descriptive and not as a separate criterion for our finding.

WED and Graduate Courses Used the Internet and Other Forms of Delivery That Could Provide for Regular Interaction

Based on the program descriptions contained in the College’s publications; interviews with College directors, assistant directors, instructors, and students; and reviews of course syllabi and content on the College’s online learning system, the courses in question were not principally offered through a technological medium. The use of telecommunications and other technology in the delivery of distance learning does not, in and of itself, qualify a course as a

telecommunications course. As the Department noted in the preamble to the revised regulations, effective on September 8, 2006 (71 FR 45667):

A definition of telecommunications course that focused exclusively on technologies could be erroneously interpreted to allow an institution to qualify for full participation in Title IV, HEA programs upon introduction of minor e-mail contact between students and a grader or instructional assistant (who may or may not have subject matter expertise) into what is essentially a correspondence course. Similarly, a course outline or course notes posted to an Internet Web site might also meet the current definition of a telecommunications course.

As noted in Appendix A to this report, the College describes the WED program's use of technology as limited. For example, the WED program (1) used email as the primary communication mode, (2) had limited use of multi-media and interactive elements, and (3) required students to have limited technical expertise, such as browsing the Internet and sending email. The College also has a distance learning system. According to the College, in 2010, 41 percent of WED courses used the distance learning system, up from 14 percent in 2004. Based on our interviews with College directors, assistant directors, instructors, and students; our review of the College's publications; and our review of course syllabi and content on the College's distance learning system, the distance learning system was used primarily to turn in assignments and post grades and not used to deliver course content.

As described in the finding, despite the College's use of limited technology for some courses, the courses were correspondence courses under the regulations in effect throughout the audit period.

The Level and Nature of Interactions Between Students and Instructors

In analyzing the courses at the College, we did not review the level and nature of the interactions between students and the instructors to identify the sufficiency or quality of the programs. We also did not provide an opinion on the sufficiency or quality of the programs offered by the College. As the Department noted in the preamble to the final regulations effective on December 1, 2006 (71 FR 64378):

The regulations [definition of *telecommunications course* at 34 CFR § 600.2] do not restrict the curricula institutions may offer or the delivery modes they may use. Instead, the regulations reflect the clear distinction in the HERA between telecommunications courses and correspondence courses. This distinction is necessary because the HERA eliminated the circumstances under which telecommunications courses are considered correspondence courses, and excluded telecommunications courses from the "50 percent rule" limitations on institutional eligibility for Title IV, HEA program assistance, while retaining them for correspondence courses.

The purpose of our analysis was solely to determine whether the courses met the regulatory definition of telecommunications or correspondence courses as part of determining whether the College complied with the 50 percent rule for students enrolled in correspondence courses.

WED Education Program Courses Are Telecommunications Courses

In the finding discussion of "*On-campus, Internship, and Student Teaching Courses*," we note that we discussed the WED education and teacher licensing program courses with College officials and concluded that WED students enrolled solely in on-campus, internship, or student

teaching courses during an academic year were enrolled in telecommunications, not correspondence, courses for that year. As noted above, we classified other WED Education Program students as enrolled in correspondence courses. The courses were not principally offered through a technological medium, and the use of telecommunications in the delivery of distance learning does not, in and of itself, qualify a course as a telecommunications course under the regulations.

Liabilities Are Overstated

The recommended liabilities stated in Finding No. 1 are not overstated. According to Section 102(a)(3)(B) of the HEA, an institution is not eligible to participate in the Title IV programs if 50 percent or more of its students are enrolled in correspondence courses. We concluded that the College exceeded the statutory limitation during award years 2004-2005 through 2008-2009. Therefore, according to the HEA, the College was not eligible for any of the \$42.4 million in Title IV funds that it received during award years 2005-2006 through 2009-2010. Although the COO for FSA will make the final decision on the amount of liabilities, use of the estimated loss formula is not required.

FINDING NO. 2 – Incorrect Calculations of Title IV Awards for Students Enrolled in Correspondence Courses

The College used incorrect (1) Pell Disbursement Schedules and (2) COA budgets to calculate awards for students enrolled in correspondence courses, resulting in improper payments of \$389,629. The Department provides schedules for determining the amount of Pell funds to award a student based on the student's enrollment status. The scheduled award is the maximum amount of Pell funds that the student may receive during the award year if the student attends full-time for a full academic year. At a term school, a part-time student will have a reduced annual award that is taken from the three-quarter-time, half-time, or less-than-half-time Pell Disbursement Schedules.

The COA budget for a student is an estimate of that student's educational expenses for the period of enrollment. It includes expenses such as tuition and fees, books and supplies, room and board, and transportation. Institutions create COA budgets for different categories of students (for example, full-time undergraduates living on campus). Institutions award Title IV funds considering the COA budget, less the expected family contribution and other estimated financial assistance.

Use of Incorrect Pell Disbursement Schedules

The College used the three-quarter or full-time enrollment status Pell Disbursement Schedules for students enrolled in 9 or more credit hours during a term. However, for students enrolled more than half-time in correspondence courses without a residential component, the half-time Pell Disbursement Schedule must be used. According to 34 C.F.R. § 668.2(b), "*Half-time student,*" (2) ". . . no student enrolled solely in correspondence study is considered more than a half-time student."

The use of the incorrect schedules resulted in larger Pell awards than allowed. We recalculated the awards for all 277 students enrolled in undergraduate correspondence courses during award year 2009-2010 who were awarded Pell funds based on the College's improper use of the

three-quarter or full-time Pell Disbursement Schedules.³ We determined that the \$833,319 in Pell funds disbursed was \$380,067 more than the students should have received.

Use of Incorrect COA Budgets

The College's COA budgets included excessive costs for students attending undergraduate programs of study by correspondence. The College should not have included standard living and transportation expenses in the COA budgets for correspondence students when determining the students' unmet need. Only students enrolled in an education or teacher licensure program who were required to work through a field placement program at a school should have had expenses for travel and room and board included in their COA budget, and the costs should have been limited to those that would have been incurred during the field placement.

According to Section 472(5) of Title IV, the term "cost of attendance" means—

[F]or a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training.

We reviewed the records for 10 students randomly selected from the universe of 1,187 students who received Title IV funds during award year 2009-2010 (general student sample) and identified 6 students (60 percent) who were enrolled in correspondence courses. The total COA for these six students would have declined from \$93,278 to \$47,304 if the COA budget had not included expenses related to travel and room and board for nonresidential training courses. As a result, two of the six students were over-awarded \$9,562 in Title IV funds.⁴

The College used the same COA budget (See Table 5, COA Budgets for Full-Time Students, on page 18 of this report) for all correspondence undergraduate programs and used the full amount of the budget for each student. The COA budget included expenses for tuition, fees, room and board, transportation, and books. Only tuition expenses varied based on the number of hours for which the student enrolled. However, the undergraduate correspondence programs did not have a residential training requirement. They generally included only a campus visit at the start of the semester. The visit allowed the students to meet professors and obtain course materials, but it was not mandatory.

RECOMMENDATIONS

We recommend that the COO for FSA require the College to—

- 2.1 Return to the Department or the appropriate FFEL Program lenders (a) \$380,067 in Pell funds disbursed for correspondence students based on the three-quarter or full-time

³ The 277 students are limited to those undergraduate correspondence students who received Pell funds based on the three-quarter or full-time Pell Disbursement Schedules. The rest of the undergraduate correspondence students either did not receive Pell funds or received Pell funds based on the half-time or less than half-time Pell Disbursement Schedules.

⁴ \$7,885 in FFEL, \$1,477 in Pell, and \$200 in FSEOG funds. Pell funds totaling \$140 are also included in the \$380,067 in Pell funds disbursed using incorrect disbursement schedules. Also, the remaining \$1,337 in Pell funds is also included in the costs for the second student identified in Finding No. 4.

- Pell Disbursement Schedule and (b) \$9,562 for the two students who were over-awarded Title IV funds.⁵
- 2.2 Determine whether other students were over-awarded Title IV funds. Excluding required periods of residential training, for correspondence students enrolled during award year 2009-2010,⁶ the College should (a) recalculate the COA budget excluding living and transportation expenses; (b) determine whether any students were over-awarded Title IV funds; and (c) return any such over-awards to the Department or the appropriate FFEL Program lenders.
 - 2.3 Use the Pell Disbursement Schedule for a half-time student to calculate the Pell payment for students enrolled more than half-time in correspondence courses without a residential component.
 - 2.4 Create a COA budget for students enrolled in correspondence programs. The budget should not include living and transportation expenses unless the program has a residential training requirement.

College Comments

The College disagreed with the finding and recommendations, stating that the WED and graduate program courses were telecommunications courses. Therefore, the finding and recommendations do not apply.

OIG Response

We did not revise the finding or the recommendations. As described in Finding No. 1, the College's WED and graduate program courses clearly were correspondence courses during the audit period.

