The Negotiated Rulemaking Committee met in the Barnard Auditorium, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C., at 9:00 a.m., Ramona Buck, Rozmyn Miller, and Javier Ramirez, Facilitators, presiding.

PRESENT
RAMONA BUCK, Federal Mediation and Conciliation Service, Facilitator
ROZMYN MILLER, Federal Mediation and Conciliation Service, Facilitator
JAVIER RAMIREZ, Federal Mediation and Conciliation Service, Facilitator
JEFF ARTHUR, Vice President of Regulatory Affairs & Chief Information Officer, ECPI University
WHITNEY BARKLEY-DENNEY, Senior Policy Counsel, Center for Responsible Lending
JESSICA BARRY, President, School of Advertising Art
JENNIFER L. BLUM, ESQ., Senior Vice President, External Relations and Public Policy, Laureate Education, Inc.
STEPHEN CHEMA, Ritzert & Leyton, PC
JENNIFER DIAMOND, Program Associate, Maryland
Consumer Rights Coalition

DANIEL ELKINS, Legislative Director, Enlisted Association of the National Guard of the United States

RYAN FISHER, Intergovernmental Relations Division, State of Texas Office of the Attorney General

PAMELA FOWLER, Executive Director of Financial Aid, University of Michigan - Ann Arbor

CHRISTOPHER GANNON, Vice President, United States Student Association

ANDREW HAMMONTREE, Director of Financial Aid and Scholarships, Francis Tuttle Technology Center

NEAL HELLER, CEO/President, Hollywood Institute of Beauty Careers

MARC JEROME, President, Monroe College

C. TODD JONES, President, Association of Independent Colleges & Universities in Ohio

ROBERTS JONES, President, Education & Workforce Policy, LLC

JOHN KAMIN, Assistant Director, The American Legion's National Veterans Employment & Education Division

KIRSTEN KEEFE, Senior Attorney, Consumer Finance and Housing Unit, Empire Justice Center

CHRISTOPHER MADAIO, Assistant Attorney General, Office of the Attorney General of Maryland

JORDAN MATSUDAIRA, Nonresident Fellow, Urban Institute; Assistant Professor, Cornell University

MARK MCKENZIE, Executive Director, Accreditation Commission for Acupuncture and Oriental Medicine

LAURA METUNE, Vice Chancellor of External Affairs, California Community Colleges

ANTHONY MIRANDO, Executive Director, National Accrediting Commission of Career Arts and Sciences

MATTHEW MOORE, Director of Financial Aid and Scholarships, Sinclair Community College

KELLY MORRISSEY, Director of Financial Aid, Mount Wachusett Community College

CHAD MUNTZ, Director of Institutional Research, Office of Administration and Finance, The
University System of Maryland
JONATHAN K. PIERRE, Vice Chancellor for Institutional Accountability and Evening Division, Southern University Law Center
TIM POWERS, Director of Student Aid Policy, National Association of Independent Colleges and Universities
THELMA L. ROSS, Interim Director of Student Financial Aid, Prince George's County Community College
SANDY SARGE, SARGE Advisors
AHMAD SHAWWAL, Student, University of Virginia
DAVID SILVERMAN, Chief Financial Officer and Director of Business Affairs, The American Musical and Dramatic Academy
JOHNSON M. TYLER, Senior Attorney, Consumer and Foreclosure Units, Brooklyn Legal Services
CHRISTINA WHITFIELD, Associate Vice President, State Higher Education Executive Officers Association

STAFF PRESENT
STEVEN FINLEY, Office of General Counsel
GREGORY MARTIN, Office of Postsecondary Education
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MR. RAMIREZ: All right, so we're getting ready to start Day 2, I guess Round 2, Day 2 of the Department of Education gainful employment rulemaking.

And I want to thank everyone for yesterday. I thought that there were some difficult conversations, but everyone remained professional, and to a certain degree, problem-solving.

I'm hoping to see a little bit more of the problem-solving today and tomorrow, but overall, I would say that it went well.

Let's start off with any general comments from the negotiators or alternates. Are there any general comments that anyone would like to make?

(Pause.)

Okay. Public comments? I know we have at least one for public comments.

Go to the mic and just state your name.

MR. SMITH: Good morning, everyone.
My name is Christian Smith. I represent the Higher Ed Not Dead campaign. What I'm going to be doing today is just reading briefly one story of an Andres Jinow (phonetic).

"So Andres Jinow, my name is Andres Jinow. I am 33 years old, a janitor who cleans toilets and mops floors in public school, but my real passion is cars.

"In 2011, I saw an advertisement that promised a rewarding career as a mechanic. The school was called Lincoln Tech. The tuition was high, about $30,000, but it seemed like a worthwhile investment.

"I'd be working at DMV or Mercedes dealerships, or so they said. In reality, the school was a joke.

"When I took the first test to get into school, the proctor handed a scrap sheet on which we could do math calculations. The scrap sheet was the answer key to the entrance test itself.

"I nevertheless enrolled, believing a good job would help me become an independent adult.

I still live with my aunt, because renting in New
York is expensive.

"Lincoln's auto classes were rudimentary at best. The instructors would be there one day and gone the next. There was a culture of cheating that the teachers encouraged by leaving answer sheets around the shop."

"In my last quarter, I went to my internship, where I was supposed to make connections and develop skills as a mechanic. The internship was at Valvoline Instant Oil Change Garage, where I operated a cash register and changed oil, something I've done since I was a teenager."

"Other students' internships were at Pep Boys and Auto Zone. No one got near an engine or transmission. I actually paid for this experience, about $5,000, by my calculations."

"After I graduated with straight As, like many, I've sent my resume to countless jobs postings and got no interviews. Then I saw a job posting at Craigslist that made my heart sink. It said, Lincoln Tech grads need not apply."

"I took Lincoln Tech off my resume and pounded the pavement. When dealerships learned
I went to Lincoln Tech, the interview would end quickly, or I'd be offered a $7-an-hour job ferrying cars from one dealership to another that quote, 'might,' lead to work in a shop.

"I gave Lincoln Tech about $30,000 in Pell Grants and student loans. What a mistake. I have since learned that Lincoln Tech has the second-highest automotive mechanic tuition in the country, and that its students only earn only $9 to $12 an hour, three to four years after graduating.

"I cannot understand why the Government allowed me to take out federal loans I have to repay to go to this so-called school. I feel tricked. I heard the annual salary of the President of Lincoln Tech was $2.1 million shortly before I enrolled. That was two and one half times more than the salary of Harvard's presidents.

"My lawyer tells me that there's a rule that might have steered me away from Lincoln Tech, if it existed at the time, the gainful employment rule.

"Under this rule, 40 percent of Lincoln
Tech's programs of study are so bad that they will lose federal aid if they do not improve. These included two auto mechanic classes.

"But the current administration is planning to undo gainful employment, making it easy for Lincoln Tech to continue to deceive students like me, who don't know better.

"The Government is supposed to protect us from thieves and swindlers, not enrich them. I have to repay my student loans. It's only fair that the Government weed out the bad programs so that I pick one of value in the future."

Thank you for your time.

MR. RAMIREZ: All right, thank you.

Any other public comment?

PARTICIPANT: I have a -- something from the Paul Mitchell schools they wanted to hand out, so I'm just going to be handing it around.

MR. RAMIREZ: Sure. All right. So while that's being passed out, I do believe that we have Sarah Hay back to give us a little bit more information, maybe take a couple of questions as well.
So we'll bring her up and take care of that piece.

PARTICIPANT: Okay, yesterday we had a discussion about N size, and I promised that today I would replace myself with someone who's a little more familiar with the mathematics behind all of this.

So I'm going to turn it over to Sarah Hay for that discussion.

Go ahead, Sarah.

MS. HAY: Good morning everybody, how are you doing today?

Good, good to hear you. For the recording, this is Sarah.

So, I'm here to talk a little bit about N sizes, and some of this goes together with what I heard you say about the disclosures being tied to the appeals, being tied to everything else.

So if sanctions are off the table, and appeals are off the table, what moving from N equals 30 to N equals 10 gets us is a whole lot more programs.

And I and the Department of Education
think that giving information to students is important.

Now how many programs is that? When you go from \( N = 10 \) to \( N = 30 \), you lose about half your programs.

Now that's old data, so some of this pre-dates my time from the Department of Ed., okay, so I was looking at the 2013 research that was done sort of for previous regs.

Okay, I do know that when we created the category for small institutions, I used IPEDS enrollment data, and 80 percent in the proprietary sector alone, because things evolve, right, but I looked at the proprietary sector, and 80 percent of the institutions were -- had fewer than 450 enrollees. Okay?

And so most of the institutions are small. Most of the program cohorts are small. And we want to be able to get that information out to the students, okay? So that's the idea behind the change to a smaller \( N \) size, is to get more programs.

The flip side of that is protecting
identity. So why didn't we just make it for everybody, right? Why not for all programs?

For those of you who know about disclosure avoidance techniques, and some of that, the number at which agencies and researchers suppress data is around 10-ish, and knowing what that number is tells you how many pieces of information you need to know in order to uncover who one of those people is. And that's what we're trying to prevent.

We don't want to put out there what one person's salary is, or what one person's debt is.

We want the information to reflect the students that attended and completed that program.

So that is generally where that number falls. That's also the minimum number that Social Security Administration is willing to give us back.

Now they don't give us individual-level earnings. They give us the mean and the median value for the program that those students completed. So we don't have a way to match the student's debt to the student's earnings. We match mean earnings to mean debt for that program. Okay?
So those are some of the reasons behind
the move from N 30 to N 10.

One of the things that happens if you
put sanctions back on the table, then you have to
have an appeals process, right?

And with an appeals process, the
appeals come in as survey data. And one of the
requirements of survey data, if you want to be able
to use standard statistics, which involve the
normal distribution, and standard deviation, and
confidence intervals, is that you have to apply
the central limit theorem, which works at N equals
30 or larger, and so that's where the N equals 30
came from previously was that at a minimum, in
survey data, you have to have 30 responses in order
to be able to use the central limit theorem and
apply some of those statistical techniques.

But if those things are not being
considered and contemplated, then we can let out
more information, still protecting the individual
borrowers, but give as much information to the
students who are trying to make decisions as
possible.
Do you guys have questions?

PARTICIPANT: I so appreciate, and I thought about this overnight. And so this isn't just about privacy. So I just want to be really clear, this isn't just about -- and I know Todd mentioned privacy, and there's certainly privacy issues, but this isn't just about privacy issues. This is about accuracy of what it means for the program.

And even if you're not on a sanctioned basis, you're on a disclosure basis, the disclosures are meaningful to the aid of the students and actually have implications for the schools in terms of you know, accuracy.

I mean, we definitely get questions about our disclosure pages, whether they're ours or the gainful employment pages, all the time.

So accuracy, and consistency across -- if you're trying to evaluate the -- and I think that is what we're trying to do here, is in some form or fashion, assess and I'll call it quality for the purposes of the conversation that at least an ROI on the part of the institution, and if you're
including all debt, which is another piece of the conversation, so you're no longer just talking about tuition and fees, you're talking about ten students' decisions about living expenses, which we don't -- we have some counseling ability, but we don't control.

So I see this data as potentially fluctuating, and I mean, this isn't even -- you know, in terms of N sizes, you know, I understand the desire to put a lot of programs -- you know, to put as much -- as many programs into the mix as possible. I totally understand that.

But if the data you're going to provide is not an accurate representation year to year, then, you know, and doesn't tell this consumer something relevant over time, then you shouldn't be doing it with any program, let alone all programs.

So -- and I think this all debt issue, this is all -- I mean, I was thinking about this a lot last night, every little component of this regulation is wrapped together.

You also mentioned appeals, and by the
way, I am going to propose that there be an opportunity to question on appeals, so regardless of whether it's disclosure or sanctions.

So you're assuming that we're -- you know, that appeals are off the table, but I wouldn't necessarily jump to that conclusion, either.

And I don't mean to be -- you know, I just feel like, like I said, every single -- this is a puzzle piece that we're putting together, and if you include all debt, and you go to ten students, you're no longer talking about a return on investment that relates to the cost of attending that institution.

MR. RAMIREZ: Todd?

MR. JONES: Okay. My concern -- I raised the issue of privacy more to speculate, and it turns out that's what it was, your decision to go to ten. But my greater concern also remains accuracy of the data, and variability from year to year.

If you have a sample size of ten, and we know that the characteristics of those ten include multiple variables, which was just
discussed, then the likelihood that there is a variability from year to year increases, if we have a small sample size, as compared to a large sample size.

Let me correct that. It's not a sample size, but it is an N size.

We're likely to have more variability for year to year from the same program, simply because of the idiosyncrasies of individual people, their decisions, the economy, etcetera.

My question yesterday remains today, is, has the Department actually attempted to do any runs on these smaller sample sizes to find out about what variability would be? My impression would be that the Department has some of the tools at hand to gauge this, and in fact, using student loan data system, using Social Security data, you should be able to do some preliminary runs to find out just how variable this data is.

We discussed yesterday the fact that many of the standards set up -- Mr. Martin mentioned, well, we had to pick a number, so we picked this one, and that's -- there are many
numbers that are picked for Agency purposes.

I mentioned that some of the basis of numbers picked by regulating agencies are based on an evaluation of past practice and finding critical points at which yes/no decisions should be made.

I think it is incumbent upon the Department to have at least done this analysis at least once, to be able to answer some of these questions. And so I'm going to say, my first question to you is, has the Department attempted to do any of these runs at a cell size of ten, and what did we learn about the increase in variability of data based on those runs?

MS. HAY: Okay, so first let me address Jennifer's comments, and then I'll get back to Todd's comments, right? Okay. I don't know all of your names yet.

That's okay. So Jennifer, I hear what you're saying about variability. I think there's two sides to that coin, and some of this is for you guys to decide as the negotiators at the table, right?
I would say that there is variability in the world, but that ten people all making the same sort of decision probably does say something about the program that they're attending.

So I don't want to get into an argument about that, but ten data points does say, if those are the ten people that completed your program, that borrowed to attend the program, that's what the data are.

And what you guys decide to include or exclude is a different conversation, okay?

So to get to Todd's question, which sort of continues the variability question, I'll preface this with, this work was done in 2013, and not by me, or anyone on my staff. The people are no longer with the Department.

But with the short turnaround time, I'm going to tell you as much as we're able to answer for you, okay? So they did look at it in 2013, and yes, the variability increases when you go down to N equals 10, relative to N equals 30.

In a world of sanctions, that an error rate where in two out of three years we would falsely
identify an institution as failing of roughly five or six percent was deemed too high, and they went to N equals 30. So at N equals ten, it was about five or six percent.

There are difficulties in those calculations. First, we don't have student level income data. We just don't, not for every student. And that's what would be needed in order to do the computations really correctly.

Our MLU with SSA doesn't cover that for research purposes. It's really just for production purposes, and it just gets us the information, right now, for the programs that are labeled as GE, okay?

So in 2013, they did use a sample file based off a survey, and it was tricky, because the way GE is done, the cohorts overlap, and so there's a confounding factor there that is effected by Bernoulli distributions, and binomial modeling. But the best guess they could get was that sort of the maximum error they were thinking was five or six percent at an N equals ten, okay?

It is true that you change parameters,
and a lot of things change, right? I mean, that's kind of the world of statistics. You move one thing, this other thing over here changes, too. But it is true that with -- if you increase the _N_ size to 30, the variability goes down, but you lose half the programs.

So there are pros and cons there, that I think it's probably up to you guys to decide which way to go, okay?

That sort of is the information I know about the work that was done previously.

MR. RAMIREZ: Jennifer, go ahead and respond to that, and then we'll get Mark.

PARTICIPANT: Thank you. So I think you said that you know the decision of ten people to attend and complete an institution is the decision of those ten people, and so it's relevant.

And so I just want to counter that a bit. And again, I don't want to get into it, but just a couple of things.

One, we're already confined, and I'm past this, obviously, but we're already confined to the fact that we're only talking about title
IV borrowers, so I just want to be really clear that you know, it's not ten completers from a program. There could be 30 completers, 20 of whom were not title IV, who are making quite a good salary, and doing quite well in life.

And so in terms of -- and I just want to keep focused on what we're talking about here. We're talking about a reflection on a program. We're trying to inform the student who's looking at the page who by the way might be a non-title IV student who's looking at the page too, about something that's useful to them to make a decision about whether to attend.

We're already carving out a huge population by not including title IV. I get the reasons. I'm not bringing that up as if we should. I'm just saying, we're already at a deficit here, in terms of accuracy. Okay, I think we can all agree on that, right?

So taking them -- and I understand, by the way, why it's more relevant for title IV borrowers to understand their world outside of the non-title IV borrowers, so I totally understand
that.

But then to say that the decision of the ten borrowers is the same, that's precisely the point I was making yesterday. It's not the same. Unless you keep the debt at the amount of the educational cost, because the other piece of the debt is actually variable. Like that is the very variable piece, is the decision, one student might decide, you know what, I don't need any living expenses. The other one might say, you know, I'm going to max out on the living expenses. It's theirs to decide, not us.

There's total -- no relevancy to the calculations. So if we're going to go to ten, then I would just emphasize that this piece that I brought up yesterday becomes incredibly relevant, because the variability spikes. And you, to some agree, I think don't have the ability to do this, actually, the schools are probably each better equipped because we know exactly how much is the tuition and fees, and how much, and I think we could probably all agree from an institutional level that that's the piece that we have no sort of can't,
won't, year-to-year.

And again, you know, I think you keep mentioning like taking the sanctions out, and I just want to be really genuine about this. We care about disclosures. We absolutely care about the accuracy of the disclosures, not just because I'm trying to -- I mean, we care about that for the right reasons. We want to be making sure that we're accurate. I'm sure the Department does, too.

So to disclose for disclosure's sake, on a variability, and I'm going to focus on this debt piece, we've got to get the debt piece right if you're going to go to ten.

MR. RAMIREZ: Yeah, go ahead, Todd.

MR. JONES: My question was not strictly about variability of the data, but variability from year to year. And so if we have an institution that is at a given ratio, and the next year it's at 130 percent of that ratio, the next year, it drops to 90 percent of that ratio, that is a variability that from my view as someone who is seeking to contemplate public policy, is a great deal more variability than it would be if
the ratio from year to year and that may be because of larger sample size varied from 2 percent to 4 percent to 102 to 104 to 96. That's a much smaller variability, the beta there, is changing much more slowly.

