

**Conference Call with
Deputy Undersecretary Robert Shireman of the U.S. Department of Education**

**May 29, 2009
11:45 AM ET**

Coordinator: At this time all participants' lines will be in a listen-only mode for the duration of today's presentation.

I'd now like to turn the call over to Mr. Massie Ritsch.

Massie Ritsch: Thanks, Christian.

Good afternoon - good morning, still, folks from Washington. This is Massie Ritsch, Deputy Assistant Secretary for External Affairs and Outreach at the U.S. Department of Education.

Thanks for making yourselves available from the industry to join us on this call.

We've got about 30 minutes set aside. We're going to hope to take some questions, some clarification questions toward the end. And you will be able to press star 1 to ask those. We'll have instructions at the end.

I should let you know the call is being recorded. If that's a problem for you please hang up. We are hoping to make a recording transcript available as we're able to get that.

So now I'd like to turn things over to our Deputy Undersecretary, Bob Shireman. Bob?

Robert Shireman: Thank you very much, Massie, and thank you all for getting on the line.

We were getting some questions about the Federal Register notice that was published on Tuesday. And so I asked for Massie's help in reaching out to the higher education community to make sure that folks had an explanation of where some of the items came from there and why we're doing that. So that's the purpose for this call.

Some of you have asked why we also scheduled a call for Wall Street analysts. And that was basically because we were getting calls from them, and generally I try to avoid talking to them. But it seemed like that is was important for there be generally available information about the notice and what's behind it.

I'll just mention that when I testified last week somebody came up to me and asked me a question. I answered it. Then I said, and you're with? And they were a Wall Street analyst. And I realized that I don't think I said anything that really mattered but we just want to make sure that information broadly available.

Our interest overall in the Administration and with this particular Federal Register notice is to make sure that students, potential students have access to post-secondary education. That it's as highest quality that it can be. They have the information that they need. And that ultimately students and taxpayers are well served by the program.

And I've been asked, you know, is this about any particular type of school or sector or anything like that? And really it's broadly wanting to make sure that students and taxpayers are served well, whether the schools are public, nonprofit, for profit, 2-year, less than 2-year, 4-year, graduate school, all of the above.

The public hearings that we have announced involve a day and a half of public input and the first day is specifically the first step of a possible rule-making process.

The half day that comes the next morning is a kind of broader input. And let me take a minute to describe that second half day. There are two sessions we're having simultaneously on two different topics.

The first is we want input on the information and communications and processes that the Department of Education makes available, provides, puts out there into the world. So that includes things like the FAFSA and simplifying the FAFSA or making it something -- it's an easier process for people.

But we know that, that the issue of the FAFSA is really a broader issue of how do we get people information that is useful to them to take important life steps at different stages in their lives? And we want to know how effective is what we do, how can we do a better job? So it could be our Web site, our publications, any of those including FAFSA. And welcome positive as well as constructive comments about all of that.

The second part is asking the question how could we make our program more fruitful in bringing about high levels of student persistence and completion. The President laid out in February a bold new goal of returning to the day where our nation is number one in the world in terms of the adults with post-secondary degrees.

And a part of achieving that means that we've to make our current programs operate more effectively. And that can be in Title IV programs. It can be Title

III, Title V, strengthening institutions, minority-serving institution programs.

And the kind of input that we're interested in is really any type. So it can be - it could be regulatory ideas, but we're not asking people to come necessarily knowing whether the idea they have is something that has to be done as to a regulatory process, as to a legislative process or a funding process. We want input; we want ideas, unfiltered by the question of exactly what the process is for getting from here to there. How can we improve our program, is really that general question.

The first day of the three hearings is more specifically for input on possible rule makings going forward. And I'll go through some of the issues that we mentioned. But we welcome, and the public may bring up, any issues that people think are items that we should be changing or adding rules on. And then with that public input we would make decisions about how to move forward in some cases. That means that may be what's known as negotiated rule-making and setting teams around particular topics in the coming months.