FINDING NO. 3 – Cost of Attendance Budgets Were Not Supported

The College could not support all components of its COA budgets. For award year 2009-2010, the College could not support the amounts used for transportation, books, or miscellaneous expenses for all of its students. In addition, for students living off campus, the College could not support any room and board expenses. Without documentation to support the COA budgets, we could not determine whether the College correctly determined the amounts of Title IV funds for which its students were eligible. The College's COA budgets for full-time students and the corresponding unsupported amounts are shown in Table 5.

⁵ Both amounts are included in Recommendation 1.2. Pell funds totaling \$140 are included in both the \$380,067 in Pell funds and \$9,562 in Title IV funds recommended for return to the Department or the appropriate FFEL Program lenders in Recommendation 2.1. Also, \$1,337 of the \$380,067 in Pell funds is also included in the funds recommended for return to the Department in Recommendation 4.1.

⁶ Excluding the 10 students in our sample.

Table 5. COA Budgets for Full-Time Students

Category	On campus - Resident	On campus - Commuter	On campus – Living With Parents	WED/Woods Online/Teacher Licensure/Traditional Graduate	Online Graduate
Room and Board	\$8,450	\$4,225	\$4,300 ⁽¹⁾	\$6,100 ⁽²⁾	\$3,000 ⁽²⁾
Transportation	\$ 600	\$1,600	\$1,600	⁽²⁾	⁽²⁾
Books	\$1,500	\$1,500	\$1,500	\$1,000	\$ 450
Miscellaneous	\$ 850	\$3,200	⁽¹⁾	\$ 0	\$ 0
Total	\$11,400	\$10,525	\$7,400	\$7,100	\$3,450
Unsupported Amount	\$2,950 ⁽³⁾	\$10,525	\$7,400	\$7,100	\$3,450
⁽¹⁾ The budget combines room and board and miscellaneous expenses. ⁽²⁾ The budget combines room and board and transportation expenses. ⁽³⁾ Only transportation, books, and miscellaneous costs for residential on-campus students were unsupported (\$600 + \$1,500 + \$850 = \$2,950).					

According to 34 C.F.R. § 668.24(c)(1)—

The records that an institution must maintain in order to comply with the provisions of this section include but are not limited to—

(iii) Documentation of each student's or parent borrower's eligibility for title IV, HEA program funds;

(iv) Documentation relating to each student's or parent borrower's receipt of title IV, HEA program funds, including but not limited to documentation of—

(A) The amount of the grant, loan, or FWS award; its payment period; its loan period, if appropriate; and the calculations used to determine the amount of the grant, loan, or FWS award

According to 34 C.F.R. § 682.610(b)(2), for FFEL Program borrowers, a school must maintain, “The cost of attendance, estimated financial assistance, and estimated family contribution used to calculate the loan amount; . . .”.

The financial aid employees working at the College at the time of our site visits were not involved in the development of the 2009-2010 COA budgets and were not aware of how the previous employees determined those amounts. The College's controller and director of financial aid informed us that they could not find any supporting documentation for the award year 2009-2010 COA budgets after the rapid turnover of the entire financial aid office staff in July and August of 2009.

RECOMMENDATIONS

We recommend that the COO for FSA require the College to—

- 3.1 Recalculate its COA budgets based on available documentation for award year 2009-2010 and subsequent award years.

- 3.2 Recalculate the unmet need for each student disbursed Title IV funds for award year 2009-2010 and return to the Department or the appropriate FFEL Program lenders the Title IV funds over-awarded,⁷ if the COA budgets are revised as a result of implementing Recommendation 3.1.
- 3.3 Retain supporting documentation for any and all COA budgets.

College Comments

The College disagreed with the finding and recommendations. The College stated that its COA budgets were in line with area schools as to indirect costs. The budgets also were in line with cost of living expenses for residents within the College's vicinity for award year 2009-2010 and subsequent years. The COA budgets are supported by documentation obtained from sources such as the Social Security Administration (cost of living adjustment), the College Board (living expenses), Web sites (rental expenses), and the local economic development corporation (cost of living).

In addition, the College stated that it compared its COA with those of three other Indiana universities. The College's cabinet members and Board of Trustees derived and approved the College's tuition, fees, and room and board costs.

OIG Response

We did not revise the finding or the recommendations. When we conducted our audit, the College's controller and director of financial aid told us that the College could not find any supporting documentation for the COA budget. In its comments to the draft report, the College stated that the COA budgets are supported by documentation. However, the College did not provide any supporting documentation for its 2009-2010 COA budgets.

FINDING NO. 4 – Title IV Funds Improperly Disbursed to Students

The College disbursed Title IV funds to two students who were not enrolled in classes at the time of the disbursements, resulting in improper payments of \$2,467.⁸ If schools make disbursements after the payment period has started, they may disburse Title IV funds only to students who are enrolled at the time of the disbursement. Also, Pell funds were disbursed too early to students enrolled in correspondence programs. For correspondence courses in terms without a residential component, the award disbursement cannot be made until the students have completed 50 percent of the work for the course.

Disbursements Made to Students Not Enrolled in Classes at the Time of Disbursement

We reviewed the files for (a) 10 students in the general student sample, (b) 10 students randomly selected from the universe of 52 students who officially withdrew or were administratively withdrawn from the College during award year 2009-2010 (official withdrawal sample), and (c) 10 students randomly selected from the universe of 104 students who unofficially withdrew from the College during award year 2009-2010 (unofficial withdrawal sample). Two of the

⁷ Any amounts over-awarded would be covered under Recommendation 1.2.

⁸ Of this amount, \$1,337 is also included in the \$9,562 in Recommendation 2.1(b).

30 students (6.7 percent) were not eligible to receive Title IV funds, because they were not enrolled at the time of their disbursements.

1. One student (from the official withdrawal sample) was not enrolled during the winter or summer 2010 terms. However, for the winter 2010 term, the College disbursed \$985 in FFEL Program funds to the student on March 16, 2010, and returned these funds to the lender on March 25, 2010. For the summer 2010 term, the College disbursed \$1,130 in Pell funds and gave the funds to the student on June 17, 2010.
2. One student (from the general student sample) was not enrolled for the summer 2010 term. However, the College disbursed \$1,337 in Pell funds and gave the funds to the student on June 24, 2010.

According to 34 C.F.R. § 668.164(b)(3)—

[A]n institution may disburse title IV, HEA program funds to a student or parent for a payment period only if the student is enrolled for classes for that payment period and is eligible to receive those funds.

Pell Funds Disbursed Too Early for Students Enrolled in Correspondence Courses

The College disbursed Pell funds to students enrolled in correspondence courses before they were eligible to receive those funds. We reviewed Pell disbursements for the 10 students from the general student sample. Six of the 10 students were enrolled in correspondence courses, and 5 of those 6 received Pell funds. The College disbursed Pell funds to all five of the students before they completed 50 percent of their lessons or otherwise completed 50 percent of the work scheduled for the term.

According to 34 C.F.R. § 690.66 (c)(4)—

In a program of correspondence study offered by correspondence courses using terms but not including any residential component . . . [t]he institution shall make the [Pell] payment to a student for a payment period after that student completes 50 percent of the lessons or otherwise completes 50 percent of the work scheduled for the term, whichever occurs last.

The College's policy was to disburse Pell funds to students enrolled in WED courses after the student completed one assignment in the first 3 weeks of the 16-week term. However, most of the WED courses were correspondence courses; therefore, the College was prohibited from disbursing any Pell funds until the students completed 50 percent of the lessons or 50 percent of the work for the scheduled term.

RECOMMENDATIONS

We recommend that the COO for FSA require the College to—

- 4.1 Return to the Department the \$2,467 of Pell funds disbursed to 2 of the 30 students who were not enrolled at the time of disbursement.⁹
- 4.2 Return all Pell funds delivered to students who (a) were enrolled in correspondence courses that did not include any residential component during award year 2009-2010 and (b) did not complete 50 percent of the lessons or otherwise complete 50 percent of the work scheduled for the term, whichever occurred last.¹⁰
- 4.3 Develop and implement appropriate internal control, including policies and procedures and periodic monitoring, to ensure that (a) Title IV funds are not disbursed to students who are not enrolled, and (b) Pell funds are disbursed in accordance with the requirements for correspondence courses.

College Comments

The College agreed with the finding that it disbursed Pell funds to students who were not enrolled and agreed with Recommendation 4.1, stating that it returned \$2,467 of Pell funds to the Department. The College did not state whether it agreed with Recommendation 4.3(a).

The College disagreed with the finding that it disbursed Pell funds too early to students enrolled in correspondence courses and the corresponding recommendations. The College stated that its WED and graduate program courses were telecommunications courses, so the finding and recommendations do not apply.

OIG Response

We did not revise the finding or recommendations. As detailed in Finding No. 1, the College's WED and graduate program courses were correspondence courses; therefore, the finding that the College disbursed Pell funds too early to students enrolled in correspondence courses and the corresponding recommendations apply. We did not eliminate Recommendation 4.1 because the College did not provide documentation showing that it returned the funds to the Department.