So my question is, has the Department looked at how much dropping from a sample size of 30 to 10, that that variability from year to year is going to increase?

MS. HAY: So maybe I wasn't completely clear, and I apologize. So when they looked at looking at sort of two out of three years, the false positive rate at N equals ten was about five or six. So that is, over time, that wasn't looking at the variability in a single year versus the variability in the next year. It was looking out of three years, did we make a reliable decision each of those three years that the assessment for an institution failed is a good assessment that didn't change from year to year.

Does that make sense?

Okay. I would say that because the data are essentially census data, the value for a single
year is what it is. And so for the data points that we have, right? So for the borrowers that we have data on, that match to the borrowers that exist in the Social Security Administration, that's the information we have, and the math is what it is.

But when you start looking across cohorts over time, you're right, there are more statistics that come into it. And you're right, the variability is less at N equals 30 across those 3 years than it is at N equals 10. And it does affect the false positive rate.

The work that was done is from 2013, and part of that is because we just -- the sample file, I think, was from 2009, and we don't really have anything newer than that.

We could go back and look again. We've done a really rigorous look trying to find this information, but we can certainly try and find a newer file, and try and replicate some of the work.

But I don't know that it would get us different answers, if we're using the same file. Does that make sense?
Okay. Did I answer your question?

PARTICIPANT: Yes.

MS. HAY: Okay.

MR. RAMIREZ: Thank you. Let's go to Mark.

PARTICIPANT: So Sarah, I have two questions.

MS. HAY: Sure.

PARTICIPANT: My first is, I believe this area, I believe the wages will remain generally similar, stable, but I think all the variability is going to be in the debt, and I believe that this brings up the argument of why the metrics should look at only borrowers. And I think this N size affects the community colleges and independent colleges where there are a lower percentage of borrowers than most.

And just so the table can understand it, a program that has ten, if five students borrow, there's going to be a debt number, and it could have a debt to earnings that's high. The next year, four borrow, it gets a zero, and that gets to the question of whether we're looking at it accurately.
So I would ask you to look at, does the variability drop a lot when you limit this to borrowers, rather than dealing with the median debt of not including borrowers, and I just believe it's going to drop a lot.

My second comment is, I did a lot of work on this back in '13, and my concern was, essentially, the rule was not reaching the vast majority. So back then, my research showed, 90 percent of certificates in the public sector had less than 30, and 70 percent in the proprietary. Did you confirm that data?

I just wanted -- I've never had the Department come back to me on it.

MS. HAY: Sorry, I'm still learning to use this thing.

So I think, no we didn't answer the second question. I didn't look at it. We -- no, we didn't look at it.

For the first question, on variability and debt, I think it really comes back to you guys, and how you want to define that.

So the math will come out with different
things, depending on how you guys decide you want to define it. So, if you want that N equals ten only to be title IV borrowers, you can make it that way.

The Department of Ed. doesn't have necessarily a roster of every single Social Security Number for every single student in the entire United States. We keep information on the people who borrow from us.

So -- and so that's the Social Security Numbers that we would be sending over to the Social Security Administration to match with, okay? Does that make some sense?

PARTICIPANT: I just wanted to let the negotiators know -- sorry -- that in my mind, the prospective student actually really, it's important that they get the information on students like them, borrowers, and that the whole zero median which doesn't reflect borrowers ends up being a very misleading statistic.

I'm aware when, if it was a sanctions environment, I might not be saying it so loudly, because it hurts my institution, it hurts many of
ours, but from a consumer standpoint, I'm just --
I firmly believe it's the right thing to show the
information for borrowers and not dilute it with
the non-borrowers.

MS. HAY: Okay.

MR. RAMIREZ: Johnson?

MR. TYLER: Thank you, Johnson Tyler.

So, actually, I need a clarification, because I'm
not getting this.

So is the proposal to have -- once you
get ten people who you have earnings on in a program,
but if all ten of them didn't borrow money, are
you going to use that data? In other words, as
Mark was saying, six of them pay their own way,
you're still going to examine that data and then
using the debt of the other four to figure out what's
going on?

PARTICIPANT: Johnson, their proposal
is ten completers that receive title IV, whether
it's with a loan or without a loan, not pay their
own way. That is their proposal.

MR. TYLER: Beginning title IV means
either you got a Pell, or you got a --
PARTICIPANT: Exactly. But Pell and a loan are two very different things.

PARTICIPANT: Pell's not a loan.

MR. TYLER: Okay. Okay. Well, okay.

MS. HAY: Yeah, so he's correct.

MR. TYLER: Okay, so now I have more of a comment here, okay? So I completely understand that institutions don't want this information to be incorrect when you're looking at a smaller group that may reflect not the parameters of your average borrower or your average student, that you're trying to correct in terms of a disclosure.

But these regulations, when they -- and the negotiated rulemaking had to do with gainful employment, and I think we're missing here in getting into the minutiae of this what we were here, or at least what I as a Legal Aid attorney am here for, which is to protect people from institutions that don't provide value, people like the person we heard about in the beginning. And I think you know, if there isn't going to be a sanction, the disclosure -- for my consumers may not make that
big of a difference.

I think the difference is getting rid of the bad apples, so there's less of this -- there is less predatory lending going on.

So I really think the people who are -- who have articulated their concern about N ten from an institutional perspective, it makes sense. If I was representing those people, I'd be very concerned. I think it does create a problem.

But from a statistical standpoint, as you said, it's very compelling why you've picked these numbers. You know, 30, if you can't deal with an appeal of a case where you're taking away people's money and perhaps closing a business, you can't have them smaller numbers.

So I think we really do need to think about what are we here for? Are we here to basically protect our turf -- and I understand people are here to protect their turf -- but at what expense?

Because we don't want to walk away from here where the public has no more useful information than they did before, otherwise, we're wasting our
time, and we're wasting taxpayers' time.

MR. RAMIREZ: Thank you. John?

MR. KAMIN: Yeah, it's really been fascinating to listen to. I keep on going back, and especially after Jennifer's comments yesterday when we talked about what the rationale would be for no sanctions, and that would be that essentially, we could double-down on transparency, and we can empower the individual to pursue college options with the best tools available, the best information, about institutions of all types.

And I'm going to leave that one alone.

But I'd just say that if that's the case, and that's what the ideal state is, it is remarkable that appeals would be excluded from it. Because it would seem that schools have a very, very important, compelling interest in making sure that information is accurate.

Now a cynical person would suggest that the reason that appeals are off the table is because this tool isn't going to matter anyway, and schools don't need to worry about it. All right? It's going to be obscure and nobody's going to pay
attention to it.

I have to believe that we're here for a better reason than that, and that there's a better rationale from the Department of Education for not including appeals in this, and still maintaining an accurate, transparent environment for schools.

So I'd be interested, as this discussion continues, what exactly that is.

MS. HAY: Okay, so relative to the appeals, we've already talked about the central limit theorem, and how that requires us to have 30 respondents in order to do some standard statistics.

So if you have 30 completers, right, that then would legitimately put you into a debt-to-earnings calculation. Let's change -- let's live in the world of what if, right?

So if N is 30, right, and that's what gets put in the rule, then, if you want to appeal, what that means is that if you have 30 completers, you have to get an answer from every single one of your students, which is 100 percent response rate, which is difficult.
There are decisions that have been made.

(Pause.)

I won't pretend to be an attorney.

(Laughter.)

PARTICIPANT: So the issue is, right, the Department was sued on the appeals process for the alternative earnings appeals on gainful employment metrics. And we had a threshold requirement on the response rate, that the judge set aside.

And so we're dealing with appeals right now that were not subject to a threshold response rate, but we're still working through them. But going forward, we're looking for reliable outcomes that would not be encountering this kind of difficulty.

MS. HAY: Okay. Thank you. So not being the attorney, I don't know where that line always is.

So response rate is a serious concern, if we're talking about appeals, right? And I would say, just throwing a ballpark figure out there, I haven't gone and done the lit review on it, or
anything, okay, but social science surveys, a 25 percent response rate is not uncommon, right?

Now the Office of Management and Budget requires the Federal Government to get 80 percent, so we're used to living in a different kind of world.

But if we're talking about 25 percent being considered reasonable, right, then what that means about the size of your cohort, if you have to get 30 pieces of data, or 30 responders, you then have to multiply by 4, right, if you're getting a 25 percent response rate.

So you have to start with a population of 120. So think about what that means for a program size that completes 120 students, and what that then means about the size of the institution, and what that then means about how many institutions this regulation would then apply to.

So that's sort of the thought process, from the mathematical perspective, when we talk about practical implementation. Okay? And so if 100 percent response rate is unreasonable, and we still have to get 30 responses, then what is a
reasonable response rate, and what should the N value be on the cohort size so that when we apply the response rate we're going to require, we still get a minimum of 30 responses so we can use the central limit theorem.

So that's the fundamental question, the math question, that's behind the appeals portion of this, okay? So as you think about it, that's the piece to think about, and then think about, making those decisions, how does that impact who this regulation and which institutions, and which groups of students this then provides information for. Okay?

Does that answer your question? Okay, great.

MR. RAMIREZ: Jordan?

MR. MATSUDAIRA: Yeah, thank you. I just want to go back to the cohort size issue, the n equals ten issue. And I think this is an area where the interests of the colleges and students really aligns, and that's in the interest of having accurate data.

You know, you were describing the
properties of the kind of reliability, the year-to-year variability in the data, by discussing just the false classification rate of, you know, are you above the standard or below the standard. But the issue is really a little bit more pervasive than that, because, and even where it doesn't matter for, you know, whether a school is labeled, to the extent that this is really a transparency play, and we're trying to put this information more in the hands of students to help them make decisions about programs, then it matters across the full space, not just like in the neighborhood of kind of where the threshold meets.

In other words, we care about now the variability of schools, with a debt to earnings of you know, .15, and .02, and so on, instead of just around that threshold, which is what the kind of misclassification rate you're describing is really characterizing.

So I think, a nice thing that I'm pretty sure you should be able to do is to show us by the cohort size of a program, so break down the number of schools into different buckets, like 0 to 10,
10 to 20, 20 to 30, 30 to 40, and so on, by cohort size, and then show us the percent change, the average absolute percent change, in the debt-to-earnings measure, and then separately for the denominator and the numerator. And that will allow us to see just how variable the data are, when you increase the cohort size overall. So I can put the data request in writing, but I think that would be illuminating.

MR. RAMIREZ: Thank you.

Thank you, Jennifer.

PARTICIPANT: Yeah, I just want to --

MS. HAY: Before we do that -- quickly, just Jordan, to remind you, we only have earnings data for the GE programs.

MR. MATSUDAIRA: Yeah. So I realize that. But I mean, I think unless we think that the year to year variability for GE programs is super different than for other programs, I think it will still be informative about just the general properties of how the metrics behave as a function of cohort size --

MS. HAYS: Okay.
MR. MATSUDAIRA: -- which --

MS. HAYS: I wrote it down.

MR. MATSUDAIRA: -- is what's relevant.

MS. HAYS: All right. Got you.

Thanks.

MR. RAMIREZ: Okay. Jennifer?

PARTICIPANT: I just wanted to address something that Johnson said, because I'm, you know, totally sympathetic to the bad actors piece, and wanting to address that.

But I do want to acknowledge that especially now, because the disclosures would apply to all programs, we need -- there's a secondary purpose, in my view, to these metrics, which is not just to address getting rid of or addressing somehow more severely the bad actors.

And that is -- and this was true, by the way, I think, and I think the Department actually said this in its preamble, and through the last two rule makings, on gainful, which was to provide the opportunity for improvement of those programs -- you know, of other programs.

And so, you know, for example, if you
were in zone, the idea was that you -- and the metric made it very difficult to get out of zone, but the idea there was to you know have it move the dial for the program, that there would be pressure.

And you know, we can obviously at some point discuss sanctions versus disclosures, but even at the disclosure level, and across all programs, the good news piece of this, I think, is that there really will be data out there that should put some pressure on programs to improve.

And so I just want to acknowledge, and that's one of the reasons why I feel like it's really important that the data be accurate, because the data is telling, and it is interesting, and even under the gainful, that I will say that the best part about gainful has been sort of understanding metrics a little bit better.

But in a disclosure world, I just don't want to under estimate, and I feel like it's being under estimated, the power of the marketplace, with disclosures.

And -- but only when done well. And I do think that they're on the positive side, if
done correctly, understanding what the rest of the
sort of higher ed marketplace looks like can be
informative and helpful to institutions that are
not bad actors. But we do need to get it right.

And so on the debt piece, what I would
say, and I totally understand, and we talked about
it yesterday, I very much understand why it's useful
to understand the living expense piece. I just
don't think it should be part of the metric.

So I'm not saying it shouldn't be
disclosed. And so maybe there's a conversation
about how the living expense piece would be
disclosed -- it already is fairly public, but how
that fits into the disclosure pieces of the gainful.
But the metric itself, you know, I think that hard
and fast piece on tuition and fees.

So it's a little bit of a, to the extent
that you wanted ideas, I'm throwing one out there
that as it relates to -- and again, it relates to
the n size discussion, because you're getting to
more accurate data if you're sticking to the actual
educational services piece for the amount of debt.
MS. HAY: Okay. Thank you. And I actually agree with you a lot, that disclosures, when they're done well, can be very informative, and you're talking to a numbers gal, so I certainly agree with you on that.

I just want to say, some -- there's a lot of moving pieces, right, and how you guys decide to put them together is kind of what you're here to do, right?

So I can try and help you understand how the math pieces interact with each other, but the policy questions, those are Greg, okay?

So I agree, you know, how you guys decide to go is your decision to make. Yeah. Okay.

MR. RAMIREZ: Okay. Yeah. Sandy and Mark. Sandy?

MS. SARGE: Thank you. First of all, Sarah, thank you. I found your explanations a reminder of the statistics courses I took, which is always good, because it was a long time ago when I took those. So thank you, it was actually really informative.

And I can see what you're trying to do.
Now I feel you're -- between your group, who's looking at the mathematical accuracy and fairness issue, if you will, like you want each piece to be sound, for lack of a better word, okay?

And you're right, it is going to be our decision and really at the end of the day, what the weighing is, on this issue, I think, is increase the number of programs upon which we disclose, versus, a five to six percent potential error rate.

And is error rate the right word in that? I know there's a technical term for error rate within statistics, but where it could be a false negative.

MS. HAYS: Right. So if the table understands --

MS. SARGE: Yeah.

MS. HAYS: -- I think it's fine.

MS. SARGE: Okay.

MS. HAYS: Right?

MS. SARGE: So, is everybody okay with that being -- what I heard her saying is that we run the risk that five to six percent of the time,
there would be a false negative.

So that would mean that a school would be deemed to be below performing or under-performing, or failing, or whatever term we decide to come up with, 5 to 6 percent of the time, but we would get, I think you said, 50 percent more schools being reported upon.

So you know, I hate to say this, however, I'm with Sarah. I'm a numbers girl. I'm almost wondering, is there an opportunity where we could get a whiteboard or something that we could put, like, let's stick some of these issues up there, somewhere where we don't lose them in the fray of everything else.

MR. RAMIREZ: Yeah. Yeah, that would be possible.

MS. SARGE: Okay.

MR. RAMIREZ: As a matter of fact, that was one of the notes I put down over here.

MS. SARGE: Okay, great.

MR. RAMIREZ: Because there's a lot of moving pieces here.

MS. SARGE: Right, there is a lot of
moving pieces.

So I want to make sure we don't lose these choices, if you will. Because we haven't even gotten to all of the other choices.

I fully appreciate, based on my clientele, the difficulty of receiving survey responses, and the way you described, you're absolutely right, if we got 25 percent on surveys, I think everybody would be thrilled, on all kinds of things, student satisfaction, and all kinds of things, we'd be excited about that.

So that again brings a very reasonable explanation, and to me, that's an issue. Especially if you take into consideration the time line associated with trying to get those responses, how quickly we have to respond, and how quickly our students or graduates want to respond, right? So that's not our choice.

I had so many different things. The other thing I want to bring back is I think the debt-to-earnings ratio is intended to be a measure of, has this program provided through gainful employment the ability for a student to repay the
debt that they took out associated with that program?

And I know what you guys were saying earlier, the simplicity is an issue. And it is a very big issue that there may not be any budget given to the Department of Ed. to do any kinds of systems upgrades to capture data points like tuition and fees.

But I do agree with Jennifer, that we need to start to segregate, in my mind, what is literally the personal choice of the student, versus what is the choice of the school, if we're going to judge the school.

So adding in living expenses or whatever that case may be, I agree that living expenses are a part of going to school. However, there is a choice between going to Omaha and going to New York, and that is the student's choice.

You can go to a small town where there are many solid community colleges and public university branches, and for-profit schools, proprietary schools, in small metropolitan areas that cost a fraction of what it is to go to a school
in a bigger city, a Chicago, a New York, a Los Angeles.

You go to those locations not because it's your only choice, but because you have some other intrinsic reason to want to live there, above and beyond.

So I respect the student's choice, and I agree that living expenses are part of going to college. What I don't agree with is if you're going to judge the program, that you're just muddying the water on the calculation that we're trying to answer. Use the calculation for the question we're trying to use it for, will the student have the ability to repay the debt?

Because not every student is raised to think there is -- you should suffer a little when you're in college. You don't need to go to Whole Foods or live in New York. You should eat ramen noodles.

My son was like, Dad gave me a whole case of shrimp-flavored ramen noodles for Christmas. I said, good.

Be prepared, because when you don't have
student funds available to you, financial aid, and you're on your own, the first few years of your career, you're not making a lot of money either.

MR. RAMIREZ: Okay. Sandy, I need for you to wrap that up.


MR. RAMIREZ: Okay.

MS. SARGE: Remember, ability to repay the debt associated with the program by the gainful employment you get from that program is what we're trying to address in debt to earnings.

MR. RAMIREZ: Thank you.

MS. SARGE: Sorry.

MR. RAMIREZ: Mark?

PARTICIPANT: Just two quick points. Number one, it would be nice to know at 30 what percentage of programs across the country would be exempt. I think it's going to be in the 60 percent range.

Two, the reason that's relevant is, for me at least, are there large numbers of small programs where debt to earnings is very high, and
we're not capturing it.

The second thing for the Department to consider is, does the 30 n size hide poorly-performing programs where no one's completing, and there are many, many borrowers.

And this gets to the Department's, I think, goal, of having completion, you know, continue to move up.

