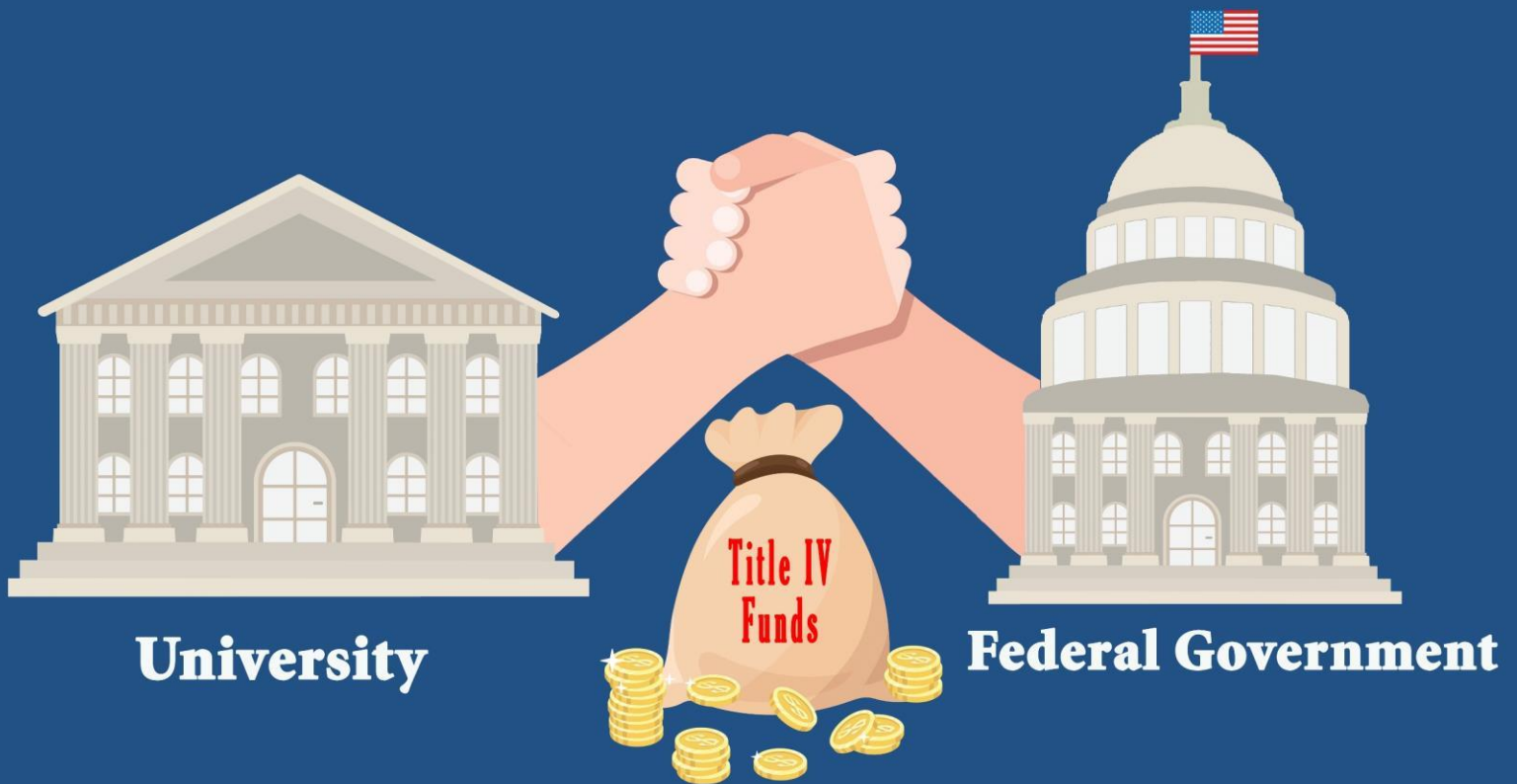


WGU vs. OIG AND WHAT IT COULD MEAN FOR YOU



A look at the latest audit from the Office of Inspector General and examining how BioSig-ID can keep you compliant with Title IV regulations

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Case Study

Overview:

The findings of the audit, which began more than four years ago, were not a surprise to most observers.