FINDING NO. 5 – Title IV Funds Retained for Students Who Did Not Begin Attendance

The College improperly retained Title IV funds for students who did not begin attendance. If a school disburses funds to a student who does not begin attendance in his or her courses, the school must return all Title IV funds disbursed to that student. We reviewed the College's records for the 10 students from the official withdrawal sample. The College administratively withdrew 6 of the 10 students and retained \$7,020 in Title IV funds. However, none of the

⁹ This amount is included in Recommendation 1.2. \$1,337 of this amount is also included in the \$9,562 in Recommendation 2.1(b).

¹⁰ This amount would be included in Recommendation 1.2.

six students attended the College during the term, and the College should have returned all Title IV funds that it disbursed for these six students.

According to 34 C.F.R. § 668.21(a)—

If a student does not begin attendance in a payment period or period of enrollment—

(1) The institution must return all title IV, HEA program funds that were credited to the student's account at the institution or disbursed directly to the student for that payment period or period of enrollment, for Federal Perkins Loan, FSEOG, TEACH Grant, Federal Pell Grant, ACG, and National SMART Grant program funds; and

(2) For FFEL and Direct Loan funds—

(i)(A) The institution must return all FFEL and Direct Loan funds that were credited to the student's account at the institution for that payment period or period of enrollment; and

(B) The institution must return the amount of payments made directly by or on behalf of the student to the institution for that payment period or period of enrollment, up to the total amount of the loan funds disbursed

The College did not have any procedures in place to ensure that employees adhered to the regulation. The regulation states that when a student does not begin attendance, no funds may be retained. However, the College administratively withdrew students who did not start the term and then prepared a return of Title IV aid calculation using the date that it administratively withdrew the student as the student's last date of attendance. By performing a return of Title IV aid calculation and using the date of the administrative withdrawal as the student's last date of attendance, the College improperly retained a portion of the Title IV funds.

RECOMMENDATIONS

We recommend that the COO for FSA require the College to—

- 5.1 Return to the Department or the appropriate FFEL Program lenders the \$7,020 in Title IV funds that it improperly retained for 6 of the 10 students in our sample who did not begin attendance.¹¹
- 5.2 Review the records for the 42 students who officially withdrew or were administratively withdrawn during award year 2009-2010 but were not included in our sample and return to the Department or the appropriate FFEL Program lenders all Title IV funds improperly retained by the College for students who did not begin attendance.¹²
- 5.3 Develop and implement a system of internal control, including written policies and procedures and periodic monitoring, to ensure that all Title IV funds are returned when students do not begin attendance.

¹¹ This amount is included in Recommendation 1.2.

¹² This amount would be included in Recommendation 1.2.

College Comments

The College agreed with the finding and Recommendations 5.1 and 5.3, stating that it returned \$7,020 to the Department and the appropriate FFEL Program lenders and revised its procedures to ensure that funds are appropriately returned for students who do not begin attendance. The College did not state whether it agreed with Recommendation 5.2.

OIG Response

We did not revise the finding or recommendations. The College did not provide documentation showing that it returned the funds. It also did not provide us with its revised policies and procedures.

FINDING NO. 6 – The College Did Not Comply with Return of Title IV Aid Requirements

The College did not use the correct last date of attendance in its return of Title IV aid calculations for students who unofficially withdrew, resulting in improper payments of \$3,052. Institutions that are not required to take attendance, like the College, may use the midpoint of the payment period or the student's last date of attendance at an academically related activity as the last date of attendance for a student who unofficially withdraws. The College chose to use the student's last date of attendance at an academically related activity, but the activity documented by the school was not academically related. In addition, the College did not return Title IV funds within 45 days after it determined the students withdrew as required by the regulations. The Department or students incur additional interest costs when unearned Title IV funds are not returned timely.

Incorrect Last Date of Attendance Used for Students Who Unofficially Withdrew

Although the College was not required to take attendance, its policy was to use the last date of a student's attendance at an academically related activity, as reported by the student's instructors, as the student's last date of attendance for return of Title IV aid calculations. We reviewed the records for the 10 students from the unofficial withdrawal sample. The College could not provide sufficient documentation to support the last date of attendance at an academically related activity for 9 of the 10 students. The only documentation that the College provided for these nine students was a record of a phone call or email between the instructor and the student. The email correspondence typically consisted of the instructor inquiring about the status of an assignment and the student responding. It did not demonstrate that the student was engaged in an academically related activity.

According to 34 C.F.R. § 668.22(c)(1)(iii), for a student who withdraws from an institution that is not required to take attendance, the student's withdrawal date is the midpoint of the payment period or period of enrollment if the student ceases attendance without providing official notification. However, an exception to this requirement is allowed by 34 C.F.R. § 668.22(c)(3)(i)—

. . . an institution that is not required to take attendance may use as the student's withdrawal date a student's last date of attendance at an academically-related activity

provided that the institution documents that the activity is academically related and documents the student's attendance at the activity.

According to 34 C.F.R. § 668.22(c)(3)(ii), “An ‘academically-related activity’ includes, but is not limited to, an exam, a tutorial, computer-assisted instruction, academic counseling, academic advisement, turning in a class assignment or attending a study group that is assigned by the institution.”

For the nine students in our sample for whom the College did not provide sufficient documentation to support their last dates of attendance, we recalculated the amount that the College should have returned using the students’ attendance at an academically related activity as documented in the College’s records. For 5 of the 9 students, we determined that the Department or the appropriate FFEL Program lenders were due additional returns of Title IV aid totaling \$3,052. For the remaining four students, no additional return of Title IV aid was needed because the last date of attendance at a documented, academically related activity was beyond the 60 percent point of the term, the point at which the student had earned 100 percent of the funds.

Title IV Funds Not Returned Timely

We reviewed the records for the 10 students from the unofficial withdrawal sample. The College did not return Title IV funds within 45 days of the date that it determined 1 of the 10 students withdrew. The College determined that the student withdrew on October 14, 2009, but it did not return the Title IV funds until May 14, 2010, 167 days past the 45-day limit.

According to 34 C.F.R. § 668.22 (j)(1) “An institution must return the amount of title IV funds for which it is responsible . . . as soon as possible but no later than 45 days after the date of the institution's determination that the student withdrew”

RECOMMENDATIONS

We recommend that the COO for FSA require the College to—

- 6.1 Return to the Department or the appropriate FFEL Program lenders the \$3,052 in Title IV funds that it improperly retained for the five students for whom it used the incorrect last date of attendance in the return of Title IV aid calculations.¹³
- 6.2 Recalculate the amount of Title IV funds earned by the 94 students who unofficially withdrew but were not included in our sample and return any unearned funds to the Department or the appropriate FFEL Program lenders.¹⁴
- 6.3 Ensure that it (a) correctly identifies the student’s withdrawal date as the last date of attendance at an academically related activity and (b) returns Title IV funds for students who withdraw from the College within 45 days of the date of determination.

¹³ This amount is included in Recommendation 1.2.

¹⁴ This amount would be included in Recommendation 1.2.

College Comments

The College disagreed with the finding that it used incorrect last dates of attendance for students who unofficially withdrew and the corresponding recommendations. According to the 2009-2010 Federal Student Handbook, academic advising or counseling and academic conferences were considered to be academically related activities for purposes of determining a student's last date of attendance. On that basis, the documentation of email and telephone contacts between instructors and students provided sufficient documentation to support the last date of attendance.

The College agreed with the finding that it did not timely return Title IV funds and the corresponding recommendation. The College stated that it has revised its policies and hired an additional staff person to track students who stop attending and to make the return calculations using the calculator on the Department's Web site. This new process has eliminated untimely return calculations and refunds.

OIG Response

We did not revise the finding or our recommendations. The documentation used by the College to support the last date of attendance typically consisted of emails from the instructor inquiring about the status of an assignment and the student responding and telephone contacts. Singular email or telephone exchanges concerning the status of an assignment do not represent academic advising or counseling or academic conferences. This does not constitute academically related activity as defined by 34 C.F.R. § 668.22(c)(3)(ii) or the 2009-2010 Student Financial Aid Handbook.

FINDING NO. 7 – Notifications of Title IV Disbursements and FFEL Program Exit Counseling Not Provided Timely

The College did not always notify students of their FFEL Program disbursements within 30 days of the disbursement. In addition, the College did not always perform FFEL Program loan exit counseling within 30 days of students' graduation or withdrawal from the institution. Notifications of disbursements and exit counseling are important processes in the administration of the FFEL Program. Students who sign multi-year Master Promissory Notes might receive subsequent loans without signing a new promissory note for subsequent periods. In such situations, the required notification of disbursements serves as an added consumer protection because it provides the student with more control over the types and amounts of loans he or she wants. Exit counseling is important because many students often have little or no experience with repayment and managing debt.

Untimely Notifications of FFEL Program Disbursements

We judgmentally selected 4 of the 10 students from the general student sample to review notifications of FFEL Program disbursements. We selected these four students to ensure coverage of students with subsidized and unsubsidized loans that were disbursed in different semesters during our audit period. The College did not notify three of the four students within 30 days of the disbursements. One student received a disbursement on January 4, 2010, but was not notified until February 8, 2010. A second student received a disbursement on September 1, 2009, but was not notified until December 16, 2009. A third student received

disbursements on September 30, 2009, and October 24, 2009, but was not notified until December 16, 2009.