But essentially the gainful employment rule incentivizes low-performing programs, because they become exempt, because no one's completing.

MR. RAMIREZ: Jeff?

MR. ARTHUR: Yeah, I would just like to point out another aspect to this.

While I think ten may be low, I mean, we've got to see the data, I still think there's room to lower the n, because it does create an opportunity and an incentive for institutions to provide better service to more students, to help them get better jobs, better career services. And I think that factor alone also would move the dial for a lot more students.

And it also makes it, with a smaller
n, it makes it easier to help those students be more successful, because you're talking about a smaller population.

So again, I think there is room to lower the n to some degree. I'm not sure how much. But I think it would provide better outcomes for students overall, so I think we should strongly consider it.

MR. RAMIREZ: All right. And we still have a few folks in the queue here, but I want to remind folks, if you could target your questions or responses to Sarah, while we have her, and then we could save the discussion of what you want to do with it afterwards.

So we have Jennifer next.

PARTICIPANT: So I just wanted to clarify something. When Sandy was talking, it made me realize that the five to six percent figure on the error piece, that was from 2013. That debt level was just tuition and fees, wasn't it?

MS. HAY: I have no idea.

PARTICIPANT: Well, was it based on -- what was your -- what was the debt that you used
to measure the --

MS. HAY: So, I'd have to go back and look at it. I read summary papers at like 10 o'clock last night, so I don't know the answer to your question right now.

PARTICIPANT: Okay. Well, that's, I mean, hugely relevant, I mean, just since we're relying on the five to six percent error number. I suspect, but I definitely need the Department to confirm, that if it was based on GE data back in 2013, it may have been, but it's before, so the timing of it is, since it was 2013, I'm not exactly sure what debt you were relying on to do the metric at that time because -- well, no, because it was -- didn't the metric come out in 2014 though? So that's why I'm not sure what they were relying on in 2013.

Anyway, it's a question because obviously, that variability rate if it was just -- and I'm comfortable with ten. It's just if we're doing ten, it heightens the metric piece. That's what I'm trying to get at here.

And so understanding that variability,
if it was just based on the tuition and fee amount, you have to run it all over again if we're going to use all debt because that's a pretty -- you know, I mean -- so you get the point of what I'm trying to say.

In terms of the -- so just to switch gears again with a concept here, I know there's concern about reporting on tuition and fees and believe me, it's a lot of work and if it's all programs, it's a ton of work to report on tuition and fees.

Query whether as sort of a compromise on this the institutions do, of course, know when they receive the loan from the Department, they know what proportion stays at the school and what proportion of the loan then becomes the credit balance to the student. And so it would still be a reporting requirement for the institution, but I actually think a lesser one to -- and it wouldn't match exactly tuition and fees, but it would be the amount that the school received for educational services. So it would be a reporting requirement on the part of the institutions, but I mean -- and
I think it's doable because we all automatically have that data, of course. So I would put that forward as a way to deal with the debt issue.

MR. RAMIREZ: Chris, and when I say Chris, that's Madaio, and then when it's Chris Gannon, I'll also say Gannon.

Chris?

MR. MADAIO: Thank you. Chris Madaio.

I'll let Chris Gannon speak to whether students are gorging themselves on Whole Foods with all their debt, but I found that comment very frustrating.

I think the living expenses is an important point to take into account with the debt. And we talked about this a lot yesterday. I mean I think a student looking at am I going to be able to repay my debt to go to the school, isn't what the disclosure is intended to accomplish, especially if you only go to disclosure. I'm not sure how that accurately does that if it isn't including the debt that the student is going to take to live while he or she is at the school. It seems that we're trying to avoid over complexity and over disclosure. Even if you wanted to add
some sort of long caveat about how well this doesn't include the debt you're going to take out to live here, then I'm not sure how that again, that number really tells the student anything because they're going to have to take out more debt than that to go to the school.

So therefore, looking at a number that tells them, you know, what the repayment or what the earnings compared to that debt is like is totally a false number. So I just think it would be inaccurate for students to give a number and then give a disclosure that essentially tells them this number isn't true, so it's not really worth very much.

As far as the $n = 10$ and $n = 30$, so I'll address that a little bit. I mean obviously I do think appeals are necessary, both because I think there should be some sort of sanction and we can talk about that later. Maybe there are other ideas for sanctions, but also because as Jennifer said and I'm sure all the schools said, the disclosures should be something that students are taking into account, deciding
whether to go to that school compared to another school, that school or no school at all. And therefore, if the disclosures are something that we want students to make life decisions on, life-changing decisions on, we probably do need an appeals process to make sure they're accurate.

So I don't know. This is just something I thought of. Is there some way to have $n$ equals 10 and equals 30, a disclosure based on -- you're shaking your head no.

PARTICIPANT: So I think if there's an appeals process in place, you actually have to use an $n$ that's much larger than 30 because of the response rate issue.

So if there's an appeals process in place, you're looking at needing to have the central limit theorem which means you need to have 30 responses which is then dependent upon your response rate. So if we use a 25 percent response rate, in order to get 30 responses at the end, you need 120 completers because 120 times 25 percent gets you to 30 responses. So I just wanted to make sure that was clear.
MR. MADAIO: Okay. I appreciate that. I think what I was trying to get at was and this might be totally stupid, is there an n equals 10 calculation that can be done for disclosures and an n equals whatever is needed to do appeals based on that's used for sanctions. So two calculations that are done, one that's done that relates to sanctions and it will be appealed on and one that's done that tells students this is in the use for disclosure.

PARTICIPANT: So from an operational perspective only, and a mathematical simplicity perspective, my preference is for simpler, right? What you guys decide to do is a different question. So it's easier to implement and it's easier to explain math that's simpler, so the more layers you put in and the more complex you make it, the harder it is to understand.

That's not an insult to you guys. I'm saying the general population, if they have to disclose two debt-to-earnings rates, one at say n equals 120 and the other at n equals 10, I could see could be confusing.
MR. MADAIO: I agree with that. So maybe the n equals 30 or whatever plus higher wouldn't be something that's disclosed on the GE template. I don't know, maybe Whitney can tell me why that's stupid, but -- or anyone. That's something I'm throwing out is there -- I get if there's an intent that you want to encompass more schools and more programs and get an accurate number, you know, that might be a very good thing. But I think appeals are necessary for the reason I said before.

PARTICIPANT: Okay. So I think that's a policy question, right?

MR. MADAIO: Totally, yes.

PARTICIPANT: All right --

MR. MADAIO: I'm throwing that out there for the policy making discussion.

PARTICIPANT: All right, so I don't want to spend all of Greg's morning talking math, but if there are any other math questions that I can help clarify for you before I hand you back over to Greg, let's do those.

PARTICIPANT: Of the table tents that
are up, again, I'm asking that specific questions to help the clarity on this. If not, I would ask you put your tent down, otherwise, we'll go --- and let's actually even time box this for like the next ten minutes and let's see if we can get Sarah out of here in the next ten minutes.

Chris.

MR. GANNON: Yes, I just wanted to bring some clarify to the reality of the student situation. The student that I talked about yesterday that's homeless and lived in their car during their undergrad, she didn't shop at Whole Foods. She shopped at a food bank. She shopped with a bridge card or subsidized -- had her food subsidized. And I think all the students that I know would be insulted -- would be insulted knowing that somebody at this table --

PARTICIPANT: I get it. Let's -- got that. Do you have something specific for Sarah?

MR. GANNON: No. I think we need to keep this conversation centered on students to understand the student experience and I'm not hearing that right now.
MR. RAMIREZ: Okay. Thank you.
Whitney.

MS. BARKLEY-DENNEY: Yes, so the idea
of two rates has been, well, at least based on
insights -- that's sort of been said that's
operationally really difficult.

My question is is there a way to reach
both what your debt-to-earnings ratio might look
like with only tuition and fees and also with living
expenses? Because I do think and from my own
personal experience, when I decided to go to the
University of Michigan, I had also gotten into a
comparably good school in a big town, in a big city,
and looking at the living expenses actually helped
me make the decision to go to University of Michigan
because of -- they were relatively the same in
tuition, but so different in living expenses.

And you know, I think that this is --
and I will just put a pin in this and say I think
that this is probably most valuable as a disclosure
for people who have the money and ability to really
sit down and parse out what that information means.

If you're a single mom going to your closest school
so your parents can help you raise your kid, living expenses probably don't matter that much. But I think it is a valuable metric for some group of the student population.

So is there a way to sort of thread the needle on that and do both or would we need to do one or the other?

PARTICIPANT: So I think that's an interesting question. And I think from an operational answer only. This isn't a yes or a no. This is just to help you understand what would be involved.

I think if we're dealing with a single end value and we get information that helps us figure out which part is academic or tuition and fees and which part is living expenses, if that would be easier to do, than having two different end calculations that are doing two different things.

Okay, so that's not a yes or a no or any kind of advice, just sort of my operational thoughts on the complexity.

Any other math questions?
MR. RAMIREZ: Yes, I think Jennifer had a quick response to that and then Jordan is next.

PARTICIPANT: I just want to quickly respond to both Whitney and Sarah on this. So this is what I was saying before where I think for the purposes of the metric, relying on the actual -- well, not the actual tuition and fees, it would actually be the amount that the school retains for the loan amount, whatever that is, of the --- the amount that the Department disburses. And then disclosing the other -- having a disclosure around the living expense.

So to Whitney, to your point, somebody on the same page could look and say okay, here's the debt-to-earnings metric based on the tuition and cost. And here's the living expenses that I -- you know, the average living expense that would be, something that I would have to contemplate as part of the decision. And so it would be, I actually think it's more transparent in that manner than it is keeping the two, the whole debt level together because the students not learning what the actual tuition and fee expense part of the debt
is if you keep it combined. So disaggregating it, I don't think you need to do the metric both ways. I think you do the metric one way and you have literally, you can have a disclosure on the same -- where you would be doing the disclosure that's of the living expenses as well.

MR. RAMIREZ: Jordan?

MR. MATSUDAIRA: So I wanted just to re-bring up an idea that I mentioned yesterday which is, you know, we look at the data and decide that below some n size threshold the data are more variable than we'd like, then we consider having a roll up kind of cohort like a multi-year cohort to allow programs that enroll a small number of people in any given year to still be captured by the metric, but still retain more reliability by incorporating data for more students, so putting together three successive cohorts, for example, in a metric.

And then also I just wanted to say if you bring data back to us, in addition to knowing the number of programs or the percent of programs that fall below a certain n size threshold, knowing
the percent of students that are in those programs, I think is also useful.

My rough recollection is, you know, there are really large number of programs that have n less than 30, so maybe 40 percent or something like that. I think you just mentioned a statistic which sounded right to me, but I think there's a very small fraction of the overall students that are enrolled in those programs overall.

So just when we're thinking about making these tradeoffs, knowing the fraction of students that would actually be affected would be helpful. Thanks.

MR. RAMIREZ: Okay. So the final two, we have Johnson and Sandy.

MS. SARGE: So just to respond to the first part of what Jordan said, so there are tradeoffs with multi-year cohorts. The longer that -- the more number of years you have in a multi-year cohort, the larger the data lag is. And so that's just something to consider. So if you're doing a one-year cohort and you guys should correct me, I think the reg. currently, the proposed
language has two-year cohort?

PARTICIPANT: That's correct.

MS. SARGE: Okay. So a one-year cohort, you can turn around when you have the data. A two-year cohort, you have to wait a year before you have two years of data before you can publish it.

If you go longer than that, just think about operationally what that means for how long it takes the information to get to students. Okay. Yes. And which way you go again is a policy decision.

Any other data questions?

PARTICIPANT: Yes, I have a question about the tuition, the actual cost. So is the idea that somehow the Department of Ed. knows the actual cost? It would simply be the actual amount that was a loan for a student for tuition versus how much the tuition of the school charged, I guess that's a different question.

PARTICIPANT: I'll go, Sandy.

MS. SARGE: Okay.

PARTICIPANT: The question here is
about what we have currently. And the tuition and fees we currently have because schools report that to us. That's part of what GE programs have to report to us.

The whole conundrum we were in was that if you go to administrative calculation of this, meaning what we'll calculate without having to have schools report to us any more, that that leaves us with the data we currently have available and then NSLDS to do the self-enrollment data. It's a little bit different calculation, but we can do that. But we don't have a mechanism to capture the tuition and fees. We can't do the calculation we currently do unless we have schools report to us what the tuition and fees are for the entire program, right?

So that leaves -- Sarah explained the math to you. I'll explain the practicality to you. That leaves one of two things. Either we do the calculation without the cap on tuition and fees or we make every school in the country for every program report what is currently required to be reported by proprietary or by GE by schools subject
to GE for their programs.

I think any of our -- the people here who report, especially those at larger institutions will tell you, there is some burden associated with that reporting. And when you start talking about a school with 110 programs, that's going to be fairly large. So those are the only two options in order for us to calculate rates.

The other suggestions would be to make modifications to NSLDS in order to be able to capture things like tuition, fees, institutional debt, private debt. There's no doubt, that could be done, absolutely could be done, probably not fast enough to continue to calculate rates on an on-going basis.

We can't make the promise here that we'll be able to do that, that we'll be funded to do that or we'll be able to accomplish that and that's where this current proposal comes from. It's more -- Sarah, definitely explained the mathematical portion of it, but a lot of it was rooted in practicality. What can we do now to eliminate the burden of reporting? If we eliminate
the burden of reporting, what do we have? Well, we don't have tuition and fees on which to base that cap and that's really what it's about.

MR. RAMIREZ: So I saw a few other tents pop up during that conversation. Were those math-related questions?

All right, so then have Sandy, next.

MS. SARGE: So just to Jennifer's point about the reporting on the net amount, the only problem I see with that or one of the problems I see with that is the fact that not all credit balances are due to title IV money. Students could be getting additional funds above and beyond debt.

So what would -- how would you differentiate the stipends that are coming from VA funds or from an outside scholarship, as opposed to just coming from title IV? So that's the only thing I think would be an issue there.

PARTICIPANT: So it's my understanding that the institutions actually -- I mean they know the breakout. They know what's coming from VA versus title IV, at least from an auditing
standpoint. I sure hope they do.

So with respect to Greg, so this is not going to be my point, so I'll just respond, with respect to Greg, there is another option which is what I just put on the table which is -- and it is a simpler reporting than the tuition and fees which is to -- when the Department gives -- of course, the Department could do this themselves, but the Department gives the loan disbursement amount to the school. The school could then report back how much they capped and how much went to the student.

MR. MARTIN: Well, I agree with that. That's hypothetically, but you still need a mechanism to do that.

PARTICIPANT: That would be in the reporting section, the same way that we were in the reporting section in the first --

MR. MARTIN: We can't break that -- in other words, if we want the reporting to take place at all schools, we have to use the current format which requires all of the reporting. We can't just break that out and say well, we're only going to
require one element to be reported. So if we don't have another mechanism to do that, so if we were going to alter NSLDS or modify NSLDS, we may as modify it to collect the tuition and fees.

PARTICIPANT: Well, I mean that would be -- so I guess I would put on the table a short-term solution and a long-term solution. One would be in the short term the same way you created a whole regulation around tuition and fees reporting which we have all abided by, you could create a reporting provision that requires in the meantime institutions in the short term to report what I just said that the breakout of the loan amount --

MR. MARTIN: But what I'm saying is we don't have a current structure to do that. We have what we have now that currently GE programs are required to report. We can make all schools do that. That would be the way to get that information.

PARTICIPANT: So let me explain this a little differently. He's explaining an IT system constraint problem which is that NSLDS is a very old system and programmed in very old language.
And there are limitations to that and it takes a long time to make changes to it because there aren't many people who still code in that language. Does that make sense? Okay.

So that's why Greg is trying to say we can either work with the system as it is or we can propose something else that's doable, but proposals that change the NSLDS system are just trickier because it takes a long time to get those changes made. So it's a practical implementation question.

MR. RAMIREZ: Jeff?

MR. ARTHUR: I think I have a real straight-forward request that should be pretty easy to accomplish. So you've got a lot of data there already and to make the current calculations, you clipped some individual student's debt at the tuition and fee number that was reported.

Could you just not recalculate the median debt for us without doing that, just leaving that debt where it is and tell us what the new median debts are for each program?

I suspect, and as I've stated before
and nobody, I think, many people believe me that it's accurate. I don't think it's going to change much, frankly. But can we find out that out?

PARTICIPANT: So I will ask. A lot of the coding work in NSLDS is done in black boxes. And I don't know that they record the interim steps. Does that make sense? So I don't know that we have the data the way you want it, but I will ask.

MR. ARTHUR: But they did write a script to extract the data that had that code, piece of code that took that debt and clipped to equal the tuition reported. So all I'm doing is saying remove that line and they can just remove that line, re-run it, that script, boom, you got it.

MR. MARTIN: This is Greg. You're talking about recalculating the rate that we calculated using by employing the cap and removing -- not doing that, right? We'd have to ask and see if that was possible.

PARTICIPANT: So I'll take the question back. But the scripts you're referring to are inside of a black box. And they're not visible
to -- right.

MR. RAMIREZ: Final question from Chad.

Make it a good one.

(Laughter.)

MR. MUNTZ: All right, well, I guess it's related to small n, but it's also related to the policy question as I'm thinking through. We're opting in public universities, so we have millions of more students, thousands of more programs and they're all a little bit different.

We admit students into a university and then they pursue a degree program. They don't necessarily know the degree program when they come into the university. They did not seek to become an auto mechanic at the beginning. They might eventually get there. So there's a number of complexity issues.

Tuition and fees. I have universities that now have differential tuition. So for our degree programs that have very expensive costs, they charge more in tuition and fees for those programs. Those might be in the STEM fields. If you're familiar, STEM fields don't always have high
retention rates. So those students now choose to go somewhere else. Now they are in psychology. So psychology is going to have a very high completion rate. They're going to have potentially more debt and the outcomes and earnings might be a little bit lower, but they did pursue a STEM program in the beginning.

So now the engineering program which probably has high earnings, maybe has less than ten completers, is probably not going to have the debt associated to that or the students that served. So I think this is another area to look at in the size and the different programs in comparison.

And the second is the kinds of institutions that are involved here. You're also going to measure the wealth of the students at the institutions. Some institutions have a lot of number of students that have high income. They don't need loans. So whatever program that they're in, you're not going to ever find out their value and their earnings and debt to radio.