The items on the list that we gave as examples of the kinds of things that we're interested in receiving input on are just that. We're interested in information that might help us to make the decisions about what teams to set up on what topics or what not to move forward on.

Going through items the list several of them have actually been mentioned in Inspector General Reports in recent years. And so it seemed like they were items that we should get input on.

A couple of them came up in the context of the discussion of the new Pell Grant, two Pell Grants in a year. In figuring out how someone gets a second

Pell Grant, it raises questions about satisfactory academic progress as well as the definition of a credit hour. So when you kind of think through how might the ability to earn, to have a second Pell Grant in one award year, be potentially abused.

Some of the looseness around satisfactory academic progress and around credit hour could potentially be, you know, an area of abuse. We wanted input on is that something that we should be taking a closer look at? And if so, what might that involve?

Incentive compensation in an area where some Safe Harbors were carved out several years ago and with the experience we now have over the last number of years, we're interested in input on whether those Safe Harbors meet well with the statutory prohibition against any direct or indirect incentives. And so we're interested in input on whether to move forward with any possible changes or discussions of changes on that item.

Congress made changes to the definition of for profit institutions -- actually rewrote the whole definition, and added items around liberal arts education, which we've handled already. But the other piece of the definition has to do with gainful employment in a recognized occupation, and we've never said much in our rules about what that means. And the question is is that an area where it might make sense to have some clarifications?

State authorization.

Generally the Higher Education Act requires that an institution be accredited by an agency recognized by the Secretary. Be approved by the Department of Education, which mostly has to do with the financial capability and things like

that, and then also authorized by the State to provide education beyond a secondary education.

And in some circumstances there are schools that are in essence a state has decided to not have an authorization for them and they do participate in Title IV. And so the question there is what kind of standards should we have in terms of a state authorizing an institution of higher education? That might be something that's regulatory, might not be but we're interested in input on that question.

Verification is really, you know, this is what happens after somebody applies on their FAFSA and people get flagged for verification for various reasons. We have not reviewed those regulations in a long time. It might be an area where there can be some reduced burden on institutions, and so it seems worthy as an area too for possible improvements in effectiveness and perhaps reduction of burdens.

And high school diploma is an area that has come up in Inspector General Reports around perhaps in some cases being too easy for someone to get an online high school to get around ability to benefit and things like that. And so again the question is is it something we should do something about? And if so, what might that be?

As I said they are open public hearings where people can bring up other items. So if there are other items that any of you feel that we should open up in a rule-making and make some changes, whether they are reduced regulatory burden or improved program integrity, this will be a good opportunity for you to make those suggestions at the these hearings.

I am open to questions -- really clarifications, any clarifications you might need around this particular regulatory notice.

Massie Ritsch: Okay. Operator if we could open up the line for the questions Bob just laid out.

Folks, you dial star 1 on your phone to indicate you'd like to ask a question. We'll take just a minute for folks to get in the queue and then we'll come right back.

Coordinator: Thank you.

Once again if you'd like to ask a question or make a comment please press star 1. Please unmute your phone and record your name clearly when prompted. To withdraw a request you may press star 2. One moment please.

Our first question comes from Mr. (Scott Fleming). Sir, your line is open.

(Scott Fleming): Thanks.

Bob, thanks for taking the time today for the call. I think we're all very interested and relieved to have direct line of communication to you guys.

One thing you said is that the department was looking into the issue of placement in a recognized occupation or gainful employment in a recognized occupation, that's not new to the definition of an institution of higher education. It's actually been in the law for some time. So I just wanted you to clarify that statement if you could?

Robert Shireman: The Congress actually replaced the whole definition when it added the liberal arts portion of the definition. So it's not new, but the definition overall was revised with the liberal arts item.

And the addition of the liberal arts kind of raised the question of, well does that mean that liberal arts does not provide gainful employment? I'm kind of joking about that. But it brought up the question of what does the first part of the definition mean?

(Scott Fleming): Okay. Thanks.

Massie Ritsch: Next question please, operator?

Coordinator: Thank you. One moment please.