According to 34 C.F.R. § 668.165(a)—

(2) Except in the case of a post-withdrawal disbursement made in accordance with § 668.22(a)(5), if an institution credits a student's account at the institution with Direct Loan, FFEL, Federal Perkins Loan, or TEACH Grant Program funds, the institution must notify the student or parent of—

- (i) The anticipated date and amount of the disbursement;
- (ii) The student's right or parent's right to cancel all or a portion of that loan

.

(3) The institution must provide the notice described in paragraph (a)(2) of this section in writing—

(i) No earlier than 30 days before, and no later than 30 days after, crediting the student's account at the institution, if the institution obtains affirmative confirmation from the student under paragraph (a)(6)(i) of this section; or

(ii) No earlier than 30 days before, and no later than seven days after, crediting the student account at the institution, if the institution does not obtain affirmative confirmation from the student under paragraph (a)(6)(i) of this section.

In this case, without the notification, the three students might not have been aware that loans had been disbursed, and they did not have the opportunity to cancel all or a portion of the loan disbursements and have the loan proceeds returned to the holders of the loans.

Untimely FFEL Program Exit Counseling

We reviewed the records for the 10 students from the general student sample. Of the 10 students, 3 received FFEL Program funds and graduated or stopped attending and, therefore, required FFEL Program exit counseling. The College had copies of exit counseling letters that included the dates of the letters and informed us that, except for on-campus students, its procedure for award year 2009-2010 was to mail the letters. Two of the three exit counseling letters were dated more than 30 days after the College learned that the student was no longer enrolled. Both of these students were correspondence students who completed the fall 2009 term but did not enroll in or attend the winter 2010 term. One student's term ended December 11, 2009, but the exit counseling letter was not dated until March 4, 2010. The second student's term ended February 8, 2010, but the exit counseling letter was not dated until March 31, 2010.

According to 34 C.F.R. § 682.604(g)(1)—

[I]n the case of a student borrower enrolled in a correspondence program or a study-abroad program that the home institution approves for credit, written counseling materials may be provided by mail within 30 days after the student borrower completes the program. If a student borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session as required, the school must ensure that exit counseling is provided through either interactive electronic means or by mailing written counseling materials to the student borrower at the student borrower's

last known address within 30 days after learning that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

Without exit counseling, the two students were not reminded in a timely manner of their responsibilities regarding repayment of the FFEL Program loans. Therefore, the students might be more at risk for defaulting on their loans.

RECOMMENDATIONS

We recommend that the COO for FSA require the College to—

- 7.1 Ensure that it (a) notifies students of their FFEL Program disbursements within the timeframes described in 34 C.F.R. § 668.165(a), and (b) provides exit counseling within 30 days after the students complete their programs or withdraw from the College.

College Comments

The College agreed with the finding and corresponding recommendation for untimely notifications of FFEL Program disbursements. The College stated that it has corrected this issue and now provides notices to students on a weekly basis.

The College disagreed with the finding and corresponding recommendation for untimely FFEL Program exit counseling. The College stated that its WED and graduate program courses were telecommunications courses, so the finding and corresponding recommendation do not apply.

OIG Response

We did not revise the finding or recommendations. As detailed in Finding No. 1, the College's WED and graduate program courses were correspondence courses; therefore, the finding regarding untimely exit counseling applies.

OTHER MATTERS

FWS Wages Paid to Participants with Potential Schedule Conflicts

The College paid three FWS participants for time claimed during periods of scheduled classes. We judgmentally selected 4 students from the universe of 90 who participated in the FWS Program during award year 2009-2010. The four students were paid \$13,692 of the \$83,011 in FWS payments made to the 90 students. We compared the time claimed, as reported on FWS timesheets that supervisors signed, to the students' class schedules. Three students (75 percent) submitted timesheets showing that they worked during regularly scheduled class hours. The three FWS participants had a total of eight timesheets that conflicted with the regularly scheduled class hours. The 8 timesheets conflicted with 11 different classes on 8 different days. According to 34 C.F.R. § 675.8, an institution should award FWS employment that generally will complement and reinforce each participant's educational program or career plans.

The College should develop and implement written policies and procedures and conduct periodic monitoring to ensure that FWS participants are not working during regularly scheduled classes.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our audit were to determine whether the College complied with selected provisions of the HEA and selected regulations governing (1) the 50 percent correspondence limit, (2) program eligibility for distance education programs, (3) incentive compensation, (4) award calculations, (5) student eligibility, (6) disbursements, and (7) return of Title IV aid. We limited our review to the FFEL, Pell, and FWS programs. Initially, our audit for all the objectives covered award year 2009-2010. We then expanded our audit period to include July 1, 2005, through June 30, 2010, specifically for the 50 percent correspondence limit objective.

To achieve our audit objectives, we—

1. Gained an understanding of selected provisions of the HEA, Title IV, the Higher Education Reconciliation Act of 2005, the Ensuring Continued Access to Student Loans Act of 2008, the Higher Education Opportunity Act of 2008, regulations, and Departmental guidance applicable to the audit objectives.
2. Reviewed the College's Web site, 2008-2010 undergraduate catalog (revised August 2009) and graduate catalog (revised September 2009), list of financial aid employees, and organizational chart to gain an understanding of the College's history and organization.
3. From the National Student Loan Data System (NSLDS) and the Department's G5 system, identified the amount of Title IV funds that the College received on behalf of its students during the period July 1, 2005, through June 30, 2010.
4. Contacted the (a) HLC, (b) Indiana Commission for Higher Education, (c) Independent Colleges of Indiana, (d) Indiana Department of Education, (e) Ohio Board of Regents, (f) National Association of Schools of Music, (g) National Council for Accreditation of Teacher Education, (h) American Music Therapy Association, and (i) Institute for Certification of Computing Professionals to determine whether there were any matters relevant to our audit objectives identified by these agencies. We also reviewed reports on the College that these entities issued when those reports were relevant to our audit objectives.
5. Reviewed "Saint Mary-of-the-Woods College Annual Report" for the fiscal years that ended June 30, 2006, through June 30, 2009, to identify prior findings by the College's independent public accountant.
6. Reviewed the College's 2008-2010 undergraduate catalog (revised August 2009), 2008-2010 graduate catalog (revised September 2009), and financial aid policies and procedures manual and interviewed College officials and instructors to gain an understanding of the College's internal control structure, policies, procedures, and practices applicable to the administration of its Title IV programs.

7. Reviewed the (a) WED Handbook and (b) course syllabi and the College's online learning management system content for a judgmental selection of 8 of the College's 258 WED courses and interviewed College officials, instructors, and students to determine whether the College's distance education courses were correspondence courses.¹⁵
8. Calculated the proportion of correspondence courses and percentage of students enrolled in correspondence courses for award years 2004-2005 through 2009-2010 to determine whether the College complied with the statutory limitations and was eligible to participate in the Title IV program during award years 2005-2006 through 2010-2011.
9. Obtained and reviewed the College's (a) program participation agreement, (b) eligibility and certification approval report (effective March 17, 2006), (c) listing of graduate and undergraduate programs, (d) program descriptions as described in the 2008-2010 undergraduate and graduate catalogs, and (e) program approval from HLC to identify which of the College's programs were Title IV eligible programs.
10. Interviewed admissions employees and reviewed performance evaluation records to determine whether the employees were evaluated and compensated in compliance with the restrictions on incentive compensation.
11. Reviewed the academic and financial aid records (records) for 10 students randomly selected from the universe of 1,187 students who received Title IV funds during award year 2009-2010 (general student sample) to determine whether the College (a) ensured that students met the student eligibility requirements, (b) accurately calculated awards and disbursed Title IV funds, and (c) did not disburse Title IV funds to students who were not enrolled in classes.
12. Reviewed the records, withdrawal forms, and return of Title IV aid calculations for (a) 10 students randomly selected from the universe of 52 students who officially withdrew or were administratively withdrawn from the College (official withdrawal sample) and (b) 10 students randomly selected from the universe of 104 students who unofficially withdrew from the College (unofficial withdrawal sample) to determine whether the College properly calculated the amount of Title IV funds it was required to return and then timely returned those funds.
13. Reviewed the records for 4 students judgmentally selected from the universe of 90 students who received FWS wages to determine whether the College complied with the FWS Program requirements. We selected the four students because they were paid the highest amounts of FWS wages and worked in various departments on campus.¹⁶

¹⁵ We judgmentally selected these eight courses because they were offered by various academic departments and had the highest enrollment of the WED courses.

¹⁶ Because we used non-statistical sampling procedures, there is no assurance that the judgmental sample was representative of the entire population. Because of this and the small sample size, the results of this sample cannot be projected over the entire population.

14. Analyzed the additional documentation that the College provided with its comments on the draft of this report.

We also relied, in part, on computer-processed data provided to us by College officials.¹⁷ The College provided us with data from its academic system and from a spreadsheet used to track FWS funds. For financial records, we relied on data from the NSLDS.