Others have a high number of Pell Grants. They may not need loans either. I have some
institutions that have tuition and fees that are
less than Pell. So you're not going to measure
their effectiveness or their debt-to-earnings
ratio.

And then finally, this may discourage
your out-of-state students from coming in at a
higher tuition rate when they want to come and be
part of the programs that may not be offered in
their state. They are now going to be charged a
higher rate. Maybe they're in an institution where
those programs didn't have a lot of debt except
for out of state students and then this could impact
the overall metric and what it looks like debt to
earnings based on the out-of-state students.

So those are just three areas tuition
and fees have an effect, as well as the students
changing majors within the institution, can really
drive this differently than what I thought it was
intended with gainful employment of students
seeking employment programs versus just an overall
education degree.

PARTICIPANT: So you do bring up a good
question about changing majors and how to get at
debt. And I think that's not an easy question. And I actually will turn it around to you guys and I'd like you to think about it. If you end up going down that road, think about how if a student changed majors a couple of times or say they graduate with more than one degree or they get a certificate and an undergrad degree, what if the SIPs are the same for the certificate and the undergrad or what if the SIPs are different. It's a complex allocation of debt and earnings question. There's not a fast answer to it. But think about in an ideal world how might you solve that problem.

So think about with the different levels if the SIPs change, if the SIPs don't change, how might you roll that debt together or how might you allocate that debt. It's a valid math question to think about. And I don't expect any magical solutions right now, although I take them.

MR. RAMIREZ: Jen has the magical solution.

PARTICIPANT: Oh, no I don't. As everybody knows, I've raised the CIP issue for years
and I don't have the solution on the CIP issue, but I do have a question.

So first of all, are you the CIP lady?

PARTICIPANT: I am not the CIP lady.

(Laughter.)

PARTICIPANT: Because I did bring up SIPs yesterday and I do again going to back to this as a disclosure, and even if it were a sanctions metric, the same question has applied or at least I pondered for many years and it gets exacerbated though now with a disclosure of all programs at all institutions is that schools self-select their SIPs. The Department does not assign the SIPs.

And so while I hear you say so think about that to Chad, so he might think about it one way and then another state institution might think about it a different way and then our -- to the extent that we are creating a disclosure system that students are looking at, they're not getting an apples to apples at all because the SIPs will have been -- could be different.

PARTICIPANT: Let me jump in here because I don't think this is Sarah's area here
PARTICIPANT: Okay.

MR. RAMIREZ: So we'll have time to discuss that later. So Sarah, thank you very much. I really appreciated that. I think that was very enlightening. So thank you.

PARTICIPANT: My pleasure.

MR. RAMIREZ: I want to take a break, but before we do, I want to see if we can give you a little bit longer break, but give you some work to do during that break, okay?

The next issue that we're going to be getting into is sanctions. And looking at the paper, it can be broken down into two different pieces and I think if you look at the beginning of the paper where it starts off with 668.409, down to the halfway -- pass the second page where it says authority and lists the authority there, up to that point I think that that area there is fairly noncontroversial. I think that if we would look at that and when we come back and see if you're okay with that piece, is to halfway down the second page, right after the section of effective data,
Secretary's final determination.

So what I'm talking about is from starting with 668.409 final determination of the D/E rates measures, down to the end of the paragraph that begins effective date of Secretary's final determination.

PARTICIPANT: Halfway through the second page.

MR. RAMIREZ: I think that that's fairly noncontroversial. Let's see if we can maybe see if can do a temperature check on that when we get back and see if it's okay.

But the second from last page that begins with restrictions and eligible programs where the strike outs begin on the second from last page, that's when I'm going to want to jump in right after that. And I anticipate there's going to be some discussion there.

And so what I want to do is incorporate a break/caucus and allow folks to gather with whoever they think they may need to because as we discussed yesterday, we're here because the rule that was in place was not acceptable, so the status
quo is not going to be acceptable. Doing nothing is not going to be acceptable. We have to do something different.

If striking out restrictions is not acceptable, what might be? And that's the question that I want you all to discuss during this break/caucus.

So what I would suggest is that it's 10:30 now. Let's shoot for 11:00 o'clock. And I say shoot for. I'll be floating around and see where you all are at to see if we need some additional time and I'll make some announcements at the time if we need additional time. So let's shoot for an 11 o'clock reconvene. Thank you.

PARTICIPANT: I just want to flag on the assumption that the first part of it is noncontroversial. I feel and I think that a lot of other people feel really uncomfortable doing a temperature check when we're talking about things like the term GE being eliminated there. And I would not feel comfortable (a) calling that noncontroversial or (b) doing a temperature check on that until we have reached actually some of the
other issues and come to a little bit of an agreement because I don't want my lack of a vote or my sideways vote to be an indication that I agree with the elimination of the term GE on that page.

MR. RAMIREZ: Then let's jump right into the last piece.

PARTICIPANT: Thank you.

MR. RAMIREZ: Okay, let's get started.

Before we break for lunch, I'm going to share with you an idea that we have to help try to keep some of the information straight, but we'll explain that right before lunch.

In the meantime, what I'd like to do to start off is ask Greg if you could go through the summary on Issue 4, as well as explaining some of the rationale for that summary position. And then we'll jump into the idea of sanctions or not or maybe some other ideas, right? And we'll just open up the floor for some discussion.

So Greg?

MR. MARTIN: Thanks, Javier. This is -- for the record, this is Greg. Before we begin, I just want to again officially thank Sarah for
her assistance this morning and coming up and helping us with those issues. She reminds me of some of my math teachers, so in that regard it scares me, but it's also good to have those folks around. She's always threatening to give me a math lesson about something. I usually demur. Ask if we can read Shakespeare, something I'm more familiar with.

All right, so let's take a look at Issue Paper 4, sanctions for programs based on D/E rates, and when we started with scope and purpose, we sort of hit this issue early on, so we have discussed some of this already, but this is actually the area of the regulations that would change.

We propose to eliminate the loss of eligibility to participate in title IV HEA programs as a possible sanction under the D/E rates measure, as well as restrictions on starting new programs that are similar to low-performing programs.

We propose that notifications would be provided to students and prospective students for any year an educational program is determined by the Secretary to be low performing. We propose to add a requirement to notify students and
prospective students that the institution has made
or is making changes to the program to improve its
outcomes.

We propose to remove a requirement that
the institution receive acknowledgment from the
student that they have received a notification.
For prospective students, we proposed that they
receive the notification on first contact with the
institution, but not again prior to enrollment.
I think we already discussed the Department's
reasons for going to a disclosure environment here
and moving away from the loss of program
eligibility.

Just to reiterate, we are moving to more
of a -- making this more of a transparency of a
transparency issue. We did have some problems with
using the debt-to-earnings metric as the sole
determiner of program eligibility. And these
rules do reflect the direction that the leadership
wants to go in.

Moving on to the changes in disclosures
that we made, we still have the disclosures. We
did try to streamline some of the requirements for
-- remove some of the redundancies in disclosures. Namely, again, removing the requirement that the institution receive acknowledgement from the student after they receive notification. We had a lot of questions about that. There was a lot of difficulty in determining exactly what that was and what that consisted of and how schools were to monitor that. So we have removed that particular requirement, but maintain the requirement that schools do provide students with the disclosures.

So it's only a one-time thing, so the current regs provided for within a certain period of time, if a certain period of time had elapsed, they had to issue the notification again prior to enrollment and we have eliminated that requirement.

So we can -- want to move to the first part of that, Javier?

MR. RAMIREZ: Sure.

MR. MARTIN: In 409, just to make sure we go over everything. I don't want to skip any of it. So we'll start with the final determination of D/E rates and the notification of determination.
And there you can see for each year the Secretary calculates the rates, we'll issue a notice of determination and the only thing that changed there was the elimination of GE and the substitution of an educational program as the rules would now apply to all programs.

And just some minor changes there, in 1, the determination of the Secretary whether the program is -- we changed that from passing/failing to acceptable or low performing as we -- using those terms that had talked about earlier. And note the elimination of whether the program could become ineligible based on final D/E rates. In these proposed rules, the loss of program eligibility is removed.

And then moving on to page 2, whether the institution is required to provide -- you'll note that we struck student warning and we've changed that to notification.

And the part that says if the program's final D/E rates are failing or in the zone, we struck that as well because there are no more failing or zone and there would be no more alternate rates
appeal under either of these proposed, under these proposed rules.

And then in (b) on page 5, the effective date of the Secretary's notification, we eliminated the appeal, reference to appeals there.

And then we can go to consequences.

Notification for low-performing schools, in general, for any year in which an educational program is determined by the Secretary to be low performing, the institution must provide that notification to students. And we'll just look at this notification and then stop there.

Note that we took the student warning language out and then at the bottom of page 2, you can see the content of the notification. And it's important that we follow this because this portion here that relates -- that will relate to appeals when we get there, so just note this additional language here.

So state the program has not met the standards established by the U.S. Department of Education, what we've based those standards on. And the portion that talks about that the program
could lose eligibility has been removed and we've added -- you'll see there, the added language is that the reported earnings -- the reported earnings that were reported to the Internal Revenue Service, it talks about that, and then says similar programs offered at other institutions may have better outcomes under this measure.

And then there's this disclaimer portion that we've added. Please note, however, that this program measure could be effected if a significant number of students who complete our program, graduates did not report all of their income such as tip income or were self-employed and had business expenses that were just the earnings being reported.

So as we talked about earlier, we eliminated the appeals process for some of the reasons we've already discussed. And added this language to inform students that the measure could have been effected, for instance, in a program where graduates earn a large portion of their income from gratuities or where there are self-employed business expenses. I think one of the examples
for that was such as chiropractic or something along those lines or maybe acupuncture, those kinds of things where you're setting up a practice, take into account those start-up costs.

So I'll stop there and we can discuss those issues before moving on to the rest.

MR. RAMIREZ: Are there any questions on that or do you want to table that and get to the other issue?

A little bit further down on the page on the actual sanctions or not.

Sandy, you had a question on that, a clarification question?

MS. SARGE: Yes. This is Sandy. On page 3 where you make note of the Internal Revenue Service, I know it eventually gets to SSA, but should that be Internal Revenue Service or should it be Social Security Administration? Or is that a change?

MR. MARTIN: It would still be -- we still get the Social Security -- we use the Social Security database would match it against, but it is based on earnings that are reported to the
Internal Revenue Service. So I think for purposes of the -- when you look at purposes of the disclosure as to what it means to students, I think it makes a lot more sense to say reported to the IRS as opposed to Social Security earnings because they might not understand what that means.

MS. SARGE: Okay, thank you.

MR. RAMIREZ: Whitney.

MS. BARKLEY-DENNEY: So would this be the appropriate place to discuss consequences for low-performing programs or does that come later?

MR. RAMIREZ: Yes, I think that comes later. I guess the whole idea is what happens with sanctions, are you talking about sanctions? Yes.

MS. BARKLEY-DENNEY: I was just asking because the language --

MR. MARTIN: The point is that it's kind of -- it might be difficult to talk about notifications outside the context of why they're right. I mean that the notifications now relate to the -- there's no more warning because there's no more sanctions, right? Is that what you're trying to --
MS. BARKLEY-DENNEY: That's what I'm trying to say.

MR. MARTIN: Right. I didn't say any better than you did. Worse, in fact. But I think everybody knows that that's the -- yes, we can certainly -- whatever comments you want to make.

MR. RAMIREZ: Chris.

PARTICIPANT: I do have a question about the language that the Department proposes in the warning/notification, talking about the last sentence, the sort of a please note.

So Greg, I'm wondering kind of the basis for the reason for including that, things like -- is there any identification on what a significant number would be and then why, secondarily, why this would be included for a program that wouldn't contemplate really having tipped income or may not have students who are except for perhaps the vast outlier being self-employed?

MR. MARTIN: Right. A little background on this, so and again, we need everybody to remember that these are proposed -- this is proposed, this reflects our reasoning and it's not
that we're not -- I don't want to preclude, certainly, I encourage, alternative ideas, if you have them. But I'll give you our thinking on this.

So given the constraints that we're -- I know we're not talking about appeals now, but -- and Sarah discussed some of that when she was up here, the constraints we have with the current appeals process that the inside issues we have, which by the way, are hard and fast, so statistically, you need 30 respondents and Sarah talked about -- and with the 25 percent response rate how many -- with that one being 120.

With all of that, grappling with how to get around that and not having any -- finding any ways to do that, we move to this idea of dropping the -- getting rid of the appeals process. But if we did that, of course, and I think it's understandable that programs would like to convey to students that one of the reasons for schools doing the appeals was obviously affected program eligibility, but to show that -- to demonstrate that earnings of students, actual earnings of students in fields that involved gratuities were
much higher than what was reflected in the SSA
earnings.

So absent, so looking at it from the
way these proposals were written, absent the
appeals -- if the appeals are not there, then
providing some mechanism for schools to be able
to inform students that yes, these are the rates,
and since you wouldn't be able to appeal those
rates, you're disclosing those rates. But to give
some disclaimer around that.

To your question about well, why include
for everybody, we grapple with that as well, but
then we were faced with the situation of -- or the
problem rather of determining which programs could
use the disclaimer and which couldn't and then it
comes down to making decisions about some would
be very easy. Cosmetology, for instance,
everybody would just obviously, yes, a significant
portion of earnings comes from tips, maybe some
hospitality as well, but we didn't want to be in
the position of having to look at every program
and say yes, yeah, nay, whatever. In these
proposed rules, the disclaimers are automatically
attached to the notification. That was the reason.

It doesn't preclude anybody from disagreeing from it. I just wanted to point out how we arrived at this.

MR. RAMIREZ: Bob, then Whitney.

PARTICIPANT: I just have one comment on top of that. I mean so, of course, I disagree with that. I think that there's a vast number of programs, more programs that wouldn't need this disclosure than would need this disclosure. So I think putting it on for everyone is really misleading students as far as the accuracy of what they're reading. It kind of gives another reason why we're putting all this work into creating a metric that we want to say something and it's not going to accomplish that if right after the metric it says well, there could be reasons why this is not right, so you should probably just ignore it.

Especially, as I said, in programs that it would be misleading especially if a school or you know, if someone is intimating to students that the number is not right, because there are students who, I've heard, start their own criminal justice advising
program or something that really isn't what the
vast number -- essentially all the students are
going to school for.

MR. RAMIREZ: Okay, we have Bob and
Whitney.

PARTICIPANT: First, I'd like to go
back and raise the issue we discussed briefly
yesterday and I'd like to know something of the
Department's thinking here. This becomes very
confusing when we -- it makes an assumption that
this data demonstrates poor performance when, in
fact, it may be simply reflective of the particular
occupation that's involved, whether it's
cosmetology or a lot of other fields where it takes
longer to earn money to pay back and whatever.
And that kind of information definitely needs to
be disclosed to students and whatever, but this
language, very pejorative language that says low
performing, when in fact, it may be one of the best
programs in the country. But the field doesn't
respond in the way that some cyber security or some
other field might do.

I think finding new language is
essential if this is going to work as a disclosure system. And the second part of that is on page 3, 2, 3, yes, 3, where you get into this language you just discussed about gee, maybe there's some programs better in other schools. That's an odd thing for the Department of Education to say. It has little, if anything, to do, once again, with the outcome of the program which may be related to the occupation and not the school.

There's a confusion here. A disclosure system should be designed to inform students of the field, the expectations, the payback, all the things related to the performance of the program and things. But here we have sort of a combination of old language in a new system and I would hope some thought can be given to how we clear that up.

MR. RAMIREZ: Thank you. Whitney?

MS. BARKLEY-DENNEY: Yes. So specifically on the question of whether or not this sort of tagged disclosure should come with every program, so my concern about this is a little bit more specific which is that because we don't have a job placement rate that we're working off of here,
or a way of calculating job placement, we don't actually know if the tips that are being paid in that case in particular are something that is current or common within that industry or if it's a way that the person is making up money that they're getting from a job that is not related to whatever it is that they were trained in by the program.

So for programs that we've heard of from Neal and others where like cosmetology programs this is a real issue, I don't necessarily have any problem with this language, but if it's because you're working as a Starbucks barista and you went to an auto mechanic program and so you have some portion of your income that is now derived from tips, I think that that's actually quite deceptive to the borrower.

PARTICIPANT: Could I ask -- I hear what everybody is saying here, but it would be helpful if you feel that this language should only be associated with certain programs how we would determine exactly where the parameters are, which programs would use. I mean some of them would be very easy. I mean it's very easy to say
cosmetology, okay, that's probably a given. But then we get to other programs where the distinction might not be as easy to make.

MR. RAMIREZ: Are there distinctions?

If folks have some ideas of which schools would be more susceptible to this disclaimer, which programs rather would be more susceptible to this disclaimer.

PARTICIPANT: So could I offer a suggestion?

MR. RAMIREZ: Sure.

PARTICIPANT: So is there a concern? That sentence can go either way, I think depending on the program in question. Could it be optional that language? Maybe it's specific like if you're going to include it, this is the language you include, but if you're not, it's okay, to not include if you believe -- if the school believes that it would be misleading to the student based on that particular program, then leave it up to the school to decide whether it's misleading or not and then it could be optional I thought.

MR. RAMIREZ: Jennifer?
PARTICIPANT: So I'll stay. I had a couple of other points, but I'll stay on this one and then do the other two.

So on the TIPs language, so this -- so I'm thinking about what Chris said and I actually think that this language which I, generally speaking, of course, support including, but I also generally think it argues for keeping the appeal process because if you think that there's a significant chance that the earnings is better than why not let the institution demonstrate that in an appeal and then it's factually correct that that's the case. So I just -- and I know Chris, you had talked earlier about appeals as well, so I would just say I know the Department is arguing that they're doing this in lieu of appeal, but I actually think including the statement begs for appeal. If this is the case, then prove it to be true. So that's the one point that I wanted to make.

And then I don't want to speak for -- I mean we do have some programs where this is relevant, but one topic that comes to mind and I
don't want to speak for David, but I'm just thinking
about our last meeting, and it does occur to me
that there are certain professions where you very
well might have a job in the field and I'm thinking
about theater, but you also definitely might have
extra earnings on the sides that might be driven
by tips. So you definitely have a very legitimate
job in the field post-graduation, but then you also
are increasing your earnings through other means.

So I think it would be very difficult to parse
out to your point, Greg, on sort of the
difficulties. I don't think it's worth trying to
even go there because I think it's too hard to go
there, but I would go to the appeal concept on that.