Our next question comes from Harris Miller. Your line is open.

Harris Miller: Thank you.

Thank you, Bob for doing this. It's been extremely helpful to have.

Massie Ritsch: Harris, did we lose you?

Hello, do we have our operator?

Coordinator: Yes sir. I apologize. The participant disconnected. One moment please.

Massie Ritsch: We can move on to the next question. I'm sure Harris will get back in the queue.

Coordinator: Our next question comes from (Rebecca Compleverde). And your line is open.

(Rebecca Compleverde): Hello, Bob. Thanks again.

I have to echo what others have said. We appreciate your making the effort to reach out and have the conference call. We very much appreciate it.

As you mentioned at the beginning there is a conference call that follows this one with investment analysts. And of course I know that you've seen probably both the reports that they have written as well as some of the trade press items that have come out that have indicated that the department is trying to target our sector in raising these issues as a part of another round of negotiated rule-making. Can you tell us what you're going to say to them in response to that?

Robert Shireman: Really the same thing that I said at the top of the call, that our interest is making sure that students and taxpayers are well served regardless of sector, whether it's public, private, for profit, nonprofit, 2-year, 4-year, that that's really our top focus.

(Rebecca Compleverde): Thank you.

Robert Shireman: Sure.

Massie Ritsch: Operator we'll take the next question. If Mr. Miller is back in the queue we'd love to hear from him.

Coordinator: Thank you. Our next question comes Harris Miller. Sir, your line is open.

Harris Miller: Massie, that wasn't nice of you to kick me off.

No seriously, Bob we've been talking about a couple of issues back and forth and I wonder whether you thought they might be appropriate for us to raise in the open hearings you're going to be having.

One is that the additional federal aid to students generally is extremely helpful to many students who attend our schools. But as you know while many of our schools are somewhat higher tuition, we also have many programs that are lower tuition.

And our schools are concerned about students over-borrowing and borrowing more than we believe they need to pay for their education. So I wonder whether you thought it might be appropriate for us to raise that topic during the upcoming dialogue?

And then the second question is I know that the Administration has recommended \$500 million a year for the next five years to improve completion and graduation rates. And I'm wondering whether these open hearings again might be a place for organizations to make recommendations on how that money should be allocated?

Robert Shireman: Sure.

On your first question, on the over-borrowing, there probably are some potential regulatory issues there. And so that first day certainly is the perfect opportunity to bring up that issue and suggest it be one that we get into. At, you know, whether if you have specific regulatory recommendations or not, it's a good way to bring that up.

One the second item I would say that on the second day, that second morning, the session on Persistence and Completion, we would welcome at that session and put on our fund, with the state fund that we're creating.

Harris Miller: Thank you, very much.

Robert Shireman: Sure.

Coordinator: Our next question comes from Mr. (Henry Harrison), (Harrison University).
Sir, your line is open.

(Henry Harrison): Hello. Thank for taking questions.

And I guess Harris preempted me a little bit with his first statement.

I'm greatly concerned about students over-borrowing. We seem to be in a vice between the extremes of the Department of Education insisting that a student should be able to borrow monies up to the absolute limit and our concern about students borrowing for the wrong purposes, being able to repay it, you know, causing default rates and costing the government more money.

It seems to be, you know, a rebirth of the perfect storm we had in the housing market where, you know, people are pushing money at borrowers. And, you know, we just seem to be in a bind when we try real counsel students and restrain them from borrowing too much, it goes fine until they find other students that "are getting money" and then it becomes a problem.

We're in states like Ohio where a lot of our students, you know, we're not in the city, we have a very nice facility, we're not trying to target any groups and

we have an extremely high percentage who are Pell eligible and sometimes maybe they do have some real needs but sometimes they don't.

And we should have more flexibility in trying to really work with the students and not just be forced by the Department of Education to give them every last cent that they possibly can legally get.

It becomes a real problem and I don't think we're doing the students, I don't think we're doing the country a service by just, you know, marching on these orders from the Department of Education to give them every cent to which they're entitled.