Academic System Data

We received a report from the College's academic system listing all students and the courses in which they were enrolled during award year 2008-2009. We used that report to test the College's compliance with the regulations governing the limit on correspondence courses. To assess the reliability of the award year 2008-2009 academic system data, we compared the data with NSLDS data. We were able to reconcile all differences between the lists. In addition, we applied logic tests to the data provided by the College. Based on our analyses and testing, we determined that the award year 2008-2009 data from the academic system were sufficiently reliable for the purposes of our audit.

We also used similar reports from the College's academic system for award years 2004-2005 through 2009-2010. We used those reports to calculate the percentages of students enrolled in correspondence courses for award years 2004-2005 through 2009-2010 and to draw the samples we used to test the College's compliance with return of Title IV aid requirements for award year 2009-2010. We did not conduct additional reliability tests on the data from award years other than 2008-2009, because the data came from the same academic system as the award year 2008-2009 data. Therefore, we concluded that the data for award years 2004-2005 through 2009-2010 also were sufficiently reliable for the purposes of our audit.

FWS Spreadsheet Data

We received a spreadsheet from the College listing all students who received FWS funds during award year 2009-2010. There were 94 students listed, but only 90 students received FWS funds. We compared the total amount of FWS funds disbursed as recorded on the College's spreadsheet to the total amount awarded to the College according to the Department's G5 system. We were able to reconcile the two amounts. Based on our analyses and testing, we determined that the data on the College's FWS spreadsheet were sufficiently reliable for the purposes of our audit.

Finally, we assessed the adequacy of the College's internal control structure, policies, procedures, and practices applicable to the administration of its Title IV programs in four areas: (1) award calculations, (2) student eligibility, (3) disbursements, and (4) return of Title IV aid. Our assessment disclosed that the College had deficiencies in the operation of its system of internal control that caused (1) disbursements of Title IV funds to former students, (2) inadequate returns of Title IV funds for students who did not begin attendance or unofficially withdrew, and (3) late notifications to students of the disbursements of FFEL Program loans and untimely performance of loan exit counseling (see Audit Results).

¹⁷ Computer-processed data may be data (1) entered into a computer system or (2) resulting from computer processing. In this report, "data" always means computer-processed data.

We conducted our work from June through December 2010 at the College's offices in Saint Mary-of-the-Woods, Indiana, as well as at our offices. We discussed the results of our audit with College officials on January 3, 2011.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX A - Excerpts from “Choosing a Distance Education Program”

	Woods External Degree (WED) Program	Woods Online Program
Keyword:	Flexible.	Interactive.
Program:	35 years of Distance Excellence.	New – Cutting Edge.
Delivery Format:	Distance hybrid. Combination of email and online resources.	Fully Online. All assignments and materials posted in our learning management system.
Assignments:	Individual.	Individual and Group projects.
Assignment Due Dates:	No set schedule, but some structure. Assignments & projects may be completed at your own pace - just provide regular updates to your professor.	Weekly. Assignments & projects have weekly due dates. Some projects may be completed early.
Class size:	1 to 1 You work directly with your professor.	12-25 You work collaboratively with other students and your professor.
Means of communication:	Primarily Email.	Mixture of multi-media: Webinars (Online Meetings), Webcam Chats, Instant Messages, Email, Online Discussion Boards
Use of multi-media and interactive elements:	Limited.	Extensive.
Technology Requirements:	Students must have: Regular access to an Internet Connection. <i>Dial-up connections are acceptable.</i> Microsoft Office (Included in your technology fee).	Students must have: Routine access to high-speed Internet Connection. <i>Dial-up connections are insufficient.</i> Microsoft Office (Included in your technology fee). Computer capable of handling multi-media resources (purchased within the last 3 years). Webcam. Headset w/ Microphone.
Technology Expertise Required:	Limited. Students must be comfortable with browsing the Internet and sending email.	Moderate. But quality technical support and software tutorials are available!
Note: As posted on the College’s Web site as of May 27, 2010. This version of the appendix omits six rows because the rows were not relevant to our audit objectives.		

APPENDIX B – The College’s Comments on the Draft Report



November 30, 2011

Via E-mail and Overnight Courier

Gary D. Whitman
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
Citigroup Center
500 West Madison Street, Suite 1414
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Re: Draft Audit Report Regarding Saint Mary-of-the-Woods College’s
Administration of the Title IV Programs, Control Number ED-
OIG/A05K0012

On behalf of Saint Mary-of-the-Woods College (the “*College*” or “*SMWC*”) (OPE ID: 00183500), following is our response to the assertions set forth in the Draft Audit Report titled “Saint Mary-of-the-Woods College’s Administration of the Title IV Programs,” Control Number ED-OIG/A05K0012, dated August 30, 2011 (the “*Draft Report*”), issued by the Office of Inspector General (the “*OIG*”) of the U.S. Department of Education (the “*Department*”) covering the period July 1, 2005 through June 30, 2010 (the “*Audit Period*”). In this response, the College will establish that in arriving at its findings the Draft Report fundamentally misapplies applicable law, particularly, but not exclusively, by retroactively applying standards not in effect during the Audit Period, and fundamentally misapprehends the nature of the College’s operations.

Background

SMWC, founded by the Sisters of Providence in 1840, is the oldest Catholic liberal arts college for women in the United States. Throughout its more than 170 years, the College has been committed to enabling its students to develop their abilities, think critically, communicate responsibly, engage in lifelong learning, assume positions of leadership in their communities and beyond, and effect positive change in a global society. SMWC has been at the forefront of educational innovation: it was the first women’s college to offer journalism courses and the first to offer degree work in secondary education, home economics, and secretarial science. SMWC has been a participant in the federal student aid programs provided pursuant to Title IV of the Higher Education Act of 1965, as amended (the “*Title IV Programs*”), since their very inception and takes very seriously its responsibility to be a faithful steward of the resources entrusted to it.

Through its undergraduate and graduate programs, the College has historically served a diverse community of learners. Consistent with its mission, in 1973 the College introduced one of the first true distance learning programs in the nation, the Women's External Degree Program. Designed to meet the particular needs of adult women who sought the flexibility necessary to balance earning a degree, family responsibilities, and career obligations, the program introduced a variety of modalities to make quality learning accessible to a substantially underserved population. Beginning in 1984, SMWC added graduate programs leading to Masters degrees in such fields as Art Therapy, Music Therapy, Education and Leadership Development. The College has long been recognized for the excellence of its academic offerings and its innovation in serving the unique needs of a wide range of learners. For example, this year its Master of Art Therapy program received the coveted Blue Ribbon of Excellence awarded by the American Art Therapy Association ("AATA"). Notably, not only is SMWC one of only thirty-four programs in the nation to obtain this recognition, it is the first distance education program to do so.

While the College has held true to its commitment to women's education through its residential undergraduate programs, in 2005 the College opened its undergraduate distance programs to men as well as women. Today, the renamed and restructured Woods External Degree ("WED") Program serves women and men seeking a quality college education in a wide variety of majors utilizing distance learning modalities best suited to their individual needs.

The College's academic excellence is reflected in its other programmatic accreditations, which include: the American Bar Association (paralegal studies); the American Music Therapy Association; the Institution for the Certification of Computer Professionals; the National Association of Schools of Music; the Society for Human Resource Management; and the National Council for Accreditation of Teacher Education ("NCATE").

It is in this context that the College and its educational programs must be viewed: for 170 years SMWC has provided a high quality educational experience to a broad spectrum of learners through a variety of instructional modalities appropriate to individual needs, and in this regard has been a leader in the adoption and utilization of telecommunicated learning. The College has been diligent in carrying out its public obligations, including but not limited to its participation in the Title IV Programs. On the following pages, the College will explain in detail the appropriate resolution of Finding Nos. 1 through 7. In particular, Finding No. 1, which asserts that the College was not eligible to participate in the Title IV Programs based on the Draft Report's conclusion that the College exceeded the percentage limitation on the number of students who could be enrolled in correspondence courses, is neither based on the law applicable during the period under audit nor on a correct interpretation of facts, and therefore must be withdrawn without requiring any repayment or loss of eligibility on the part of SMWC.

FINDING NO. 1 THE COLLEGE WAS NOT ELIGIBLE TO PARTICIPATE IN THE TITLE IV PROGRAMS

The Draft Report asserts that SMWC exceeded the fifty percent statutory limitation on the proportion of students enrolled in correspondence courses. However, as will be made patently clear in the course of the following discussion, during the period under audit the majority of SMWC students were in fact not enrolled in correspondence courses. Rather, based upon the regulatory definitions for telecommunications and correspondence courses in effect during the Audit Period, SMWC's educational programs were offered *only* on-campus or via

telecommunications. Therefore, this finding must be closed without further action or response by the College.

The Draft Report Applies Incorrect Standards

As will become plainly clear, the Draft Report bases its findings on standards and criteria for the classification of correspondence versus telecommunication courses that were not in effect during the period under review. In reaching its conclusions, the Draft Report *retroactively* applies definitions and descriptions intended to define distance education courses *as of* July 1, 2010. The application of rules that came into effect in 2010 to the classification of SMWC's programs throughout the Audit Period, which *ended* June 30, 2010, was a clear error proximately resulting in Finding No. 1.