And then I just want to mention two other
-- these are just editorial suggestions on the
actual language in the first sentence, you just
say has not met standards. I think it needs to
say debt to earnings or whatever we're call these.

And they're not called gainful employment any
more, so whatever we're going to call the standards,
just because otherwise it's like this over-arching
like ouch. So that, I would hone in on whatever
term, however we're naming the standards.

And then I don't want to beat a dead horse, but I will. It says this program has not met. And I will -- I'm coming back to the CIP code issue, this has been a huge source of frustration for us and it will be a frustration, I think, across all institutions when it is quite possible for a program to be passing, but be sucked into a CIP code where the overall CIP code because there are four or five programs in it, that program actually is fine, but it's buried. That it's fine because the CIP code is the problem because there are other programs that have issues.

So this -- I don't have a solution, but I'm just pointing out that this program has met or not met whatever is actually in some cases going to be an inaccuracy.

MR. RAMIREZ: Okay, Steve, did you have a comment? Okay. Jeff.

MR. ARTHUR: This is Jeff. I just wanted to clarify. I think when we're talking about any kind of an indication on the -- well, the statement that we make about the performance
of the program that it could be done on the consumer disclosure platform, whether that's a scorecard or whatever, that it needs to be consistent with how we eventually label these, whether it's below average, above average or low performing/acceptable, whatever it is that needs to be referenced.

And the warning, I think, any of the language there could be included on that platform rather than delivered to the student and then a link to the scorecard, so we just directly link them and the information is there, allow comparison.

And I just point out that the -- just a minor grammar error in that students who completed our program graduates did not report. I think you mean students who graduated or students who completed our program did not report. Remove graduates.

MR. RAMIREZ: What page are you on?

MR. ARTHUR: It's page 3.

MR. RAMIREZ: Tony.

MR. MIRANDO: Tony Miranda. Thank
you. So one of the things at the risk of getting hate mail from my colleagues, I think that the creditors might be able to provide some clarity as to whether or not the programs for which they accredit, based on the job placement information we receive, we could determine whether or not it's a position that would be altered by whether they're self-employed or whether or not they -- or is a profession that a good substantial amount of their money is based on tips. So just putting it out there.

MR. RAMIREZ: Jordan?

MR. MATSUDAIRA: Thanks. I was going to suggest another way that you could identify programs where tipped income is common is using the SSA data that you have. On the W-2 form, there's a box that records tips, tips reported to the employer.

I realize not all tips are reported to the employers, but you could just buy CIP code, using the data that you have, calculate either the fraction of people who report any amount of tips or the fraction of income that's accounted for by
tips and just establish, if that's over some kind of minimal threshold, then this disclosure can kick in. If it's not, then it won't.

PARTICIPANT: Jordan, let me ask you a question. Are you talking about so in the field of the W-2, which, of course, Ed wouldn't have, so you're talking about the school?

MR. MATSUDAIRA: That's correct.

PARTICIPANT: The school doing that, making that calculation to see if --

MR. MATSUDAIRA: No. No, the Department can ask SSA to give you back by CIP code the fraction of people in the GE universe that report --

PARTICIPANT: Oh, I see what you're saying.

MR. MATSUDAIRA: -- tips for each six-digit CIP code and just establish by CIP code whether the disclosure for tips is relevant.

PARTICIPANT: So make that part of our Memorandum of Understanding. Okay, I see what you're saying.

MR. RAMIREZ: Tony, do you have a
comment on that?

MR. MIRANDO: Yes, so I don't think that would work in the profession that keeps getting brought up which is the cosmetology world. A good majority of the individuals who graduates end up doing what they call booth renter and so they really don't get into a situation where they get a W-2 at the end of the year, so there's really no way of assessing that properly. And again, if we're doing this to be realistic, then you're not going to get it that way. So whether they go into private practice for themselves or whether or not they go work at a salon, there again, they're really what they call booth renters, so they're just giving a certain percent, giving certain percentage or paying a flat fee. And so they don't receive a W-2.

MR. RAMIREZ: Chris, then Jessica.

MR. MADAIO: Chris Madaio. Although, you know I think that Ed. should make some affirmative determination on the program whether by asking for information from the school itself on what analysis it's done of its students, however,
if that's something you don't want to do or don't think you can do, and I guess another option, I don't love it, would be the school could decide a little bit like Sandy was saying to put this statement on its numbers. However, the statement should be adjusted to make a representation to students that a significant number of this program's graduates make tip income or are self-employed and therefore, if the school is not accurate in that representation, Ed. could ask the school for its back up for that. A state attorney general for its back up for that. So the school has got some skin in the game where if it's making that statement, it should have a basis for making that statement and not just because well, maybe some students made some tipped income.

MR. RAMIREZ: Okay, Jessica.

MR. MADAIO: Could I get a temperature check on that? I don't know. I got a lot of nods on that.

(Laughter.)

MS. BARRY: Jessica Barry. I actually agree with Sandy, too. I think that's a good idea.
And I just wanted to provide another example of a different occupation. I know we have talked a lot about cosmetology schools and that is a very important part of this disclaimer, but graphic design is another example. And I just wanted to share that with all of you while we're making these comments and decisions.

I graduated from my institution, so I started my career as a graphic designer and I work with these students every day. And many of them in their first job, they wouldn't be considered self-employed because they do have a full-time position as a graphic designer or a marketing specialist. A lot of times those positions have lower pay and then they are building their career in those first five years. So they're doing a lot of free-lance work for people through word of mouth, for family members. And that's a significant part of their income.

In my first few years, that was over ten percent of my income, was that free-lance work, and that's what helped me build my reputation and my career.
So the additional income, I just want to give you another example of some -- of another position or another profession where this is very important. And graphic designers graduate from all of our institutions. Just in my area, there's for profit, community college, public, private, nonprofit and they're all trying to make their way in the same way. So I just wanted to lend that example.

MR. RAMIREZ: Thank you. I do want to circle because it did seem like there were quite a few bobbing heads.

Chris, could you restate what they would thumb on your idea?

MR. MADAIO: So this would be along the lines that, I don't know, the wording may need to be wordsmithed, but along the lines that a school would need to be representing, so not this language here that talks about the program measure could be effected if a significant number, but more along the lines of this program has a significant number of students who has program graduates that did not report all of their income, thus reducing their
earnings reported. Something along those lines that the school is representing to prospective students that it has such a situation, thereby needing skin in the game. So it's an affirmative representative to a student.

MR. RAMIREZ: So let's -- do you have a clarification question on that?

PARTICIPANT: Yes, just a clarification. So the school would have the option of not including the tipped income section of the disclosure. Got it. Okay.

MR. RAMIREZ: Let's see a show of thumbs on that idea, a temperature check. Yes.

MR. CHEMA: A clarifying question, Steve Chema. I understand the idea of the representation that Sandy and Chris, you both have suggested here, but I'm wondering as how I would advise any of my clients who are schools as to where the line in the sand is for significance, particularly going back to this discussion we just had about an n size of ten. So it's a fuzzy standard and I would be very worried if it's something that's going to put a school in the cross hairs of an
attorney general action or a Subpart M misrepresentation action.

So can you give any thoughts about how you might arrive at it?

PARTICIPANT: I mean you're a good lawyer, I'm sure you advise clients on reasonableness all the time. There's lots of fuzzy things in the law, so obviously, I can't give you that answer, but if your client thinks it's on the line, maybe you shouldn't make that representation.

I don't know what to say except that if they want to -- maybe Johnson, you want to say something on that.

MR. TYLER: I would just add, I spend a lot of time helping people try to modify their mortgages and if they're not forthcoming with their taxes, it comes back to bite them. If you're educating someone to enter into hopefully the middle class, they have to report their taxes.

And I completely understand the barbers out there. I completely understand that. I have lots of clients like that. And they don't have mortgages that they're trying to modify.
But I think for a lot of these other fields and I'll defer to Jessica on her clients' experience, but even ten percent of your income is not a huge amount of under reporting.

It just confounds me the idea that a lot of people are going to a lot of institutions and not reporting their incomes to IRS and are not getting 1099s and W-2s that they've got to file with the IRS.

MR. RAMIREZ: Stephen?

MR. CHEMA: I appreciate that Johnson, but I think it's also important that you and the table understands that there's not necessarily -- this is not information that all institutions have.

Those that are accredited by Dr. Mirando's association probably have it because he requires them in instances where they are reporting placement rates to back that up with some record that the student is an independent contractor. They won't necessarily have tip income, whether that happens or not, but they'll at least know what may be what the method of mode of employment is.

Schools that are accredited by different
associations aren't necessarily held to that standard. Institutions might not know this, so putting affirmative representation on them that can lead to legal jeopardy is problematic.

MR. RAMIREZ: I guess that my point is if the school doesn't know this, why would we allow them to put this statement next to the debt-to-earnings rate when therefore allowing a student to think that it's true when the school doesn't even think it's true.

MR. CHEMA: Anecdotally, of course, you'll know what the trends are in the marketplace, what the labor market outcomes are, but you're asking me to advise an institution that they're going to be okay, that they have a significant number and I'm still unsure as to what that would be.

MR. RAMIREZ: All right, so just to close that loop, let's see a show of thumbs for the idea that Chris put forward. Again, it's a temperature check, so let's see a show of thumbs. Four down.

So there's a request to do a temperature
check on the reporting, the disclaimer optional.

PARTICIPANT: In essence, Sandy is saying exactly what this language is and letting a school choose these or not. Is that what you're saying?

MS. SARGE: I'm sorry. This is Sandy. Closer to this, mainly because and I like Stephen's word fuzzy.

You guys are trying to -- it seems like you're asking us to be very, very specific in this language, so that we're held to something that we all know is unreported. That's the whole point of making a clarifying statement is it's unreported.

So then we have to go survey and if we don't have enough surveys, then students are asking why do you want to know that? Why is that any of your business?

And you know, come on, at the end of the day and I know I'm the target for anybody who makes an extreme example, even though you guys can make extreme examples and nobody calls you out on it, but here's the thing.
We know realistically that there are industries and there are places in the beginning of careers where people do rely on tips. They rely on tips. They rely on other income, whether it's side jobs. I have a friend whose son is studying to be an electrician. He does side jobs all the time. And she tells him, get it in cash. I'm not saying I agree with that or disagree with that. I'm just saying coming on, there is some reality here about this.

And I think what the Department is just simply trying to do is inform a student, these numbers -- and they would be impacted if all the income might -- is not reported, then the outcome is going to be different. That's just a mathematical fact. So for me, I'm comfortable with this language, but I agree that not all programs would be impacted by tips, so that's why I'm offering should it be optional.

MR. RAMIREZ: Chris, that was a yes. Okay. So let's see a show of thumbs for the language being optional.

It's the language that is proposed, but
it would be optional to the institution whether they want to add a disclaimer or not. Okay, so let me see a show of thumbs. One, two, three -- there's four down.

Okay, we have about three minutes left before we'd like to try to break for lunch. Let's see here. Yes, go ahead, Sandy.

MS. SARGE: I would put out to the group that we change the words that standards potentially to benchmarks and that we also use the terminology below benchmarks and above benchmarks as opposed to low performing or acceptable. I think those are opinion statements as opposed -- and potentially could be viewed as stating a quality thing when in reality what this is doing is the Department has established a benchmark based on good research that you think is appropriate and that this program is above or below it and make it a statement of fact.


MR. KAMIN: John Kamin. I just want to make this short and sweet and returning to something that Jennifer said. I know I'm skipping
a section here, but I think ultimately what we're all focusing on is the fact that it seems almost untenable for there to be no appeals process. And presently, I cannot see any way we could be in favor of zero appeals.

So maybe the conversation just goes to us brainstorming ways to build something out, an appeal that works, but I can tell you right now that the proposal on the table for no appeals and we'll just let it stand as is is not a point where we can move forward on.


MR. HELLER: You know, I kind of look at this language and I look at this issue and I sort of say well, this is why we can't find consensus on anything around this table. And Whitney and some others have already alluded to the fact that it's plain as day when you look at the cosmetology and barber-related fields. I believe that this language was crafted in direct response to the lawsuit that we've talked about earlier today.

So why can't we at least agree on that?
This is obviously something that was done in response to that lawsuit for cosmetology, barber, and beauty-related fields. And if you want to use this language for other fields, then you need to take some affirmative steps to prove it. Because just a couple of anecdotal stories about an electrician taking a $20 tip doesn't make a rule.

And a rule can't capture everything. A law can't capture everything. But it's just disturbing that, and this is some of my colleagues as well, that we can't even agree on this. But I do think that the Department could have been more specific in this language and directed it towards cosmetology and beauty-related subjects.

And as far as an appeal process is concerned, I'm just wondering how you can have an appeals process if there's nothing to appeal. I think that's what the Department was the trying to get to. They've taken away the sanctions, so what exactly are we appealing? Thank you.

MR. RAMIREZ: Whitney, then Jennifer.

MS. BARKLEY-DENNEY: Before we go out to lunch, I'd just like to say this is the second
time that Neal and I have agreed during this negotiation. And I think that is progress.

    MR. RAMIREZ: End then on that high note.

    Are you going to bring us down? Okay, Jennifer.

    PARTICIPANT: So I mean obviously I know it was with regard to one lawsuit brought by one sector, but what about culinary -- what about culinary, what about theater and film? What about?

    There are -- so on the appeal, when you ask why there would be a need for appeal, because I think we all have been saying that low performing that term does mean something negative about a program. And so if there's a shred of chance and a school wants to put the resources behind it in a survey to get to the answer, they ought to be allowed to get to the answer so that they can demonstrate that the program is not low performing for disclosure purposes. That's the nutshell version. So I just to wanted to answer the question.
MR. RAMIREZ: Okay, Neal?

MR. HELLER: And obviously, there are other fields that this may apply to, but again, there should be some affirmative action taken to prove that.

As far as -- well, I don't know if it's an appeal, but as far other income is concerned, and that's what perhaps somebody else who is working in a different field from what they studied for or trained for is earning other dollars, that's kind of contemplated in gainful employment, because gainful employment doesn't speak to the specific amount of money earned in that particular field.

It speaks to your income in general.

MR. RAMIREZ: Okay. So before we break for lunch, because we still need to come back and now that we've discussed the easy part, we have to come back and hit some of the more difficult piece in here. What we were thinking of is Sandy's suggestion that -- and there are a lot of moving pieces here, right? And it's really complicated to figure out how we're going to make all these puzzle pieces fit and which ones are we going to
tackle first, right? Which puzzle pieces do we try to make fit first.

So what we're going to do is we're going to put up a section in the back over there that has each of the issues that are outlined, starting with number two through number eight, right? Scope and purpose, we're not going to put up there, but two through eight, so that as you all generate ideas that you don't want to be dismissed, we could put them up there so that way we could possibly consider them at some point or maybe even have another section over here which we will have where you could try to build areas of consensus. Right? So if there are pieces of that puzzle that look like it can work, let's put it in there. We don't have to necessarily agree on it quite yet, but at least we could segregate the areas of potential consensus. Okay, so we'll set that up and we'll show you what we put together after lunch.

So let's look at one hour, so it will be 5 minutes after 1 when we reconvene. Thank you.

(Whereupon, the above-entitled matter went off the record at 12:05 p.m. and resumed at
1:05 p.m.)

MR. RAMIREZ: All right, let me share with you at least the hopes of what we could do here with that board.

So, during the break we put that butcher block paper up on the wall there, so that way folks could put ideas up there that at some point we will hopefully consider. And the way that I was thinking that we could do that is that there are seven what I will call silos. And you can see them divvied up over there. It's 2 through 8. So that would be Issue Paper 2 through Issue Paper 8, scope and purpose not being up there.

So that if folks have certain ideas like, say for example, the -- the naming, what are we calling, going to call the groups in here: failing, not passing, whatever that terminology. Any ideas that you have in there, I believe that was under Issue Number 2. You go to the Issue Number 2 silo, put your idea up in there and so we can have the ideas up there.

There's Post-Its, there's pieces of paper, tape, scissors. If you have ideas that you
want to cut out, you can cut them out and put them up there as well. And then we will see if we could leave some time for folks to go up there and take a look at and maybe have some dialog.

Which brings up the other two sections there. One section is package ideas, and the other section is possible consensus. Right? So, if there are ideas that, hey, this might work if we have this item, this item, and this item, pack them together, put them into the packaged area there.

And then as folks think that there's areas of possible consensus, then we can move them over into that possible consensus area. Hopefully, we will be able to start to clear some of the clutter so that when we get back to the next go-around we could focus on the areas that are still in -- that are not resolved yet. Okay?

PARTICIPANT: Just to add to that, as Javier was saying, there are these over there. You can do that at any point. You can do that during the break, whenever you have an idea. You don't have to wait until we tell you to do it.

MR. RAMIREZ: You could even write it
down as we go and cut it out, you know, later. So, jot them down. Don't let them go to waste, don't let the ideas go to waste.

All right. So one quick thing. There was a request while Sarah was here; we forgot to get the data. The data was not -- that wasn't forgotten. It has not been approved yet. As soon as it's approved -- as soon as it's approved, we will make sure that we get that to you. Okay?

So, from there, Greg, as far as Issue Number 4 goes, where do you want to go next on that?

MR. MARTIN: Okay. Before we get to the, to the sanctions part we still have a couple things.

If you will refer to on page 3, I believe it's the regulatory site is 668.410(a)(3). We're talking about there's some changes to be made there. So I just want everybody to review them. And I want to give everybody the opportunity to comment on those before we move on and not, not skip over those.

So, for notification required to provide the enrolled students, you see here --
MR. RAMIREZ: I'm sorry, Greg, could you state again where you're at?


MR. RAMIREZ: Where it says "For notification provided to enrolled students"?

PARTICIPANT: So you see there at the beginning we just simply changed "warning" to "notification." That language you see in 3 Roman at (i), is not changed.

And if we move over to page 4, "Indicate whether the institution has made, or is making, changes to the educational program that are designed to improve its outcomes..." So the schools will be required to do that. "...and provide details about those changes." That -- that language is new.

You can see that we eliminated whether or not they will refund tuition fees or explain students could transfer.

We also eliminated "Consumer testing."

"Alternative languages" has been
Let's look down to delivery of students -- delivery to students rather. I'm sorry. Because this is where there are some significant changes. We discussed this at the beginning.

You will note that the institution must provide the notification required under this section to each student enrolled in the program no later than 30 days after the date of the Secretary's notice of determination.