That's because the inspector general relied on a 1992 federal law that defines aid eligibility for distance education programs, which [many have said](#) poses a problem for WGU, some other competency-based programs, and possibly online education writ large.

The US Department of Education's Office of Inspector General [ruled today](#) that Western Governors University was out of compliance with Title IV financial aid rules, especially the "regular and substantive interaction" provisions that Van Davis (Blackboard) and Russ Poulin (WCET) [outlined last year](#). Their findings include a recommendation for returning Title IV funds described below:

"From the OIG- We concluded that Western Governors University did not comply with the institutional eligibility requirement that limits the percentage of regular students who may enroll in correspondence courses.5 Therefore, the Department should require the school to return the \$712,670,616 in Title IV funds it received from July 1, 2014, through June 30, 2016, and any additional funds it received after June 30, 2016."

Several issues were the highlight of the audit report:

1. Regular and substantive interaction issue:

The audit report said most courses at WGU do not meet the distance education requirement because they were not designed for regular and substantive interaction between students and faculty members. Those courses instead should have been labeled as correspondence courses, according to the inspector general.

Under the law, a college is not eligible to receive federal financial aid if more than half of its courses are offered via correspondence or if most of its students are enrolled in correspondence courses. The inspector general's audit report said 62 percent (37,899) of the 61,180 students who were enrolled at WGU in 2014 took at least one of 69 courses (among 102 courses in the university's three largest academic programs) that failed to meet the distance education requirements.

None of these 69 courses could reasonably be considered as providing regular and substantive interaction between students and instructors, the key requirement to be considered a course offered through distance education," according to the report. "Therefore, Western Governors University became ineligible to participate in the Title IV programs as of June 30, 2014."

2. Student attendance issue:

Here's what the OIG said about this issue that also affects Title IV funding eligibility:

"We also concluded that the school did not always confirm that students started attendance in the courses on which their eligibility was based before disbursing Pell funds on or after the first day of a payment period. By not confirming attendance before disbursing Pell funds, the school

increased the risk that it would disburse the funds to students who were not academically active during the payment period”

Western Governors University considered the date of academic activity verification (AAV) to be each student’s first day of attendance and disbursed Pell funds once AAV occurred. The date of AAV should not have automatically qualified as a day of academic attendance for Title IV purposes. AAV was the process to select courses or register for courses.

“According to 34 C.F.R. § 668.21(a), if a student does not begin attendance in a payment period, the school must return all Title IV funds that were credited to the student’s account for that payment period. Therefore, if a student does not start attendance in the classes on which his or her eligibility was based and only participates in AAV during the payment period, the school should be returning all Title IV funds disbursed to the student for the payment period”.

3. `SEC. 102. DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.

`(3) LIMITATIONS BASED ON COURSE OF STUDY OR ENROLLMENT- An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution--

`(A) offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act;

`(B) enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

`(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

`(D) has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

Why was WGU audited:

The audit report is primarily based on the OIG's interpretation of a provision of the Higher Education Act enacted in 1992 defining requirements for interaction between faculty and students in distance learning programs. The OIG used its definition of "faculty" to find that WGU faculty did not provide the required "regular and substantive interaction" with WGU's students.

Audit Results:

The Office of Inspector General said the U.S. Department of Education should require WGU to return \$713 million in federal aid it received during the two years before July of last year, as well as any federal aid it received since then.

Additionally, the [final audit report](#), issued, also said the nonprofit university, which enrolls 83,000 students, should be ineligible to receive any more federal aid payments.

Selected Observers React:

Supporters of competency-based education said the federal government should update its regular-and-substantive requirement, but in a way that might encourage fraudulent, low-quality programs who can take advantage of students.

In an excerpt from a recent WCET blog where experts weighed in including Deb Bushway Ph.D current provost at Northwestern Health Sciences University who also worked for Capella University, the University of Wisconsin Extension and as an adviser to the Education Department.