Simply put, the regulations relied upon in the Draft Report cannot be applied to the conduct of SMWC's distance education programs during the Audit Period, as the relied-upon regulations were not in effect during the period under review. To apply regulations effective *after* the close of the Audit Period to activities that occurred prior to their effective dates is an arbitrary and capricious action, and a manifestly clear error. Finding No. 1 must be removed from the final audit report in its entirety as the finding is not based on law in effect during the period under review.

Specifically, the Draft Report applies incorrect standards in its analysis of the College's WED and graduate programs. The Draft Report purports to analyze the College's programs by applying the definitions of "correspondence course" and "telecommunications course" published in the C.F.R. as of July 1, 2009 (*see* page 7 of the Draft Report). Upon the most cursory inspection, this analysis is fundamentally flawed:

(1) The definitions cited in the Draft Report, far from being the relied-upon static formulation adopted in the Draft Report, substantially changed throughout the Audit Period, and

(2) In its analysis of the College's programs in prior award years, the Draft Report retroactively applies standards that first went into effect on July 1, 2010.

The Draft Report Misapplies the 2009 Definitions to Past Periods

The definition of a "telecommunications course" cited on page 6 of the Draft Report was improperly used to analyze and categorize the College's programs for the award years between 2004/05 and 2006/07. Specifically, the telecommunications course definition relied upon in the Draft Report emphasizes in bold text the phrase "to support regular and substantive interaction between these students and the instructor." However, this phrase did not appear in the definition of telecommunications included in 34 C.F.R. § 600.2 prior to the amendment that went into effect on September 8, 2006. Prior to this amendment, the applicable definition of a telecommunications course was as follows:

Telecommunications course: A course offered in an award year principally through the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite,

audio conferencing, computer conferencing, or video cassettes or discs. The term does not include a course that is delivered using video cassettes or disc recordings unless that course is delivered to students physically attending classes at an institution providing the course during the same award year. If the course does not qualify as a telecommunications course it is considered to be a correspondence course, as provided for in paragraph (c) of the definition of correspondence course in this section.

Consistent with the above definition, the College's WED and graduate programs utilized various modalities in connection with the delivery of instruction for the award years between 2004/05 and 2006/07. As described in greater detail below, the primary mode of delivery was through computer transmission, including e-mail, webinars and online discussions. Other telecommunications modalities were also utilized to provide instruction and to assess student learning, including the use of CD-ROMs and audio and video recordings.

The analysis of the College's programs during this period respecting their classification as telecommunications versus correspondence should have stopped right here, without any finding. However, the Draft Report expressly – and altogether improperly – applied to these prior periods factors defining a telecommunications course that only appeared in the post-September 8, 2006 definition. Specifically, page 7 of the Draft Report includes a minimalist analysis of the degree of interactivity of the College's programs. However, as stated above, this factor was not present within the definition of a telecommunications course prior to September 8, 2006. Because the College's WED and graduate programs for the award years between 2004/05 and 2006/07 satisfied the definition of telecommunications courses applicable during the period, and because the Draft Report incorrectly characterized the College's programs as correspondence, retroactively applying factors from the post-September 8, 2006 definition of a telecommunications course, the College's programs from this period cannot be used as a basis for Finding No. 1 of the Draft Report.

The Draft Report Improperly Analyzes the College's Programs by Applying Current Rules Retroactively

Factors used in the Department's current, that is effective *subsequent to* June 30, 2010, definition of a correspondence course permeate the Draft Report's analysis of the College's programs. For example, page 8 of the Draft Report includes a discussion about whether interaction is initiated by students or faculty, implying that the source of such interaction is relevant to the characterization of a course. However, at no time during the Audit Period was this factor relevant to the characterization of courses as telecommunications or correspondence. Likewise on pages 7 and 8 of the Draft Report, heavy significance is placed on the flexibility built into the WED programs – an important attribute in responding to the needs of adult learners – and as a result the Draft Report characterizes them as “self-paced,” as if such a characteristic bears any relationship to the classification of the programs for the purposes of the definition of telecommunicated learning.

In each case the factors considered in the Draft Report – student initiation of substantive interaction and whether the courses were “self-paced” – did not appear in the applicable definitions during the Audit Period. Rather, these factors first appeared in the most recent revision of the definition of a *correspondence course* that went into effect on *July 1, 2010*. The

pervasive application of such factors to past periods fatally tainted the Draft Report's analysis and led to a clearly erroneous conclusion regarding the nature of SMWC's programs. As discussed in greater detail elsewhere herein, pursuant to the Department's definitions *in effect at the time*, SMWC's WED and graduate programs were manifestly telecommunications courses throughout the Audit Period.

Retroactive Application of a Newly Articulated Standard is Not Permissible.

As a general principle, an agency may not make retroactive application of new standards, and such application is fatal to Finding No. 1. Whether considering the College's programs under the post-September 8, 2006 or the post-July 1, 2010 standards defining correspondence and telecommunications courses, the Draft Report cannot apply new standards that alter the face of an existing substantive rule and then seek to enforce the new regulations pursuant to such standards with retroactive effect. The law is clear that such enforcement must be prospective. The definitions section of the Administrative Procedures Act, 5 U.S.C. § 551(d), states that a "rule" in whole or in part is an agency statement "of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy." Even without such unambiguous statutory standards, basic principles of due process prevent an agency from imposing sanctions for conduct that occurred prior to the enactment of the regulation prohibiting the conduct. Simply put, the College cannot be held to newly promulgated standards for activities it completed years prior to their enactment.

Because of the strong disfavor of retroactive rulemaking, "congressional enactments and administrative rules will not be construed to have retroactive effect unless their language requires this result." In *Bowen*, the Supreme Court stated that courts "should be reluctant to find such authority absent an *express* statutory grant." The Higher Education Act of 1965, as amended, the relevant statute for the correspondence and telecommunications regulations, has neither any express nor any implied statutory grant that would authorize the Department to retroactively apply any new standards to courses offered prior to their effective date. Furthermore, courts have held that "a decision branding as 'unfair' conduct stamped 'fair' at the time a party acted...raises judicial hackles...[and] the hackles bristle still more when a financial penalty is assessed for action that might well have been avoided if the agency's changed disposition had been earlier made known." This judicial disapproval of retroactivity speaks clearly to the case here. SMWC is being subjected to a potential financial liability for its administration of Title IV for the 2004/05 award year through the 2009/10 award year based on the retroactive application of standards that, in some cases, were not effective until July 1, 2010.

Further, the retroactive application of a regulation is disfavored where an entity is precluded from bringing itself into compliance before it is deemed in violation of the regulation. The Draft Report would have it that the new regulations respecting correspondence courses and distance education create new legal consequences for SMWC based on structures and policies that were put in place well before their enactment. The Department cannot now simply assert without benefit of either contemporaneous statutory or regulatory authority that SMWC's programs were not telecommunications courses based upon factors first articulated in the Department's post-September 8, 2006 and post-July 1, 2010 standards.

The WED and Graduate Courses Were Telecommunications Courses Under Then-Applicable Department Standards.

As noted above, the Draft Report asserts that it analyzes the College's programs by applying the definitions of "correspondence course" and "telecommunications course" published in the C.F.R. as of July 1, 2009, as quoted below:

According to 34 C.F.R. § 600.2, a correspondence course is—

(1) A "home study" course provided by an institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the institution. When students complete a portion of the instructional materials, the students take the examinations that relate to that portion of the materials, and return the examinations to the institution for grading.

(2) A home study course that provides instruction in whole or in part through the use of video cassettes or video discs in an award year is a correspondence course unless the institution also delivers the instruction on the cassette or disc to students physically attending classes at the institution during the same award year.

(3) If a course is part correspondence and part residential training, the Secretary considers the course to be a correspondence course.

According to 34 C.F.R. § 600.2, a telecommunications course is—

*A course offered principally through the use of one or a combination of technologies including television, audio, or computer transmission through open broadcast, closed circuit, cable, microwave, or satellite; audio conferencing; computer conferencing; or video cassettes or discs to deliver instruction to students who are separated from the instructor and **to support regular and substantive interaction between these students and the instructor**, either synchronously or asynchronously. The term does not include a course that is delivered using video cassettes or disc recordings unless that course is delivered to students physically attending classes at the institution providing the course during the same award year. **If the course does not qualify as a telecommunications course, it is considered to be a correspondence course. (Emphasis added in original, Draft Report, p. 7)***

The Draft Report emphasizes that, under the standards as cited, the key difference between telecommunications and correspondence courses during the period under consideration was whether the course, as implemented, "support[s] regular and substantive interaction between [the] students and the instructor." (*Draft Report*, p. 6) SMWC agrees with this distinction, noting that the Department clarified what would constitute "regular and substantive interaction" in the preamble of the Higher Education Reconciliation Act ("*HERA*") of 2005's implementing regulations at 71 Fed. Reg. 64378 (Nov. 1, 2006).

Specifically, in the preamble to the implementing regulations for HERA, the Department responded to a comment that its proposed definition of telecommunications was too vague for institutions to determine how many, and what type of, interactions were being required by the Department for a program to be deemed telecommunications versus correspondence. In response, the Department acknowledged that it could not direct how an academic program would be structured, and as such, would avoid dictating any particular teaching method(s) as acceptable.