We retained hand delivery in the notification, or sending it to the primary email address used by the institution.

We still retained if they use the -- if they send notification by email, ensure the notification is the only content in the email. There was a lot of discussion as to what actually was meant by "substantive," and so we removed that.

And we also removed, going over to page 5 now at the top, (B). We eliminated "receive electronic or other written acknowledgment from the student that the student has received the email."
And then we retained "Send the notification using a different address or method of delivery if the institution receives a response the email could not be delivered." So if they get one of those bounce-backs, then they would have to do that.

The, below that is the delivery to prospective students. And we've basically changed "warning" to "notification" there.

And the big change with regard to this, at the bottom of page 5, where you'll see Roman (iv), they're providing notification orally to the student or third party if contact is by telephone.

Then below that we struck the special warning.

And just as a reminder of what that was, before an institution enrolled, or registered, or enters into a financial commitment with a prospective student, must provide the warning.

And may not enroll or enter into substantial with a prospective student with respect to the program earlier than 3 business days after they've provided the warning. And then if more than 30 days have passed, to provide another warning.
So that's what was eliminated from the, from the -- what was previously the warning and will now be termed "notification requirements."

So, I will leave it at that and open the floor for comments.

MR. RAMIREZ: Any comments on those issues that Greg just covered?

Whitney?

MS. BARKLEY-DENNEY: Just a point of clarification. So we're only noticing borrowers as to whether or not the program is going to make changes to improve, or we're requiring the program to make changes to improve?

MR. MARTIN: Yeah, the language you're talking about is --- let's go back to page 3. Indicate -- so, at the bottom of page 3, indicate whether the institution will make or is making.

Those are not required -- those aren't, those don't represent changes we are requiring institutions to make. The institution is simply just required to disclose whether or not they have made or are making changes to the program to improve outcomes and provide any details about those
changes. But that doesn't represent a regulatory requirement on our part.

I'm sorry, it represents a requirement to disclose that but not make the changes.

MR. RAMIREZ: Daniel.

MR. ELKINS: Could you all elaborate a little bit more on the details of that new disclosure?

MR. RAMIREZ: I'm sorry. Could you repeat the question? I was distracted.

MR. ELKINS: The last line, you know, improve its outcomes and provide details about those changes.

MR. RAMIREZ: Yes.

MR. ELKINS: Are you leaving that specifically open-ended, or is there an additional set of criteria that you are going to be looking for in those details?

MR. RAMIREZ: No, there's no additional set of criteria. It's just simply if the school is -- it's an opportunity, if the school is making changes to the program to make it better, that they would have to disclose to the students what those
are. But we don't have any -- any parameters around that other than that they disclose whatever those, whatever those changes would be.

MR. MARTIN: I want to make one more clarification here. A correction, if you would. At the bottom of page 5 where it talks about providing the -- providing the notification. And it says, currently it says providing the notification orally or third party -- or by third party if the contact is by telephone. We have eliminated providing it orally.

MR. RAMIREZ: Yes?

PARTICIPANT: How does it read?

MR. MARTIN: Scott. Show me how that reads.

I'm sorry, we made the change, and I just want to make certain.

Yeah, all of our Roman at (iv) is removed, that entire line. I'm sorry.

So all the deletions start there and then they go down to the bottom of 5, continuing on to page 6.

There will be no oral notification
permitted. Well, I mean I shouldn't say that. It won't -- it won't suffice for having made the notification.

MR. RAMIREZ: Okay, I have Chad, Jeff, and then Chris.

MR. MUNTZ: Okay. Chad Muntz.

Looking at page, page 3. Again, thinking about from the public university perspective, not knowing how this measure is going to work precisely, but some of our institutions have 100 undergraduate programs. So would you -- or more, as Pam just said -- so would we advise them on every possible program that their transfer credits could go into at the university?

That would be one question.

The second -- and I will note that we do have state systems that do this. Like in Maryland it's called ARTSIS and we put in all the credits and figure out every program that the student's eligible for for a transfer, for example.

All right. The second question is on page 4, the languages. For our graduate programs we recruit internationally. And that's a big piece
of some of our research programs would the students come from multiple nations. Would language need to be changed for every possible native speaking country that the institutions recruit from?

MR. MARTIN: I'll start with the first question.

Where we say describe -- you're talking about describe the academic and financial options available to students, including whether the students could transfer credits earned in the program to another program at the institution. And, and which, of course, is a transfer.

Yes, the way that -- to answer your question, the way that the rule's currently written it would be, or proposed I should say, it would be for each program that you would be required to do that.

Moving on to the alternative language.

That is, we qualify that by saying "to the extent possible" notification in alternatives to English language for those students for whom English is not the first language. So I think there are, there is some, some latitude there. I don't think that
that would be read to say that, you know, it must be in every possible language.

Certainly I don't know how many. I'm sure that in some schools that students come from all over the world. Is it an absolute requirement that it be, that it be translated into every possible, maybe even not major languages but dialect that a student speaks?

MR. MARTIN: Yeah, for example if you've got students attending from many countries but they are attending in a program that's only offered in English, you might be able to suggest that it's practical to make that disclosure, that notification to the students in English. But, you know, that's fair game for discussion around the table.

MR. MARTIN: I just want to say that this rule's not a hard and fast requirement that every, every language students speak and that every disclosure be in that language.

MR. RAMIREZ: Let me get to Jeff, Chris, and then Steve. Did you have a quick comment on that?
MR. MARTIN: Yesterday this only applied to students who got Title IV aid. International students don't get Title IV aid. So why am I required to notify them of anything?

PARTICIPANT: Yeah, that's a, that's a valid concern. And we'll take that back.

On page 4. Oh, I see what you're saying.

MR. RAMIREZ: I'm sorry. Mark, let me just pause you. Could you get to a mike?

MR. McKENZIE: I believe the definition is on page 2.

MR. MARTIN: Right.

MR. McKENZIE: Any year in which an educational program is determined by the Secretary to be low performing, the institution must provide a notification to --

MR. MARTIN: -- students and prospective students.

MR. McKENZIE: So it should read eligible students?

MR. MARTIN: Well, I'm not going to go -- we could certainly, I think we could certainly
entertain making it, making it eligible students. We could bring that up for discussion. I think the point made about that this didn't have to be disclosed to foreign students who would probably not even have any idea what they're looking at is --

MR. MARTIN: Maybe fast applicants? How about people that apply?

MR. MARTIN: Can I just point out that you can be a non-native English speaker and still be a citizen therefore eligible.

MR. MARTIN: Hold on.

PARTICIPANT: Yeah, I mean it's true that we do have a definition of student in GE which basically is Title IV recipients. But, but the problem point here is prospective students. So we have the issue.

We'll definitely, we'll definitely take that back.

PARTICIPANT: Yes. Or if the program requires a student to be fluent or pass a certain level in TOEFL, you know, be an English speaking student with a TOEFL score, maybe that would be
the determinant that would help you eliminate the
number of options.

PARTICIPANT: I think that's reasonable. I mean, as Steve pointed out,
obviously if a program requires proficiency in
English in your testing, using TOEFL, to see if
they have that proficiency and, in fact, do, then
that would seem to obviate having to give them a
foreign language disclosure.

MR. RAMIREZ: All right. Let me, let me get Jeff.

PARTICIPANT: My comment is, is it appropriate to have a series of notifications,
warnings prior to really understanding, well, the
comparative data across, you know, all programs?
And shouldn't it be based on some outlier or
standard deviation when you compare a program to
the same program across higher ed?

And, I mean I guess could -- I think there would be programs where you could wind up
having the majority of students going into the
program at any institution receiving some kind of
a notification or warning to do something else,
or potentially do something else. And is it really appropriate to be steering people without even understanding what the rings are for any given program?

MR. MARTIN: I mean I would counter that the, I mean the current rule that's, this is what's being required under the current rule. The only difference here is that there are not, there are not program eligibility sanctions attached to this anymore. You're not under these proposed rules you're notifying of, the students of the low performing status vis-a-vis the GE rates, which is what you're currently doing. To that extent, we're not introducing anything new here, we're simply changing the current warning that you have to notification.

So I don't think we're requiring a school -- I mean, right now that's currently what you have to do. You're issuing those warnings; right?

PARTICIPANT: Right. But now this, this would apply to everybody; right?

MR. MARTIN: Yes. This would apply to
everybody.

PARTICIPANT: Yes.

MR. MARTIN: And it's no longer, no longer key to whether or not the program is in imminent, faces imminent loss of eligibility --

PARTICIPANT: Right.

MR. MARTIN: -- in the next year. So if you have low performing rates you make the disclosure.

PARTICIPANT: So this could be a really significant expansion of this kind of a structure; right?

MR. MARTIN: Well, it could, yes, it would be an expansion. It would be an expansion. I don't think it's an expansion for those schools already subject to the rule.

PARTICIPANT: No, it's not. No.

MR. MARTIN: But to those who are not, currently it is.

PARTICIPANT: I agree, yeah. Yeah.

MR. RAMIREZ: All right. I have Chris and then Kirsten.

MR. MADAIO: Thank you. Chris Madaio.
I mean, on the foreign language, you know, my point would be simply because a student's first language is not English, although they could pass a test and be in a program that is taught in English, you know, we want to ensure that a student truly understands this.

So I think that as written, I mean, sure, foreign students perhaps can be written out. But I would caution against completely removing references to when practical provide alternatives for students who, for whom English is not their first language. I think that's still a pretty important thing, to ensure that students understand this metric.

As far as the requirement to notify whether or not the institution will make certain changes, I think that's a small change, but I think that's kind of important because I think the institution should be telling students if they are not making any changes. Because a student may well assume that, for instance, if they don't get any information about changes being made the student may assume the changes are being made.
because the school is not meeting the standards established by the U.S. Department of Education.

So, I think that the school should say if it's not making any changes, that it's not making any changes. And a student should be able to understand that and use that in his or her decision to attend the school.

I do think acknowledgments of the receipt of that for current students, or I think that's an important thing for students to ensure that they are actually getting it.

Obviously, you know, there can be lots of reasons why it's not received. A school improperly enters email addresses; right? Then a student wouldn't receive it, for no fault of the student. And the school would perhaps then learn that the student had not received it if they didn't get any acknowledgments back.

So I'm sure there's lots of ways that that can be done. But I do think acknowledgment of an important change, i.e., not meeting standards -- and we talk about how important a disclosure only rule is going to be, then we should really
go out of our way to make sure students are getting the disclosure.

And, of course, the last point I would make is on the pre-enrollments for prospective students I think it's really important that students are getting the disclosures at the, really at that seminal time of signing up for the school.

I mean, it's great to get it on the first touch or, essentially what it says under subsection new E, but I think having it right before the student enrolls or makes a financial commitment is a really important time.

And I guess I would just then ask Greg or the Department if there's any data on why that's being eliminated on when, if the studies have been done on when disclosure is best or why the decision is being made to eliminate disclosure at certain times?

MR. MARTIN: The decision to eliminate, well, change disclosure rules basically was around the complexity of them and the, and the redundancy required by it. So, we moved from that to just go to first contact, which would, hopefully, would
be before they would -- would necessarily I guess be before they signed enrollment, an enrollment agreement. It was just eliminating what we believe to be a rather burdensome amount of re-disclosure of, re-issuing I should say, of the warning, now notification.

So, no, it wasn't, it wasn't predicated on any, the decision was not predicated on any examination of data regarding when it would be more efficacious to issue the warning.

MR. MADAIO: Okay. Thank you for that.

My comment would be, you know, I think that certainly students are in different mindsets when they're shopping around looking at many different schools than when they're sitting down, ready to sign up for the school. I think it's really important that a little redundancy never hurt anybody for a, again, now disclosure only rule.

That truly is what it's going to be, which obviously I don't agree with, but, you know, having disclosure only but then not doing disclosure very well really doesn't make any sense.

MR. RAMIREZ: Kirsten.
MS. KEEFE: This is Kirsten.

So, actually my question related, I was going to ask for a point of clarification on that providing the disclosure just at the first contact.

So, if I'm a prospective student, I go onto a website. And if I have more information I actually might be asked to put in my information and then somebody will contact me.

So this could be, you know, I could just be doing a regular web search about a bunch of schools. I'm not necessarily that serious about looking at this school. But I put in my email address for them to reach out to me to give me more information about the programs and the tuition.

Is that the first point of contact that then they would be sending me, you know, this disclosure?

MR. MARTIN: We've said in the past that, well, for what, what is first contact, that it's just seeking information about a school isn't, isn't a contact, you know, just seeking information about the school would be the first. We would view it as being the first positive contact --
PARTICIPANT: Active.

MR. MARTIN: -- active contact that the school has with the -- But I guess you're asking, you know, could the school if it wanted to bill that as being, having been the first contact. They emailed us and we sent this out, therefore we complied with the rule; right?

MS. KEEFE: Well, yes. I mean, I guess if it's not defined further, that literally is the first point of contact; right? If they're going to reach back out to me to give me information.

So, you know, I'll just sort of follow up and agree with what Chris said that that is not a meaningful time. I mean, I would encourage providing that no-longer-called-warning at that point in time because I think it's important for me to know that up front if I'm starting to look around.

But I would also agree that it is certainly not a meaningful time to necessarily provide me, or the most meaningful time to provide that information to me. Because I'm not totally serious about this program and looking at the
details. I'm just looking for general information.

I think you absolutely have to require it to be, you know, provided again, especially before you're going to sign the dotted line and get a bunch of money that you're going to spend the next 15 to 20 years paying off potentially, if we're allowing that level of amortization.

MR. RAMIREZ: Yes, go ahead, Jeff.

MR. ARTHUR: I would just expect that the Department will promote, you know, in many ways the information available on the scorecard, of which this would be one element. And that when somebody completes a FAFSA, I wouldn't be surprised if they wouldn't, in the response that they received that here's a link for information to do your research.

And that, you know, I think it's going to be a well-promoted consumer information resource.

PARTICIPANT: I think that's a good thing. It's certainly good to have. I think part of our feeling here though, you know, is that there
is a benefit to having a student receive an individual personal email, as opposed to here's a link, it's available. I think all that's fantastic. It should be available everywhere. But in our way of thinking thus far, we wouldn't see that as, as a substitute for an actual, an actual email or written correspondence to the student saying here is the notification.

MR. ARTHUR: Okay, Kirsten.

PARTICIPANT: Can I just add, to repeat a comment that I made I think the last time around. I also don't think email is the most meaningful way to provide disclosures, especially when you're talking about a lot of people not having access to a desktop computer and having to look on their iPhones.

So, you know, everybody here knows how bad it is to try to look at a disclosure. So, you know, I know it's not currently in the rule. I don't think we're in a position to, you know, add that requirement. But I would encourage schools to provide a paper copy as well to folks.

MR. MARTIN: I think that that's, your
point's well taken. But I think in some cases, especially with distance education that becomes very problematic. So, although I do agree something hand delivered to you is probably better than an email.

I also think in some cases there's -- everybody wants people to internalize, look at disclosures. And there's always this, I think this is how can we get people who would normally ignore everything that they see to take account of something. And that's not always an easy place to go, you know.

How they can get someone to email it.

Yes, people ignore emails.

People ignore things that are handed to them in person as well. So I don't know that we can ever ensure that somebody will read every disclosure. And especially young people.

I shouldn't -- my daughter always tells me don't, don't blame young people; older people do the same thing. And that's probably true.

But, yeah, I take your point. But I don't know that we could go to an absolute
requirement for hand delivery only.

PARTICIPANT: So, have we got off a little bit of a tangent here? Because there is a whole paper on disclosures. Is that -- are we better off discussing that in the disclosure section?

MR. MARTIN: This is not really disclosure, this is notification. Providing of a notification, which is technically while it is a disclosure per se, I guess, it's technically different.

MR. RAMIREZ: Okay, so let me ask, let me put you on the spot. What would be a good notification? What form I guess would be a good notification?

PARTICIPANT: I think regardless of how you notify a student I think you have to acknowledge that they actually received it. So that's, you know, if an email is a way to do that and they acknowledge, somehow acknowledge that they received it and they viewed it, I wouldn't necessarily be opposed to that. But I think just sending them something in the mail, or placing a
phone call, not hearing anything back I don't think is sufficient.

So I think we have to acknowledge that the student received the notification for it to be, for it to be complete.

MR. RAMIREZ: Okay. So no silver bullet. Possible multiple ways of notifying. The key there being acknowledgment.

PARTICIPANT: Acknowledge the receipt, yes.

MR. RAMIREZ: I have Jen next.

PARTICIPANT: So I did want to echo -- I had another reason for my card up -- but I did want to echo what Jeff said about this sort of comparable data issue because it is kind of a weird notice if every -- not every program, but if most programs in the U.S. have an issue, you know, it is a little bit of an odd notification. So it would be helpful to see that data to understand this a little bit better.

But I also did want to just clarify, Greg, something that you said. Even for the GE programs this is an expanded disclosure. I'm not
arguing about, you know, whether to do it or not, but I do want it clear it is definitely expanded because the metric is now 8, 12. You know, the benchmark changed because you only give warnings for fail, or the year prior to losing eligibility.

And so there definitely are, you know, an added number of programs in the mix. And then when you go to ten size -- you know, n size of ten, you're also expanding. So there is, I just want to be clear, this is a change even for GE programs. I'm not arguing that it's a bad one, I'm just saying, you know, I just want it clear this is definitely expanded disclosure requirements for even the GE programs.

MR. MARTIN: Yeah. I'd take that point.

PARTICIPANT: Okay.

MR. MARTIN: But, yes, while it's the same thing being disclosed, the changes we've made --

PARTICIPANT: It's more expansive.

MR. MARTIN: -- do involve -- it's a little more expansive.
On the other hand, I just want to, you know, as a -- just to put out there again that, yes, we have done that. I think we made those a little more, perhaps a little more robust. On the other hand, we've removed, in these proposals we've removed the program sanctions, so.

PARTICIPANT: Right.

MR. MARTIN: So there is a, there was a feeling on our part that we wanted to make sure that moving to this disclosure-only environment that we, you know, ensured that -- and I don't want to say these aren't, again, technically disclosures, but these notifications are meaningful and that some context is placed around them.

So that regardless of where we go and, you know, certainly what the wording will be, all this stuff, all these different things are on the table for discussion. But, you know, they have to be meaningful, they have to be more than just here are some figures around which we'll put no context.