"The inspector general is clearly following the letter of the law," Bushway said, adding that the report was not a regulatory overextension. But she also called it "more evidence that the law needs to be changed."

Pulling the regular-and-substantive language completely, however, which some advocates are quietly pushing for, would be a mistake, said Bushway. "That would invite bad players into the field and threaten the reputation of competency-based education," she said.

Instead, Bushway and others call for a two-pronged solution, with a fix that would protect WGU and other competency-based programs in the short term while Congress revisits the law, perhaps as part of the reauthorization of the Higher Education Act.

Recommendation:

Regardless of who wins in this conflict, all points are converging on more DOE/OIG oversight and enforcement. The DOE and OIG have shown they are ready to take on some large institutions, (examples, ITT, Corinthian) for failure to comply with their rules. Since there will be a loser in this latest attempt, enforcement is expected to increase.

Some of the following issues will undoubtedly be under enforcement with resulting accreditation and Title IV eligibility at stake. My recommendation is to use our multimedia approach to inform our clients and potential clients that we offer a budget easy solution to overcome these pertinent issues.

- **Regular and substantive interaction – Institutions will need to demonstrate they have a system to both verify student ID and then verify that student’s attendance at one of 8 identified “educational activities” that is initiated by the instructor**
 - o BSI solves this issue with the use of its Academic attendance report that captures *computer-assisted instruction or other educational activities throughout the course.*
 - o This report can also be used in WGU’s case to comply with to 34 C.F.R. § 668.21(a), to ensure the student remains eligible for Title IV funds (see issue # 2 in this document)

- **At some point the huge burden of “improper payments”** from Pell grants and other FSA will be focused on. This fraud is now over \$3B, is under congressional oversight and is not going away. BSI is working with selected members of the federal Educational Committee to use our forensic reports to capture fraudulent students. Our clients using BioSig-ID have significant advantage and head start in reducing their own FSA fraud by using our reports to identify and stop payments to fraudsters

- **The OIG has issued another Final Audit Report** (<https://www.biosig-id.com/does-final-audit>) to enforce student ID verification to enable continued Title IV funding. Institutions who do not have a process in place for student ID verification are at risk of being cut off from FSA including military and Title IV
 - o BSI offers compliance with the DOE’s and OIG’s regulations on the processes required to ID students and measure them throughout the course

- **On the edge institutions** with the 50% rule, BSI can quickly offer a solution to help capture and monitor a student ID verification system demonstrating faculty interaction.

Additional Notes:

It’s naïve to assume your college has not been affected by fraud. The growth of online education has brought a wave of what’s referred to as Pell Runners, in reference to the federal student aid program. Online classes make it easier than ever before to apply for assistance, register with a college, take the money and never attend classes.

The number of potential fraud recipients *increased 82 percent between 2009 and 2012* according to an Inspector General report for the U.S. Department of Education. *These so-called students stole an estimated \$187 million in federal aid in 2012 alone.*

Because fraud usually involves federal (not institutional) funds that are funneled through the college or university, it often occurs under the radar. If allowed to occur for a prolonged period of time, it results in less access to aid (and access to courses) for legitimate students and potentially affects an institution’s default rate.

Catching fraud can take a lot of staff time and financial resources, but technology can simplify the process. As an example, BioSig-ID allows institutions to track the IP addresses of applicants and to monitor suspicious login patterns. These patterns include multiple accounts logging in from the same IP address or accounts with multiple login failures, too many password resets and other behaviors that just don’t hold up. For example a student who lives in Baltimore and submits all assignments through an IP

address in Baltimore, except quizzes and exams, which are submitted through an IP address in Houston. Don't think so.

With BioSig-ID, we do all of the grunt work for you. We find the needle in the haystack and allow you to focus on what's really important. Teaching.

To read more on how to protect yourself go to <https://biosig-id.com/resources/blog/246-will-you-protect-your-school-from-student-loan-fraud-this-year>

- *Dr. Mark Sarver*