To address the commenter, the Department stated that “[w]e believe the phrase “regular and substantive” means that the interaction should both take place at regular intervals and not be trivial.” 71 Fed. Reg. 64379 (Nov. 1, 2006). The Department did not set a minimum number of interactions, nor provide additional qualifiers as to what type of interactions would constitute a ‘substantive’ interaction, or indeed the intended meaning of the term “trivial” in this context. Taking full account of the clear language of the statute and of the very limited published guidance available, SMWC reasonably and properly concluded that distance education courses offered through any of the specified telecommunications technologies and providing for regular interactions between faculty and students constituted telecommunications courses. Based on this understanding, SMWC’s distance learning courses complied with the two essential requirements of the telecommunications course definition: that the courses by their nature met the “interactivity” and “modality” requirements.

It is therefore patently clear that throughout the Audit Period, the College’s WED and graduate courses in fact did meet the definition of “telecommunication courses.” These courses utilized the internet and other modalities to deliver instruction to students and facilitated regular and substantive interactions between faculty and students in compliance with the telecommunications definition in effect during the Audit Period.

*The WED and Graduate Courses Fostered Regular and Substantive Interactions
Between Students and Faculty*

The College’s WED and graduate courses were designed to facilitate various kinds of interactions among instructors, peers and students; each and every one of the College’s distance education courses satisfy the “regular and substantive” standard as expressed by the Secretary in the above-cited 2006 Federal Register.

SMWC’s pedagogical design for the WED and graduate courses is based on well-accepted, evidence-based research which has proven that adult learners are more successful in environments that afford flexibility beyond that which can be obtained in a traditional classroom. Of particular importance, it is a proven fact that adult learners need to feel a greater “ownership” of their learning experience, which is accomplished through flexibility in both the form and timing of the educational process. The evidence is overwhelming that successful adult learning programs capitalize on the generally stronger personal motivation of adult learning, informed by each individual’s work and life experience. Designed primarily to serve women between the ages of 26 and 42, SMWC’s WED and graduate courses sought to accommodate the individual learners’ needs to balance personal, family and work obligations with their academic pursuits. The WED and graduate programs were therefore structured to accommodate and facilitate learning interactions that could be easily initiated by any of the participants: the learners, fellow students and faculty alike.

Consistent with the characteristics of non-traditional learners, WED and graduate students are typically enrolled at three-quarter time (9 credits per term) in courses that are offered over longer periods of time to provide flexibility for personal time management balanced with directed, rigorous learning experiences. This structure encourages higher levels of student ownership in their learning, while establishing a balanced connection between the students and their peers, instructors and the institution.

Consistent with this approach, SMWC determined the appropriate level and nature of interactions and program requirements to ensure WED and graduate student success, without creating so much of a burden as to inhibit their learning. Importantly, in implementing the WED and graduate programs, the College designed each course to have *exactly* the same learning outcomes as the same courses offered in a traditional classroom setting, years before the Department issued regulations and guidance requiring accrediting agencies to make the same determination in assessing and approving distance learning offerings. Through the College's Institutional Assessment Plan, SMWC has and continues to utilize precisely the same tools to assess the learning outcomes of all its programs regardless of delivery modality.

In furtherance of this goal, the WED and graduate courses were designed with substantive and substantial faculty-directed interactions at regular intervals. During the residency period, all students met with SMWC faculty to prepare their academic plan, develop and discuss projects and engage in the first set of required exercises. Then, on a continuing basis, students provided SMWC faculty with various indicia of their ongoing engagement in the course, including but not limited to the submission of required assignments. To ensure the integrity of the academic process, failure to do so resulted in either a failing grade or the student being withdrawn from the course.

SMWC faculty maintained contact with students by e-mail or by telephone conference to provide academic advising, address performance issues such as delayed work, to conduct group and individual instructional sessions, and to assess and provide feedback to students on their progress with coursework. As established by the SMWC calendar, at the end of each academic term, students were required to submit their final assignments for evaluation by the course faculty. All of this was factored into the SMWC grading process, which for all intents and purposes was and remains identical for on-the-ground and distance learning courses.

Beyond these regular interactions, the WED and graduate courses also fostered substantive interactions between students and faculty through virtual office hours, academic advising, counseling, and web-based discussion boards. These less structured interactions were perhaps the most important in light of the needs of the adult learners enrolled in the WED and graduate courses, where the autonomy necessary to properly serve such students must be tempered with consistent involvement with the institution.

Aside from those students who take advantage of the residencies and alternative format classes that have in-person interaction with faculty, the primary avenue for student-faculty interaction is the *dialogue* created when students submit questions and/or work-product to faculty members throughout the semester and faculty members then reply with detailed feedback. Given the importance of this type of interaction, the College places a heavy emphasis on the effectiveness of bi-directional feedback in student-faculty interactions. Each WED faculty member agrees in his or her contract to meet the performance expectations set forth in the

College's statement of "Best Practices for Faculty in the WED Program," including by providing WED students with "constructive, substantive and timely feedback."

It should be noted that none of the "standards" applied in the Draft Report when evaluating the interaction between students and faculty in the WED and graduate programs, such as only considering faculty-initiated interactions, have any basis in law. During the Audit Period neither the Department's regulations nor any guidance released during such period required any minimum number of contacts or the direction of such contacts. In fact, during the Audit Period, the Department expressly sanctioned certain student-initiated academically-related activities for Title IV Program administration purposes. For example, from 2004/05 through 2009/10, the Department expressly *included* student initiated contacts, such as academic advising, as an acceptable example of an academically-related activity. It is patently clear that the interactions that were an integral part of the WED and graduate courses throughout the Audit Period were sufficient to satisfy the "regular and substantive interaction" requirement set forth in the 2009 definition of a telecommunications course, and therefore, the Finding is utterly without merit.

In addition, when the Department clarified the term "regular and substantive" in the regulations implementing elements of HERA, it was mindful of the overarching prohibition contained in the venerable General Education Provisions Act respecting the Department engaging in any activity directing the content or nature of academic programs. Notwithstanding the unsupported characterization in the Draft Report, the interactions described above were far from "trivial": they represented an essential and integral part of the learning process intended to provide a cohort of adult learners with the pedagogy and modalities appropriate to their learning styles. The Draft Report is fundamentally flawed in attempting to apply a mechanistic approach to assessing the adequacy of such interactions, which at best is inaccurate and at worst would cause the Department to overstep its lawful authority.

The WED and Graduate Programs are Not Self-Paced Independent Study Programs

The Draft Report's characterization of the WED and graduate programs as "*self-paced* independent study programs" represents a fundamental misunderstanding of the nature and structure of these programs. While the programs were necessarily designed with a certain degree of flexibility to accommodate the needs of adult learners, each WED and graduate course was offered on a fixed schedule. As discussed above, students were required to submit their first assignment within three weeks of the semester and then continue to submit their assignments on a regular basis throughout the semester. The temporal rigor is clear; for example, if a student does not submit his or her first assignment within the first three weeks of the semester, the student is withdrawn from the course.

The scheduling of work is carefully regulated to ensure a proper learning experience. Students are strongly discouraged from submitting multiple assignments at one time, and prohibited from doing so near the end of a semester. A student with a valid reason for not finishing a course on time may request an extension from his or her instructor, but such an extension will result in the posting of an "Incomplete" grade for the course. If an Incomplete is not removed as a result of submission of the required materials before a specified date, the student is awarded a failing grade. The characterization of the WED program as self-paced

independent study is unsupported and, to the extent it may be remotely relevant, cannot be used as a basis for Finding No. 1.

The WED and Graduate Courses Utilize Various Modalities

SMWC utilized multiple instructional modalities and technologies for the delivery of its WED and graduate courses in compliance with its designation of these courses as telecommunications. The College's WED and graduate programs fully satisfied the modality prong or the telecommunications definition through their utilization of internet-based modalities such as the College's Desire2Learn ("D2L") learning management system ("LMS"), e-mail, web-based exercises and other telecommunications modalities such as video and telephone conferences.

The methods used to deliver instruction via technology in the WED and graduate courses are of course constantly evolving. Faculty receive continuous training on the most effective ways to integrate technical upgrades into their courses. For example, in 2007 SMWC began using Lectora's eLearning software, an advanced e-learning course authoring tool. All WED faculty were given hands-on training to enable them to develop learning objects to be incorporated into their respective WED courses. The pervasive utilization of in-person, telephonic, and e-mail contact between students and faculty, as well as the utilization of web-based tools, such as the D2L LMS and course-specific learning objects, demonstrates beyond the slightest doubt that the WED and graduate courses satisfied the modality requirements set forth in the applicable definitions of a telecommunications course during the Audit Period.

The Courses in SMWC's WED Education Program Are Telecommunications Courses

The College's WED Education courses serve as a useful example of the ways in which the College's WED and graduate courses satisfied the applicable telecommunications course definitions throughout the Audit Period. The Education Program is accredited by NCATE and approved for teacher training by the Division of Professional Standards (DPS) of the Indiana Department of Education. Throughout the Audit Period, the Education Program was the largest of the College's WED programs, representing approximately half of total WED enrollments.

