

Regular and Substantive Interaction in Online Courses: Why it Matters for Administrators

Anthony A. Piña
Illinois State University
(309) 438-5838
aapina@ilstu.edu

Trey Martindale
Middle Tennessee State University
615-494-8909
trey.martindale@mtsu.edu

Abstract

Regular and substantive interaction differentiates distance education from correspondence education and can have serious economic ramifications for institutions that fail to include it in their online courses. While ambiguities in its definition and a federal health emergency flexibilities and exemptions from regulations the end of the pandemic

Introduction

Educational administrators live in a world where definitions matter. While terms such as online, hybrid, blended, non-traditional, and alternative, can be defined in different ways by various groups, associations and institutions, certain definitions, such as distance education, correspondence education, engagement, and interaction, can have regulatory, compliance, and fiscal consequences when definitions are not adequately understood by faculty and academic leadership.

Distance education, as defined by the U.S. Federal Government, means using technology to deliver instruction to students who are separated from their instructors and to support regular and substantive interaction between the students and their instructors, either synchronously or asynchronously. In correspondence education, by contrast, the interaction between instructors and students is limited, is not regular and substantive, and is primarily initiated by the student. (Code of Federal Regulations, 2022). The critical difference between distance education and correspondence education is the presence or absence of “regular and substantive interaction” (Poulin, 2016).

Regular and Substantive Interaction

Why is this three-word difference so critical to distance education administrators? One compelling reason is that students taking distance education courses are eligible for federal Title IV financial aid, while students taking correspondence courses are not. A program in which one-half or more of the courses are available via correspondence is considered by the U.S. Department of Education as a correspondence program and is ineligible for financial aid—even in instances where taking correspondence courses is optional (Bordenkircher, 2023). This can have significant—even dire—fiscal consequences if distance education programs are judged by the Department of Education to be correspondence education.

Audits by the U.S. Department of Education Office of Inspector General (OIG) of St. Mary of the Woods College in 2012 and Western Governors University in 2016 both concluded that the online courses offered by the two institutions were, in fact, lacking regular and substantive interaction and that their programs should have been classified as correspondence programs (Parrott, 2019, Poulin, 2016). These conclusions resulted in initial recommendations by the OIG that St. Mary of the Woods College return \$42 million in federal Title IV funding (Office of the Inspector General, 2012). In the case of Western Governor's University, the nation's largest competency-based institution, the OIG disagreed with the university's definition of who could be considered to be a faculty member and recommended the return of \$712,670,616 (Office of the Inspector General, 2017).

Western Governors leadership immediately challenged the criteria used by the OIG (Western Governor's University, 2017). A subsequent review of the OIG audit by the Department of Education's Federal Student Aid Office found that "Because of the ambiguity of the law and regulations and the lack of clear guidance available at the time of the audit period...FSA finds that it would not be appropriate to require WGU to return Title IV funds for violating the institutional eligibility requirements under 34 C.F.R. § 600.7(a)(I)" (Parrott, 2019, p. 8). "The terms 'regular,' 'substantive,' and 'instructor' are not defined in the HEA or in the regulations, and, at the time of the audit, no guidance had been provided establishing the Department's policy with respect to those terms" (Parrott, 2019, p. 9).

Defining "Regular" and "Substantive"

To address the lack of clear guidance regarding various aspects of online and competency-based education, the Department of Education appointed a committee in 2018-19 to engage in a negotiated rulemaking process to provide needed definitions. The committee reached consensus on a number of topics, including regular and substantive interaction in online courses (Downs, 2020; Office of Postsecondary Education, 2020). A letter sent by the WICHE Cooperative for Educational Technologies to the Office of Postsecondary Education resulted in a response with further clarifications regarding how accreditation agencies are to consider education courses, the use of faculty office hours as regular interaction, and definitions of what constituted qualified instructors, prompt and proactive interaction, and direct instruction (Downs, 2022; Weisman, 2022).

As defined by the U.S. Department of Education for distance education, *Regular* means interaction that is predictable and scheduled, originating primarily from the instructor, not periodically in response to student inquiries (Office of Postsecondary Education, 2020). Answering the WICHE inquiry about instructor office hours, Weisman (2022) stated, "an institution meets the requirement for regular interaction between students and instructors by, in part, providing the opportunity for substantive interactions with the student on a scheduled and predictable basis commensurate with the length of time and the amount of content in the course or competency. This requirement could be met if instructors made themselves available at a specific scheduled time and through a specific modality (e.g., an online chat or videoconference) for students to interact about the course material, regardless of whether the students chose to make use of this opportunity or interact with the instructor at the scheduled time" (p.4).