Robert Shireman: That's exactly it. You've provided everyone on the call with a perfect example of the kind of thing that we need to hear at the hearings. So your concerns like that, the public hearings that we're having is a perfect place to make that statement or there is also an email address where you can send that to in the Federal Register notice.

So, you know, exactly those kinds of things that you are facing, where you think things could be done in better ways that might involve regulatory changes, let us know. That's perfect. Thank you.

Massie Ritsch: All right. Next question, operator.

Coordinator: Our next question comes from Ms. (Nancy Rossman), (ITT). Ma'am, your line is open.

(Nancy Rossman): Hello, Bob. Again, thanks for doing this call. Really been helpful.

I'm wondering how you're going to be selecting the people to participate in the second half day session. (Its books have been) noted that you're going to have some people selected to speak and then have kind of an opportunity for public to speak afterwards?

Robert Shireman: Yes. I don't think we're going to be doing some picking and choosing. And I think it will kind of depend on what kind of a situation we have in terms of people showing up. If it's a small number of people and can be somewhat less formal than the first day and involve some discussion, fine. But if it's a lot of people, you know, we'll probably have to do it kind of like we do the first day, where there's a certain amount of time and we try to make sure everybody has a chance to at least get a few words in.

Massie Ritsch: All right. Operator, our next question please?

Coordinator: Our next question comes from (Elaine Miley). Ma'am, your line is open.

(Elaine Miley): Hello, Bob. Thank you for taking my call and again thank you for having this call and helping us understand the complexity of these issues.

I'm with Kaplan Higher Education and was recently one of the negotiators on Team Five. So your comments about the Pell are very appropriate and near and dear to our hearts.

I would like, if possible, to ask you to comment again on the state authorization component of institutional eligibility? This is an area where we have great interest and would like to come prepared to hearings to address what your concerns are.

Robert Shireman: Yes. Really I would just repeat what I said, is that the question there is what should be our standard for whether an institution has been authorized by a state.

(Elaine Miley): Because as you probably know there are some states that don't authorize. There are some states, for instance Iowa, that doesn't have an authorizing agency. And at current time California doesn't as well. So I didn't know if you were looking to

((Crosstalk))

Robert Shireman: Exactly. Your answer to that question of in those circumstances what should we do? We'd love to have your input on that.

(Elaine Miley): Okay, great. Thank you.

Massie Ritsch: All right. If there are other questions, again press star, 0, on your phone and we will try to take some. We just have a couple of more minutes here.

Coordinator: Once again, please press star 1, to ask a question. One moment, please?

Massie Ritsch: Okay. Looks like we have answered your - do we have one question that just popped in here?

Coordinator: Yes sir. Our next question comes from (Mark Felish). Sir, your line is open.

(Mark Felish): Yes, hello. And again, I'll repeat the thanks that everyone else has expressed for being transparent about the notice and what your intentions are.

I wonder if you could speak a little bit to what you envision for the timelines for this process? Obviously we know about the public hearings that are scheduled.

Do you have any sense of when you'd be then making decisions about whether to go ahead with a negotiated rule-making process, when we might see some notices and reflecting decisions made about whether to proceed and what you'll be proceeding on?

And generally speaking, what sort of timelines you might project for that if you were to go forward with another (unintelligible)?

Robert Shireman: Sure. The tentative schedule we laid out in the notice is that any committees that we created would begin negotiations at September of this year. Have the usual three sessions and then eventually complete their consideration of items over the months that follow that.

Massie Ritsch: All right.

Folks we really appreciate you taking the time today and asking good questions and also for the schedule that Bob had laid out and it's laid out in the register providing the input.

We very much want to hear from you and hope you will make your audiences aware of this opportunity to provide public input as well.

We will do our best to share the recording and transcript as we get it. It's not an immediate thing but we'll have one as needed.

And with that we thank you for your participation this morning and wish you a very good weekend.

Thanks so much, everyone.

Robert Shireman: Thank you, everyone.

Coordinator: Thank you for participating.

Today's conference has concluded. Please disconnect.

END