The courses in the Education Program promoted regular and substantive interaction between faculty and WED students through several means, including supervised field experiences, practica and student teaching opportunities as well as didactic instruction via telecommunicated learning. Students enrolled in the WED Education Program were also required to attend on-campus residencies each semester for orientation to the program, to interview with faculty, to set up field and practicum experiences and to attend student-teacher seminars.

In addition, WED Education faculty maintained regular and substantive interaction with their students through chats, group exchanges, virtual office hours and academic counseling and advising, all carried out through the use of electronic means such as through video and telephone and web-conferences, e-mail, and the D2L LMS.

The regular and substantive interaction fostered by WED Education courses and the utilization of various technological modalities in connection with the delivery of instruction in such courses demonstrate beyond a shadow of a doubt that these courses were telecommunications courses throughout the Audit Period. Therefore, the roughly one half of total WED enrollments that consisted of students enrolled in WED Education courses must under any circumstances be treated as non-correspondence enrollments for purposes of the measurement of the proportion of correspondence course enrollments in Finding No. 1. As a result, even if, *arguendo*, all of the other questioned enrollments were counted as correspondence (a totally unsupported conclusion) the proportion of correspondence enrollments would drop to between 37% and 42% for each year during the Audit Period, well below the 50% threshold.

The College Did Not Exceed the 50% Threshold for Students in Correspondence Courses

Based upon the analyses set forth above, the College absolutely and without equivocation disagrees with the Draft Report's deeply flawed conclusion that the College exceeded the statutory limitation on the percentage of students (50 percent) who could be enrolled in correspondence courses since the 2004/05 award year. The College's WED and graduate courses were clearly and unambiguously designed to support regular and substantive interaction between the College's students and faculty through the use of technology and in-person meetings, as required by 34 C.F.R. § 600.2 (2009).

The Draft Report erroneously and improperly applied to the College's courses regulations not in effect during the Audit Period, resulting in the Draft Report misclassifying WED and graduate courses as correspondence courses, when they in fact met the definition for telecommunications courses under the regulations in effect during the Audit Period. Because the WED and graduate courses qualified as telecommunications, they could not also be correspondence courses as these two definitions were mutually exclusive throughout the Audit Period. Accordingly, the College was an eligible participant in the Title IV Programs during the entirety of the Audit Period, and Finding No. 1 must be vacated.

The Calculation of Liability in the Draft Report Miscalculates the Alleged Liability

While the facts and law as articulated above do not give rise to any liability under Finding No. 1, the OIG's calculations overstate the liability owed to the Department due to its failure to apply the estimated actual loss formula, which by long precedent is required to be applied in such circumstances. The formula estimates the Department's actual losses from interest, special allowance and defaults only. Although Finding No. 1 must be removed for the reasons discussed above, if the Finding is included in the final audit report, the report must include an actual estimated loss calculation.

FINDING NO. 2 INCORRECT CALCULATIONS OF TITLE IV AWARDS FOR STUDENTS ENROLLED IN CORRESPONDENCE COURSES

Finding No. 2 is based on the Draft Report's erroneous conclusion regarding the nature of the College's courses. For the reasons set forth in SMWC's response to Finding No. 1, SMWC's

WED and graduate courses were telecommunications courses throughout the Audit Period. Because Title IV Program funds to telecommunication students are disbursed upon the same terms and conditions as Title IV Program funds are disbursed to campus-based students, Finding No. 2 should be vacated in its entirety.

FINDING NO. 3 COST OF ATTENDANCE BUDGETS WERE NOT SUPPORTED

SMWC's cost of attendance ("COA") budgets were in line with area schools as to indirect costs and in line with cost of living expenses for residents within the College's vicinity for the 2009/10 award year as well as subsequent years. The COA budgets are supported by documentation obtained from:

- Social Security Administration – Cost-of-living adjustment (COLA);
- Living expense budget from College Board;
- Median gross rental expenses for the Terre Haute area from www.city-data.com;
- Nine-month academic calendar low/moderate living expense budgets (Chicago/Naperville region) from College Board;
- Cost of Living and Income characteristics from Terre Haute Economic Development Corp;
- Compared COA with: Indiana State University, Rose-Hulman Institute of Technology and Purdue University; and
- Tuition, fees and room/board (for resident population) derived and approved by SMWC Cabinet members and SMWC Board of Trustees.

FINDING NO. 4 TITLE IV FUNDS IMPROPERLY DISBURSED TO STUDENTS

Disbursements Made to Students Not Enrolled in Classes at the Time of Disbursement

For the 2009/10 award year, Title IV Program funds were disbursed using selection sets in PowerFAIDS that listed all eligible students within that period of enrollment. The disbursements were then posted and the Business Office ran reports to identify students without posted tuition charges. For students without posted tuition charges who had Title IV Program disbursements posted to their accounts, the ledger entry concerning the Title IV assistance was reversed. At no point during this process were disbursed funds actually drawn down by the College.

For the 2010/11 and 2011/12 award years, SMWC did not use the selection sets in PowerFAIDS. Rather, Title IV Program funds were disbursed only to the students reported on the lists of registered students obtained from the Registrar's Office and the Woods Online Office.

With respect to the Pell Grant disbursements in the amount of \$1,130 on June 17, 2010 and \$1,337 on June 24, 2010 noted in this Finding, each was returned to the Department.

Pell Funds Disbursed Too Early For Students Enrolled In Correspondence Courses

For the reasons set forth in our response to Finding No. 1, SMWC's courses were telecommunications courses. Accordingly, this Finding must be vacated to the extent that it is based upon the erroneous conclusion that the College's WED or graduate courses were anything other than telecommunications courses.

FINDING NO. 5 TITLE IV FUNDS RETAINED FOR STUDENTS WHO DID NOT BEGIN ATTENDANCE

For the 2009/10 award year, administrative withdrawal forms were completed by the Registrar's Office and forwarded to the Financial Aid Office for processing. In the cited instances, the Registrar listed each student's withdrawal date as the date the form was completed. This error resulted in the Financial Aid Office preparing the R2T4 calculations using an incorrect last date of attendance. All records found with this issue were corrected immediately and \$7,020 has been returned to the Department of Education or appropriate lenders.

For the 2010/11 and 2011/12 award years, the Registrar's Office has revised its procedures to ensure that funds are appropriately returned for students who do not begin attendance and stricter timelines have been implemented for the completion of administrative withdrawals. Title IV Program funds are disbursed on the 40th day of the semester to ensure that no aid is disbursed to ineligible students. Their aid awards are cancelled on COD and PowerFAIDS.

FINDING NO. 6 THE COLLEGE DID NOT COMPLY WITH RETURN OF TITLE IV AID REQUIREMENTS

Incorrect Last Date of Attendance Used For Students Who Unofficially Withdrew

According to the 2009-2010 Federal Student Handbook (page 5 - 79), academic advising or counseling and academic conferences were considered to be academically-related activities for purposes of determining a student's last date of attendance. On that basis, the documentation of e-mail and telephone contacts between instructors and students provided sufficient documentation to support the last date of attendance.

Title IV Funds Not Returned Timely

The College has revised its policies to ensure that the Registrar's Office automatically advises when students stop attending. The College has hired an additional staff person to track students who stop attending and to make the R2T4 calculations, which are done electronically using the DOE calculator on the IFAP website. This new process has eliminated untimely R2T4 calculations and refunds.

**FINDING NO. 7 NOTIFICATIONS OF TITLE IV DISBURSEMENTS AND FFEL
EXIT COUNSELING NOT PROVIDED TIMELY**

Untimely Notifications of FFEL Program Disbursements

This issue has been corrected. Notices to students are provided on a weekly basis.

Untimely FFEL Exit Counseling

For the reasons set forth in our response to Finding No. 1, SMWC's courses were telecommunications courses. Accordingly, this Finding should be vacated to the extent that it is based upon the erroneous conclusion that the College's WED or graduate courses were anything other than telecommunications courses.

For the 2009/10 award year, we discovered that some students did not receive exit counseling materials. Exit materials were then promptly sent to such students. The Registrar's Office supplies lists of graduating students to the Financial Aid Office. Such students are contacted for exit counseling individually via e-mail and through a group e-mail sent by the Financial Aid Office. The Registrar's Office also provides the Financial Aid Office with lists of student withdrawals so that the exit counseling procedures are promptly initiated with respect to such students.

* * *

For the reasons stated above, Finding Nos. 1 through 7 have either been resolved or should be removed in the OIG's final audit report. In particular, Finding No. 1, which erroneously concludes that the College's WED and graduate programs were correspondence courses, is neither based on the law applicable during the Audit Period nor on a correct interpretation of facts and should be vacated in its entirety without any further action or repayment on the part of SMWC.

If you have any questions regarding the foregoing, please feel free to contact me at (812) 535-5296 or the College's legal counsel, Michael B. Goldstein of Dow Lohnes PLLC, at (202) 776-2569.

Sincerely,

/s/

Dottie L. King, Ph. D.
President
Saint Mary-of-the-Woods College

cc: Michael B. Goldstein, Dow Lohnes PLLC