PARTICIPANT: So, I do have an
additional question this time. And I'm a little worried about bringing it up but I'm going to anyway.

So, Chad, and Chad's the one who got me thinking about it, his referencing with regard to transfer students. But it occurs to me we've talked a lot about their changing majors and lots of different programs, and students think about lots of different programs. And so when you talk about notifying the student about a program, what program?

I mean, so, you know, all students about all programs at the institutions that have the issue? Or the students that are in the program that have that? So I'm not clear. Ditto on prospective students by the way, because they might say I'm interested in the following three programs.

So, like I said, I'm still worried about bringing it up but I feel like better to bring it up now than not, you know.

MR. MARTIN: We see all these as issues for discussion. I think the way the world, the way the world is currently written it would be
whatever -- proposed rather, it would be whatever program the student's intending to enroll in, you know, whatever program that is. If that program required a notification, then that student has to receive that notification.

If the student were transferring from one program into another and that required notification, the way the rule's currently proposed, that would require a notification as well.

However, as we said before, we put that out there for comment or discussion.

MR. RAMIREZ: Okay, thank you. I have Whitney then Danny.

MS. BARKLEY-DENNEY: Sorry, I think this is a conspiracy.

Okay, so I have a couple of questions. The first is, and this is just my own ignorance of procedure, but one of the things that concerns me about this is it seems like for the purposes of simplification we're actually moving away and creating a lot of gray spaces where there can be a lot of variation in behavior, even from people
whose intention is to do exactly what the Department wants. And I think that that's always bad; right? Like we need, we need this to be clarified.

So, what is the proposed enforcement mechanism or how will the Department be -- if we were to pass this language, for example, today, if we were all to agree on it, which we're not going to -- but what would be the way the Department would ensure that this is properly enforced and being properly used?

PARTICIPANT: So, things like this get checked on program reviews. Things like this get spot checked when schools apply to expand their Title IV participation to add new programs or new campuses. And it might be something that gets looked at on an as-needed basis if there were any student complaints made. And it would be looked at sometimes if the institution -- when the institution is being recertified.

MS. BARKLEY-DENNEY: Thank you very much.

And then I just wanted to reiterate what both Kirsten and Chris said. You know, I think
that they were with regards to redundancy, that
most social science research will probably show
that redundancy is necessary to some level in order
to help people understand and make them remember
a disclosure. And so it actually, I think, what
we've done here is the opposite of that. In trying
to reduce the redundancy, what we've done is making
it less likely that a borrower is actually going
to see and retain something.

I think, you know, the general rule of
thumb is like politics, because you have to hear
a name seven times before you remember it.
Certainly I'm not suggesting we have to say it seven
times, but more than once seems to be reasonable.

MR. RAMIREZ: Let me get Dan and then
Jordan.

MR. ELKINS: Yes. Anybody can answer
this that might know.

Just to help kind of paint the picture
for Ahmad, Ahmad and I, when does first contact
usually happen? Is that with an admissions
officer? When would we see that take place?
What's kind of the definition for that?
PARTICIPANT: There's no --

MS. FOWLER: It could be a program that they were in in the 8th grade and came to campus.

MR. ELKINS: Okay.

MR. RAMIREZ: Okay, but that's not -- Pamela, that, you're saying that could be the first contact. But you don't believe that that would be what's intended here?

MS. FOWLER: Absolutely not, no.

MR. RAMIREZ: Okay. Mike. Mike.

MS. FOWLER: We run a lot of summer programs for students in the 7th and 8th grade they come on campus and stay for six weeks. That's a first contact.

They go into our potential database for prospective students.

MS. ROSS: May I?

MR. RAMIREZ: So, Thelma.

MS. ROSS: Thelma Ross. Chris, let's start with orientation maybe. If we're talking about a student that is contemplating coming to your -- to a campus, orientation could be a first point of real contact. It could be an open house.
And I'm just using these. It could be an open house; right?

It could, it could be a tour of some sort; right? It could. And so I think that there has to be something other than the broad first contact that we have here. But I'm not how -- I'm not sure how prescriptive we want it to be.

So, someone mentioned something earlier about being careful of what you asked for. So I'm just not sure how prescriptive I would want the Department to be on that. But I also wanted to be realistic for the student.

So if the student came to my campus or one or our campuses and said at orientation this is what I'm looking at, if that is a program that we know falls into this category, then that student then would have the opportunity to have that type of information about that program.

PARTICIPANT: During the orientation process; right?

MS. ROSS: Yes.

PARTICIPANT: Couldn't we just solve this by defining it "at application"? Would that
just solve it for everyone, including the consumer folks, that at the point of application the institution would have to notify. If you want it later, we can have that discussion.

You don't like that? Okay.

PARTICIPANT: Have you ever signed a mortgage? I mean, they give you a million pieces of paper. You're already committed at that point when you sign.

PARTICIPANT: Can I offer one?

MR. RAMIREZ: Just one second. Could you repeat that? I don't think I heard it.

PARTICIPANT: Sure. And it's no, it's not going to deter -- it's not going to make anyone think twice. It might make my wife think twice, but a lot of other people, no.

MR. RAMIREZ: Sandy, you had something on that?

MS. SARGE: Yeah. I'm wondering if I think when -- there's a time when it goes from I'm gathering information, I want to take a tour but I haven't made any decisions, to when I'm really starting to narrow down my choices. And maybe that
is at the point -- and, my financial aid people, forgive me in advance -- but maybe it's once there has been a discussion with the student that they want to meet with financial aid and now start to get some real information about it. Not that they would be the ones providing that information, but the rep or somebody would.

But at that point you're at least serious enough to start talking about the money but you're not yet necessarily committed. And every school does it differently, Chris. Some you do an application just so we have information. And then there's a long process and then you enroll.

And then there's people you meet, and you do a lot of stuff, and then you do an application when you're really serious.

So it's really going to be very -- there's going to be a million different possibilities. So I'm wondering when is the point from a student's perspective that you're starting to narrow it down? And maybe that's what we need is when do you guys think your constituency would --
PARTICIPANT: Paying an enrollment deposit.

MS. SARGE: Yeah, maybe it's something like that, an enrollment deposit or something like that. You know, we need some feedback from your side, too. And maybe Ahmad's got some ideas.

MR. RAMIREZ: I saw a few tents pop up in response to Sandy's comment. I saw Thelma, Kelly, and Pam.

Did you have a response to -- Okay. All right, so let me get Thelma first and then Kelly.

MS. ROSS: Kelly was first. Go ahead.

MR. RAMIREZ: Okay. Go ahead, Kelly.

MS. MORRISSEY: Well, I just wanted to point out, at the time of having a financial aid conversation is really not appropriate. At many colleges the percentage of financial aid recipients would not be representative of all prospective students. So you're not really capturing all of your prospective students.

But I also think at the time of application may make sense before they make a financial commitment of any type, including an
application fee, which in some cases that's the point at which they're making a serious decision.

MR. RAMIREZ: Okay. Thelma then Pam.

MS. ROSS: And this is just going to be I concur.

MR. RAMIREZ: Okay, thank you.

MS. ROSS: Yeah. I don't need to restate it.

MR. RAMIREZ: Thank you.

MS. FOWLER: I concur as well. I get 125,000 FAFSA's and over 60,000 applications for admission for a class of 6,000 every year. I don't talk to one-tenth of 1 percent of those people.

MR. RAMIREZ: Okay. All right. Danny, did you have any additional perspective, based on what you just heard?

MR. ELKINS: Yeah, I'll respond in just a second.

MR. RAMIREZ: Okay. All right, then pop it up when you're ready. I'll go on to the next person.

All right. So, Jordan.

MR. MATSUDAIRA: I wanted to echo
something that Jeff was bringing up earlier, just about using some of the other tools that we have. And I'm just curious to hear the Department's perspective about -- and I guess I want to make the proposal that we consider in addition to the kind of notification and disclosure architecture that's proposed in the rule that we also -- that the Department take on a little bit more responsibility to put some of this information out there.

And it could do that, and it could do it in a way that would facilitate the kind of comparative information that Jeff was talking about by incorporating the data into the scorecard, by having that data automatically linked into the FAFSA on the web. A server where students go and list a number of schools that they're considering attending, and sending their financial aid information to.

So there's a lot the Department could do to push that information out, and push it out in a way that helps to give context for students. And I think, you know, especially again in this
kind of disclosure regime that kind of information
is really crucial for students to make the choice,
and it could be presented in a standardized way.

The Department could put together all
the disclosure kind of information and have
templates that are automatically linked to, you
know, hosted on the scorecard or whatever website
you want. And that, you know, could also help
reduce some of the burden on the institution's part
in kind of populating these kinds of fields.

So, so I'd like to, you know, propose
that the Department do more of that.

And also just wanted to ask, you know,
I noticed that it might be a minor point, but there's
a item here that's deleted about the Secretary doing
consumer testing about how to make the information
meaningful. I'm not going to be able to find it
on the fly. But, you know, I would encourage the
Department to, you know, think about how to make
the disclosures meaningful.

MR. RAMIREZ: Greg, did you have a
response to that or?

MR. MARTIN: We'll certainly, we'll
certainly -- I mean those suggestions about the Department being more practically involved with the disclosure process, we have considered those things in the past and there is no reason why we can't go back and revisit that.

With regard to consumer testing, we'll certainly consider that. I don't -- in this one we didn't, the obligating us to do consumer testing every year, there are budgetary constraints involved with that. But we'll definitely take that back.

I also want to bring everybody's attention to as we're considering, we've heard many discussions here about when this should be done, at application or whatever. But it's language that we struck out in these proposed rules. But those of you who are concerned about, you know, when students receive this, and at what point in the process they are, at the bottom of page 5 we're talking about the special warning requirements that are struck in this language.

But you can see that before enrolling a prospective student, before an institution
enrolls, registers, or enters into a financial commitment with a prospective student with respect to the program they have to provide the warning.

So I just would ask you to consider -- I'm not saying this would be the way it would be -- but for those who are concerned about it being, about the warning -- I'm sorry, notification being issued closer to when the student makes a more real commitment to the school, I would posit that this language here is probably more specific than something about applications, because applications, you know, who knows whether you make an application to the school, who knows whether I'll go or not.

When I actually am talking about a financial commitment, that I would argue is certainly a firmer, a firmer deal. And if we continue looking at that language that was struck, they have to provide this -- they would not, under this former language would not enroll or register a prospective student earlier than three days after the institution provided the warning to the prospective student.
So if you, if people wanted to go back to it, have those kind of protections, I think consider that language there and see if that would not -- that wouldn't address your concerns.

MR. RAMIREZ: Dan, do you have a quick response on that?

MR. ELKINS: Daniel. Is it possible to do a consensus on bringing this back?

MR. RAMIREZ: Sure. Are you talking about keeping the first contact language the way it is but adding those two provisions in there?

Okay, Mark, go ahead.

MR. McKENZIE: So, to Greg and the Department, I'd actually like to follow up on Jordan's comments because I think the Department is actually making a value judgment by making the debt-to-earnings the only metric in the entire higher education hemisphere that we're actually personally giving to every single prospective student.

And so, from my perspective, I believe prospective students are very interested in completion rates. And I'm in a borough where I
have two institutions that have below 3 percent completion rates, and no one is warning the students about that.

So, to Jordan's point, I actually think the Department would be setting a precedent on value that is maybe not appropriate. And I think we're already seeing this in higher ed. And so I'd ask you just to think about that and think about holistically what do students really want to know.

And I'll end with that.

PARTICIPANT: I just wanted to express support for what Jordan is saying with the scorecard, too. I think actually putting this information on the scorecard would reach a larger amount of students and parents and guidance counselors.

At my school we're finding that students are not making that first contact with our college until much later in the process because they don't want to do it with any of us because they're going to get all of our emails and our direct mails. And I think we should take that into consideration: if it's in a public space I think more students
MR. RAMIREZ: Okay. So, Daniel, I'm hearing different, two different approaches there. Is that, is that correct?

MR. ELKINS: Mine is just more of a question of really asking the Department to rethink the information that is relevant to prospective students. It's a second issue of the form and timing of when they receive it.

So I'm a little more interested in the prior rather than the latter.

MR. RAMIREZ: So restate then what it is that you would like to thumb?

MR. ELKINS: I would like to thumb bringing back the crossed-out paragraph on the end of page 5 as a time of when to notify, with no expectation on how expansive those potential disclosures would be to Mark's point.

So it's just the timing.

MR. RAMIREZ: And the strike-outs that you're talking out are B and B(1); right?

PARTICIPANT: B.

PARTICIPANT: I think B(2).
PARTICIPANT: Very bottom of page five, Javier, Roman at (ii).

PARTICIPANT: Roman at (ii).

MR. MARTIN: Yeah, but I'll just clarify that. It would be D Roman at (ii); right?

PARTICIPANT: Right.

MR. MARTIN: Under where it says "special warning requirements."

MR. RAMIREZ: Okay.

PARTICIPANT: That is correct.

MR. MARTIN: The bottom of page 5 and then moving on to the top of page 6.

Steve and I also wanted to just, if we make this, I think it's a good idea to do this, but just to have you consider if, if, just hypothetically, if this language were reinstituted could it be traded for the first contact?

Would the first contact be, just to consider, would the first contact be necessary if you reinstituted this language which would require, remember, would require that they cannot enroll, register, enter into financial commitment with the prospective student any earlier than three business
days after the institution first provided the
warning to the prospective student.

So that would tie it, that would bring
it in pretty close.

And then the language below that, have
it if more than 30 days have passed the, yeah, passed
from the date the institution first provided the
student warning to the prospective student, three
business days after the institution provides
another warning to the student.

So would that, would that obviate the
need for first contact?

PARTICIPANT: So, in reference to this
particular temperature check, I don't want to add
in, you know, saying that there's not going to be
duplication. I just want to at least have -- see
if everyone can agree on this will be a touch point.

You know, a funny military analogy, you know, you
tell them once, tell them what you told them, you
know, and then tell them again.

You know, on our MRE, you know, in the
packet to warm up the food it says "lean against
a rock or something," because someone at some point
said, "Well, there's no rocks around. And since sergeant said --" Well, just lean it up against something.

So I think that, you know, multiple avenues are good. But for this particular temperature check I'm just talking about this one in isolation.

PARTICIPANT: And, actually, I would just say I think first contact is untenable for most public institutions. Most highly-selective institutions it's going to be an untenable phrase. You'd have to -- I'm sympathetic to Johnson's concerns to be effective that that language I think is apt to be untenable.

PARTICIPANT: So the question then is just Roman at (ii).

Let's see a show of thumbs if you would be agreeable to reinstating that strike-out. No, just solo, just by itself.

PARTICIPANT: Instead of?

PARTICIPANT: No, just that would be a next step that we would approach "instead of."

This is just reinstating Roman at (ii).
(Show of thumbs.)

PARTICIPANT: So, I don't see any thumbs down on that. So that looks like there's some consensus around there, yeah.

So, so but do we want to roll on with that and have that discussion that instead of first contact, the possibility of including -- would it be the next two or three paragraphs, Greg?

PARTICIPANT: Would it, potentially could you do something along the lines where it would say at first contact or but no later than at this point? You know, something like that where you would -- you're going to make best efforts basically at -- we're trying to say as early as possible let them know, but absolutely it's got to be before they make, they step into any financial obligation with the school; right?

And so potentially maybe instead of narrowing it down so much, we make it where there is sort of a minimum bar, a low-end bar. But because I think there will be a lot of schools that will attempt to do it the first time they speak to them.

PARTICIPANT: I'll just point out to
clarify before you think -- when you think about this what you just talked about with respect to D Roman at (ii) there. What this does, what it, what the language forces is, it pulls the, it pulls the notification tightly to when the financial contract is entered into.

What it would not do is it would not permit you to give this, to give the warning or notification a lot earlier than you enter into the contract; right? So if you read what it says there, An institution may not enroll, register, or enter into a financial contact -- contract rather, with a prospective student with respect to the program any earlier than three days after the institution first provides the warning to the student.

But it doesn't stop, but it doesn't preclude additional early notification.

And then we have down there if more than 30 days have passed from the date they first provided. So it, it keeps the, it keeps the time frame tight, you know. So I just want to point that out that that --

MR. RAMIREZ: So it may be redundant.
It may be redundant by adding the first contact if those additional paragraphs are added.

PARTICIPANT: Well, I don't know. Yeah, it could be. You know, some people, you could argue that redundancy is not a bad thing. So, you know, you have to do it at first contact.

I do take what was pointed out about the fact that with bringing into play more traditional 4-year colleges, that type of thing, all these programs, the first, the first contact thing does become a little more dicey as to what, what that means, you know. So that that becomes very difficult. I think that is an issue.

MR. RAMIREZ: Dan, did you have any additional perspectives on this based on what you've been hearing?

MR. ELKINS: Yeah. I was, I was a public university student, so I can give my perspective.

I think that when I've requested formal information on a program or just about the university that I was looking at, the University of Michigan, I think that is an okay time for, as
far as first contact, or possibly even going to visit that university, if you do, do a visit with them and they can provide it when they give you a packet of information that they send you home with. I think that's fine for first contact.

I do think that it's important that they see it again when they finally have some kind of a financial obligation or they're committing to the university financially and they sign an enrollment contract. I think they need to see it again. So I would recommend that, that it is -- that the student receives it two times at least.

MR. RAMIREZ: Okay. So that would be very similar to the language that Sandy was just talking about?

MR. ELKINS: Yeah.

MR. RAMIREZ: Okay. Ahmad, do you have a thought on that?

MR. SHAWWAL: Ahmad Shawwal. I am also very sympathetic to Johnson's concerns about redundancy. I think it's -- before I say that, somebody mentioned the FAP side. I feel like that would be a little -- if you look at a college
application timeline that might be a little bit too late, because by that time students have already applied to certain colleges.

And I feel like just notifying students after they have already applied and received their decisions is a little bit too late in the process, because by then you already have a limited set of choices of where you want to go. And, you know, possibly those schools may not have the type of disclosure that you're looking for.

I do agree with Chris and some other people around this table that if we could do this possibly in a way that students are notified maybe A) when they first apply to the institution, this would be through the common after whatever system when requesting an application; and then also again before they enter into an official financial agreement or enroll into that institution.

I think that's not too much to ask. That way students get that information beforehand. And also before they're legally, you know, in some sort of a contract.

So that's all I have to say.
MR. RAMIREZ: Okay. Laura.