Substantive interaction is defined as engaging students in teaching, learning, and assessment, consistent with the content under discussion, and also includes at least two of the following five criteria (Office of Postsecondary Education, 2020):

- Providing direct instruction.
- Assessing or providing feedback on a student's coursework.

- Providing information or responding to questions about the content of a course or competency.
- Facilitating a group discussion regarding the content of a course or competency.
- Other instructional activities approved by the institution's or program's accrediting agency.

Direct instruction is defined by the U.S. Department of Education to mean synchronous instruction. This instruction can be delivered online via Zoom, MS Teams, Google Meet, or other live videoconference platforms (Bordenkircher, 2023). This does not discount the importance of asynchronous video from the instructor in online courses, however, in order to be considered “interactive,” the asynchronous video must be accompanied by a substantive interaction activity, such as those listed in Table 1 below.

Activities Considered Regular and Substantive

Table 1 below lists activities in which distance learning administrators can provide orientation and training to faculty (Piña & Martindale, 2023), reminding them that activities must be “regular” and include a minimum of two of the five criteria for substantive interaction.

Table 1: Regular and Substantive Interaction Activities

Activity	Substantive Interaction Criterion
Offering scheduled synchronous instructional sessions.	Providing direct instruction.
Offering regularly scheduled on-campus and/or virtual office hours.	Providing information or responding to questions about the content of a course or competency.
Recording a synchronous instructional session and tying it directly to a specific assignment that requires watching the session to complete.	Assessing or providing feedback on a student's coursework.
Posting instructor audio, video or text-based announcements in which the students respond directly via audio, video or text.	Facilitating a group discussion regarding the content of a course or competency.
Providing instructor audio, video or text-based discussion forums in which the students respond directly via audio, video or text.	Facilitating a group discussion regarding the content of a course or competency.
Providing audio, video or text instructor feedback on assignments.	Assessing or providing feedback on a student's coursework.
Facilitating online discussion forums by posting responses, questions summaries or observations within the discussion forum.	Facilitating a group discussion regarding the content of a course or competency.
Participating on online discussion forums providing feedback to individual students during the grading of the discussion assignments.	Assessing or providing feedback on a student's coursework.
Having a dedicated “Ask the Instructor” discussion board where the instructor can provide information or respond to course-related questions.	Providing information or responding to questions about the content of a course or competency.
Engaging in other activities as approved by the program's accreditor.	Could be any of the five criteria.

Examples of actions that, by themselves, would not constitute regular and substantive interaction include:

- Posting announcements with no mechanism for students to respond directly.
- Providing asynchronous video (either from the instructor or via YouTube, Vimeo, etc.) with no mechanism for students to respond or interact directly.
- Having all instruction or assessments delivered by a 3rd-party vendor system without the instructor engaging in any of the substantive interaction activities.
- Automatically graded assignments “unless the instructor evaluates the student’s work and provides specific feedback to the student about that work. An automated grading system that provides feedback based on a programmed response to input does not count as ‘substantive’ because it is interaction with a computer, not an instructor” (Weisman, 2022, p. 5).

Why This Matters to Administrators

The federal audits of St. Mary of the Woods College and Western Governors University should have served as a wake-up call for college and university leadership. Indeed, there are institutions that have elevated regular and substantive interaction into institutional policy (e.g., Germanna Community College, 2022; University of Louisville, 2020; University of Montana, 2023). However, a far greater number of colleges and universities appear to rely upon their online education or teaching and learning center websites to promote regular and substantive interaction. The implication could be that it is up to individual instructors whether or not to implement regular and substantive interaction in their online courses. This begs the question: do institutional leaders realize the possible ramifications if their online courses are found to not meet the guidelines for regular and substantive interaction?

Multiple factors may cause institutional leaders to either not consider or to downplay the importance of assuring that regular and substantive interaction is occurring in their institution’s online courses. These include:

- Federal, state and accreditation regulations and guidelines for distance education—and enforcement of those regulations and guidelines—have always lagged behind the practice of distance education.
- The belief that institutions offering online courses—but not fully online programs—are exempt from distance education regulations.
- St. Mary of the Woods College and Western Governors University were able to avoid massive returns of Title IV federal funds due to the ambiguity of the federal definitions and requirements for regular and substantive interaction that were in place at the time (Western Governors University 2017).
- Since March 2020, U.S. educational institutions have been operating under a federal health emergency that has provided flexibilities and exemptions from federal regulations—including those concerning distance education (Nworie & Charles, 2021; U.S. Department of Education 2020).

More Regulations are Coming

Higher education has faced unprecedented scrutiny and skepticism from the public and elected officials for its perceived costs versus its return on investment (Brown, 2017), while the agencies that accredit colleges and universities have been accused of being “watchdogs that don’t bite” (Stratford, 2015). Distance education continues to be characterized as inferior to traditional in-

class instruction and the switch to online and emergency remote teaching during the COVID-19 pandemic has been seen by much of the public as a decrease in the quality of education received by K-12 and postsecondary students (REFERENCES). With online enrollments continuing to be the fastest growing sector of higher education, there is a great deal of pressure upon government and accreditation agencies to make regulation of distance education a high priority (U.S. Department of Education, 2023).

Some recent regulatory actions include: 1) changing the definition of student eligibility for federal financial aid from logging into an online course to performing actions such as submitting an assignment, taking a test, or post to a course discussion board; 2) requiring institutions to track online students' last date of engagement (attendance); 3) definitions of clock hours and credit hours for distance education courses; 4) federal hearings on the relationships between online program management firms and higher education institutions; 5) Regular and substantive interaction (U.S. Department of Education 2018; 2023). In the current political and social climate, it appears likely that institutional leaders will need to address more—not fewer—distance education regulations in the future.

What if My Institution Does Not Offer Fully Online Degrees?

In January 2021, the U.S. Department of Education informed accreditors and institutions that if an institution offers any program in whole or in part through distance education—even as little as one distance education course in an otherwise in-person program—it is considered a distance learning program. It must be evaluated and approved to offer distance education programs by its accreditor and any online courses in the program must follow federal requirements for evidence of regular and substantive interaction. (Bordenkircher, 2022; Higher Learning Commission, 2022).

Ambiguity No Longer a Defense

The efforts by the U.S. Department of Education to provide increasingly specific guidelines for regular and substantive interaction have resulted in a relatively straightforward and easy to understand list of things that instructors can do in their courses. The situation is now significantly different than it was when St. Mary of the Woods College and Western Governors University were audited. This will made it difficult—if not impossible—for institutions to claim ambiguity as a defense against a finding that their online courses are, in fact correspondence courses (Piña & Martindale, 2023).

COVID Flexibilities and Exemptions Ending

On April 10, 2023, President Biden signed H.J. Res 7, which terminated the three-year national emergency related to the COVID-19 pandemic (White House, 2023). Xavier Becerra, U.S. Secretary of Health and Human Services, wrote to U.S. governors that the public health emergency would officially end on May 11, 2023 (Becerra, 2023). On that date students with F-1 and M-1 visas participating in the Student and Exchange Visitor Program (SEVP) would no longer “be permitted to count online classes toward a full course of study in excess of the regulatory limits...for the 2023-24 academic year” (U.S. Department of Homeland Security, 2023, p.1).

The U.S. Department of Education has issued guidance for institutions and institutional accrediting agencies regarding the sunset of COVID-19 waivers and flexibilities (U.S. Department of Education, 2023b) and accreditation and eligibility requirements for distance education (U.S. Department of Education, 2023b). Although the requirements for institutional eligibility for distance education have been waived until October 7, 2023 and regular and substantive

interaction is not specifically discussed in these documents, it is an eligibility requirement for distance education.

Researchers have estimated that half of all faculty who switching from on-campus to online and remote teaching as a result of the COVID-19 crisis had no prior experience in online course design or instruction and that the resulting courses were less than ideal (Garrett, et. al, 2020; Nworie & Charles, 2021). It would not be a stretch of the imagination to assume that many online courses that were developed under duress during the pandemic and that continue to be offered post-pandemic would, in an audit, be classified as correspondence courses.

Conclusion

Amidst a weak economy, declining birthrates, and growing skepticism toward higher education, it has become a near daily occurrence to read in the *Chronicle of Higher Education*, *Inside Higher Ed*, or other publications, about colleges or universities in fiscal trouble, having to lay off faculty and staff, cutting programs, or even closing. In an era of diminishing enrollments and funding, institutions can ill-afford to have a finding that their online courses are, in fact, correspondence courses.

Many institutions that were forced to adopt online education during COVID-19 have determined to continue and institutionalize it. Although there are still questions to be resolved and issue to clarify, regulatory and accreditation agencies have more solid ground than ever to require institutions to demonstrate that regular and substantive interaction occurs in online courses. Higher education institutional leaders need to assure that their online instructors are aware of requirements for regular and substantive interaction, provide them with training and instructional design support, and establish policies regarding minimum quality standards and expectations for distance education courses.

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Dr. Anthony A. Piña is Chief Online Learning Officer at Illinois State University, Normal, Illinois 61790. Email: aapina@ilstu.edu.

Dr. Trey Martindale is Chief Online Learning Officer at Middle Tennessee State University. Murfreesboro, Tennessee 37132. Email: treamartindale@gmail.com,