MS. METUNE: I feel like I've kind of lost the thread a little bit here. I did have a very specific question, and maybe I'll go to that first.

When we talk about the alternative languages, if the instruction is provided in something other than English does the disclosure have to be provided in that language?

MR. MARTIN: First of all, again, we're not talking about disclosures. These are notifications.

MS. METUNE: Okay, yeah.

MR. MARTIN: So I want to draw --

MS. METUNE: Sure, sure.

MR. MARTIN: -- a separation there.

The rule doesn't require, it doesn't come right out and say that, you know, absolutely every, every disclosure has to be in every language students, students might be fluent in.

What the, I think what the intent of it was was, you know, for instance if the school was enrolling a lot of students into a program whose
first language was Spanish, that those disclos --
those notifications, now currently warnings, be
provided in the, to the extent practicable, which
is certainly very practicable to translate
something in Spanish.

So I think that's why we put that
language in there, not to have a hard and fast
requirement that if somebody is coming from a part
of the world where maybe it's not even a language,
that the language they speak is a dialect of some
other language, that it would be necessary to find
somebody to translate that into that, into that
student's dialect. That's not what we intended.

I think we wanted it to be something that was,
you know, just to send a sense that we thought that
where it was possible, or practical to do so, that
the language of the student, if English is not his
or her first language, should be taken into account
with the warning.

But it's not, again, the way it's
written a hard and fast requirement for a
translation in every language.

MS. METUNE: So I might, I might just
encourage the Department to consider in California
I remember that we had a couple of programs, they
were beauty schools, where they were Title IV
eligible, and the instruction was provided in one
case in Mandarin, and in another case in Spanish.
And so it does seem that if the school is T-IV
eligible, this is the language the students speak,
and that's the language that instruction would be
in, maybe we should make sure the notification is
also in that language.

MR. MARTIN: That sounds reasonable.

MS. METUNE: And then the other thing
I was -- I mean, I don't know, maybe this should
come later, but since I have the mike I'll make
it now.

This conversation about when you
provide this information to a student I think has
identified all of the challenges. We're trying
to get the information to a student in a way that
actually influences a change in their behavior.
You know we right now email our students to let
them know when they've been accepted and to tell
them when the enrollment periods are. And we get
very few responses to those emails. Not a good way to do that.

We struggle with the capacity to do individual engagement with our students, helping them facilitate other programs they might be eligible for. We just don't have staffing in our institutions to be able to do that in a meaningful way.

The timing is so complicated when we have students coming to our campus, open access institutions, and enrolling the same day that they show up on campus. And we want to continue to offer that opportunity to students.

So, I mean all of those things really get me to point that it's not enough. If we really think that giving this information to a student is going to change institutional behavior, it won't.

And I think that even the department seems to recognize that, too, when you include a disclosure that says that institutions will have to disclose whether or not they intend to even make any changes to correct a failing program.
So that really gets me to the point that there does need to be meaningful sanctions associated with low performance. I know we're going to talk about that a little bit later when we get to that strike-out section. But I just thought I'd make those comments now.

And then I thought I would just ask the department, that yesterday you mentioned that there are other enforcement tools at your disposal, so can you just kind of walk me through what that would look like? You have an institution who's got several low-performing programs. They're providing these notifications. They've made it clear they have no intent to change their programs. What would the department do in that case? How would we protect students?

PARTICIPANT: I guess I'll take that one, barring other volunteers.

So there's a range of protections that can be done. First, there's just something that's kind of transparent to an institution, the department staff can have increased oversight on it. That sometimes happens in responses to the
complaints, there will be some checking done that may not even reach out to the institutions if some of the initial reviews don't turn up anything that warrants follow-up.

When you start talking about the funding from the institution, institutions that are in marginal financial condition can be put on providing heightened notice to the department of certain events that may suggest they're in greater financial peril. There's a lot of financial oversight monitoring. There's a lot of attention paid to the annual audited financial statement submissions and the annual compliance audits that come in for institutions to see if there's trends of problems. There's follow up work needed on certain areas if there's patterns of problems.

The Inspector General will sometimes do audits and coordinate some of that information with federal student aid staff.

When the department, and these are things I mentioned earlier, when the Department's looking at applications from an institution to expand its participation by adding programs or
adding locations there will be some additional oversight done then.

One of the first steps that can actually trigger additional work on behalf of the institution is institutions can receive a notification from the department saying they've got to obtain approval. If they're fully certified, they have to get advance approval before funding Title IV aid to students at a new location, in a new program. And that approval may or may not be granted, you know, depending on the problems that are identified there.

Institutions that are being watched more closely may have further restrictions placed on their funding, so they have to do heightened cash monitoring. One, where they provide monthly reporting to the department of the aid that's going to be drawn down, and the students for whom that aid is being drawn down. Or a more restrictive form, heightened cash monitoring.

Two, there is no three, but two, where the documents have to be reviewed by the Department before the funding is approved.
Other than that, then you get into actual sanctions where you, you seek to limit the institution's ability to enroll new students. And that's a restriction that can also be imposed through the new certification if there's a problem.

Can also be a condition that's temporarily required after a change of ownership, if the new owners are not -- don't have the demonstrated history of running Title IV programs successfully.

Now, and then you go into the more traditional things everyone thinks about, which is removing a program's eligibility or institution's eligibility.

MS. METUNE: Let me ask it just a slightly different way, which is when I read this, what I take from this is that the department doesn't really have an expectation or a bright line standard of what a student's earnings should be as compared to their debt. And that maybe there's some buy-in that a student should know this information when they're enrolling but the department doesn't really care. There's not really anything, any sanction
here associated with a college that produces lots of graduates with high levels of debt who are unable to pay back their loans.

So, when I ask about what are the other actions that the department may take, I mean that in the context of is the department going to care if students are unable to take -- are taking on more debt than they can ultimately pay back, if their debt-to-earnings ratios are so out of whack?

And if so, what -- as an institutional representative what I'd like in the current rule -- and I agree there are some things that can be improved -- is that I know what the expectations are of me. What this seems to set up is sort of this fuzzy area of maybe this isn't compliance, but really all we're doing is telling students, and you could even tell students you intend to make some changes.

So I'm just having a hard time figuring out what as an institution I am expected to do, and then what the -- what might happen by the department if I don't do any of the things to change my program?
PARTICIPANT: So the proposal right now is an underperforming benchmark program or whatever language comes up to describe that. That's not a cause for it to lose eligibility in and of itself, it's something that we think students should take into consideration when they're making decisions about programs. Ideally they will have access to look at whether comparable programs offered by other institutions have similar outcomes, have better outcomes.

It could be that they may find -- it could be that a program is only preparing students to go into earnings at a certain level, in which case it may be very important as to the relevant cost of that program, because that's going to have a whole lot to do with how much educational debt they're going to be able to repay, you know, over the expected period. It's a factor.

But the department is going to look at it to see if it's also a factor for an institution that's distressed and is having other compliance problems. This in itself is not a compliance problem. We're taking the idea here that there
could be some very successful programs that put highly motivated students into fields there they're not earning a lot of money. Right? We've heard that at multiple sessions when we've negotiated this issue in years past. And that's, that's a real thing.

The first gainful employment regulations had a repayment rate exception that would have said, in spite of a horrible debt-to-earnings ratio, if a program had a very high repayment rate it would have been okay, it would have passed. Now that, that standard, that threshold was not adequately explained in the rule and so it was struck. And that's why it's not in the current gainful employment regulations.

But there, you know, there is some room here to look and see that there can be successful programs that have high debt-to-earnings rates. But it's also something we're going to look at to see if it's a signal of other problems with the institution.

MR. RAMIREZ: All right. So, we have a few more people in the queue here. Let's see
if we get through them before we take a break.

We have Johnson, Chad, Todd, Tony, Ahmed, and Jen. So, Johnson.

MR. TYLER: Hi. Johnson. So I just have to say I feel like we're doing a lot here by including the non-profits. Ahmad has reminded me, when you apply to college to a non-profit institution where you're receiving four years, you're applying to lots of schools. And I think gainful employment was, you know, to go back, gainful employment was brought up to deal with trade schools and the things that grew out of that.

And I feel like, you know, my, my clients apply to one school. It's the school that they heard about. It's the school that solicited them. It's the school that the neighbor's sister went to and had a good experience with. It is not -- and they're going to a trade. This is not I want to be a welder, I want to be a beautician, I want to do that sort of stuff.

I think all these interests are really going to make it difficult to create a rule that is designed to do a disclosure statement that makes
people informed about what they're going to do in terms of making decisions.

And I really think the problem that we were here to address had to do with gainful employment with respect to the non-degree granting schools. And I feel like we need to go back to that. That is the issue that we could tackle.

If we're going to try to fix all of education and try to have everyone make better decisions about this, I think it's a hard thing to do in a regulation with this many different interests.

MR. RAMIREZ: Thank you. Chad.

MR. MUNTZ: Thank you. Chad Muntz.

Thanks, Johnson. I think that pretty much said it. We have two different sectors going on here. And, again, I remind everyone we are admitted into a university, not a program, and all the conversation that I've heard is, is the institution doing something, not is the program? So, is the institution the bad actor, not the program? But our metric is at the program level in this case.
And so when I look at disclosures, which I think are important, I think the college scorecard is a great opportunity to put these there. That's where students are looking first. That's what we've trained them to do.

But if we have 100 different programs and we have to disclose the debt-to-earning ratio for every single one of them, that's going to be a couple pages like this, and then acknowledge that they're receipt -- received by the student, either by email or by mail, some of our institutions that's like notifying a small city that they know that their water is going to be shut off, and verifying that everything is going to become debt.

The other conversations I've heard is along the lines of, like, a mortgage or a car. Well, that's a lot of one-on-one attention for a couple of hours as you go through all that paperwork to get those, every single disclosure, know all the schedules, understand every little piece of this. That's the kind of oversight that I think is what is asked for. And I think we can provide that level of information. But to have it hand
fed to 100,000 applicants is a lot to ask for, for one institution to verify.

And so I just, I throw that out there to think about how much do we want to disclose and inform people versus how much do we want to acknowledge and ensure, almost kind of a parental role here, to make sure that they actually did read it. And I understand the difference in sectors of which students are looking at. And I understand there might be different kinds of disclosure for different segments.

But this one-size-fits-all, I think Johnson said it perfectly, creates different burdens for different segments than might have been intended.

MR. RAMIREZ: Thank you. We have Todd, Jen, Jessica.

MR. TODD JONES: Well, obviously I'm going to echo Johnson's comments, you know, on the problems that are arising here. And I'm going to give you just a couple of nice, ripe examples to look at in this section, two different parts of it that are creating that problem that if you don't
change it, you know, the number of public comments you're going to get, the number of letters talking about the ridiculous practical application of some of these ideas is going to fall.

Let's start with the concept of first contact. In the state of Ohio last year, 68,365 high school students took college classes. In baccalaureate classes, if you have a failing program -- most, most baccalaureate programs will have a common core for the first and second year.

It may not be a common core of classes but types of classes.

And so if you have a single program identified for a given year under that baccalaureate program, everyone who is taking that, think of it as a base, is theoretically a potential participant in the upper level program. There are some institutions which do not permit one to designate which program you are going into until your sophomore or even end of your sophomore year.

Well, obviously that's going to hit a lot of people, and meaning the whole of the institution is going to end up giving this notice
related to that program in a problematic way.

But let's back up to the high school problem. So, out of these 68,000 students who last year in the state of Ohio took a college class, for any of those who go to an institution that's noted here the notice would have to be provided. Did you know, 1 percent of those, roughly 1 percent, it's under, but it's roughly were 7th and 8th graders? Yet, if we set it up as a system where first notice is the notice because you're in contact, you're actually talking four, five, or more years until that student is actually enrolled.

Well, what a colossal waste of time at the 7th grade year and for having any effect when that student is actually reaching an age where these decisions need to be made because this is entrance into a program for those who are participating.

Let's take a small step further. Let's talk about the issue of contact. That's 68,000 students who enroll. Of those, there are a whole host more that actually have first contact with collegiate participation. So, literally the
numbers are going to rise into several hundred thousand because there's a lot of students who receive contact from institutions about particular programs who don't ultimately enroll in those programs.

Now that's, that's a theoretical universe. Let's say it's only a small portion of the 68,000 are at such institutions, but they look at multiple institutions. Or, if you're shrinking the couple hundred thousand down to just tens of thousands, we're talking tens of thousands of high school students. And is the first thing we want to do as a matter of policy in this country to encourage distribution of material which on their face cause concern about whether to go to college?

I mean, one of the problems we have is convincing people, particularly in states like mine, that going to college is a good thing anymore. There's still great welding jobs out there, and you don't have to have a college degree, you don't need extra education. We can have that separate debate. But is that what we want? Do we want to buttress that idea by flashing warnings in front
of parents of kids who are 13, 14, and 15 years old?

I mean, there's going to need to be more sophistication in what the cut line here is and how you're going to go about it. And what this means, and I guess it's a matter of the department chose to go down the rabbit hole of adding baccalaureate degree and masters and doctoral programs. And this is one of the implications of having chosen to do that.

Let me take you down a second hole.

And that has to do with the transfer language.

MR. RAMIREZ: And the last one?

MR. TODD JONES: What's that?

MR. RAMIREZ: And the last one?

MR. TODD JONES: Well, look, I waited a half hour for a chance.

(Laughter.)

MR. TODD JONES: I didn't get a chance.

Everyone else was added on.

MR. RAMIREZ: All right. All right, go ahead.

MR. TODD JONES: Go back to page 3,
talking about the issue of transfer, notifying students about transfer of program classes. In masters and doctoral programs you have an increase in the number of programs or classes that are individually tailored to students. So if you're in a masters program and it has a form of independent study, or you're in a doctoral program, or it has a cross-disciplinary piece of study, really if you have any program that is triggered at the master or doctoral level the process of going through and sorting that for that masters or doctoral program is going to be a complete mess.

And every institution is going to have to review it every single time and go through literally individual transcripts and individual curriculum agree -- research agreements between professors and students because that's what the class is.

And if you want to talk about the transferability of an independent study program to another program, you're going to be in a rather difficult position to have to account for that for every single class of every student who
participated in the program because every student
is going to have some degree of that small
variability, unless it's a completely packaged
class where there is little discretion at all.

I'll take it a step further. We have
an increasing number of cross-institutional hybrid
joint degrees. In my state you can go to four of
my colleges who have agreements with public and
independent colleges for 6-year B.A. or B.S./J.D.s.
You get a law degree and an undergraduate degree
in six years. Where are we going to start cutting
the lines for these?

And if it's the J.D. program at one
institution that is proving problematic, but you're
still in the undergraduate program, are we going
to be giving knowledge about transferability of
those J.D. credits when you may or may not even
be into that portion of the program? And how, how
are you going to structure the obligation to give
the information?

If, if -- no, I don't want to cite any
particular college -- but if law school "A" is the
college that has the problem and it has joint
agreements with undergraduate institutions "B" and "C," is it "A's" responsibility to notify students about the nature of these programs and the transferability of first year law classes, second year law classes? Or is it the responsibility of institutions "B" and "C" to now be giving that notice to students who have yet to actually step foot in the law school?

I don't have the answer to these questions. But it's the department that chose to go down the rabbit hole of drawing in all of these baccalaureate and masters and doctoral programs, and it's the department who's going to have to figure the way back out because on, on issues as particular as this.

So I can't offer you a solution -- actually I can. We talked about that yesterday, it's that these programs are outside the scope of what we're talking. But that's your choice.


MS. BARRY: This is in response to what Johnson said.

I think I want to come back and just
to kind of remind everyone that what I believe Jen said yesterday that proprietary colleges have changed a lot over the years. We have evolved. And while there are some schools where a student is applying to that school, and they're taking that program, that's really not realistic for all of our schools.

For my school, you know, students are looking at the arts. They're applying to probably three different schools, maybe one in Ohio, another one on the other side of the country. So this kind of one program/one application is not relevant to all of our schools.

And I think, you know, what we're hearing from all of you, especially from you, Chad, gainful employment for our sector has been very hard to enforce for all these reasons that you're stating. You know, it's really complicated with when do you tell a student? And, you know, even with a small institution like mine with 200 students, we still are receiving two to three thousand leads a year. You know, so I, I feel your pain. It is a very complicated process to work
through.

MR. RAMIREZ: Thank you. Kirsten.

MS. KEEFE: Kirsten. So, this is a very minor, small point, especially considering some of the bigger issues at play. And I apologize if somebody already made it about the LEP, but it just occurred to me.

There are, I believe, schools that are providing programs, and certificate programs, and degree programs just in a language. So, I actually think that that piece should really be strengthened, that if a student is applying for to attend a school and attend a Spanish-speaking program to become a whatever, then the notice has to be provided in the language in which the course is going to be taught.

MR. RAMIREZ: Yeah, Jen then Whitney.

PARTICIPANT: I just wanted to go back, I wanted to go back to the issue of timing on the notifications. And so we've sort of had consensus around a time, I'm going to use the term a time of enrollment, but the language from before when we were discussing the first contact.
And I just want to point out, and maybe it's maybe everybody else realizes it, too, but I sort of brought myself back to it. We do, you do, the department does still require within 30 days of learning, of an institution learning that it has a, whatever we're going to call it, low performing or whatever program, it does require that the template be updated to notify that with the disclosure. I mean, that is in Issue Paper 6 and in Issue Paper 4.

MR. MARTIN: Correct.

PARTICIPANT: So I do want to just point out that in terms of redundancy -- and I get that it's not a direct communication to students -- but I did want to just put a level set so everybody, so we were, you know, sort of all on the same page in terms of how many forms of communication there are.

It will be on the -- right? I mean, I'm reading that correctly. Right, Greg?

MR. MARTIN: You're correct, yes. We didn't change the language. We didn't change the language there, we just changed it from wording
notification to, yes, within 30 days of receiving notice from the Secretary you would have to update your template to include that notification.

PARTICIPANT: Okay. And, again, I just want everybody to be clear. I'm not suggesting that that replaces, like, a direct communication to students or anything. But I did want to point it out because there is a public-wide, you know, disclosure being made. So it's not just a disclosure to students and to prospective students. So there is an overall disclosure. So I just wanted to point that out.

So it would be, so as it stands under this, if it were, it would be the disclosure -- and I am using the word "disclosure" now on purpose -- there would be the disclosure of the notification, if you will, on the template. And then in addition there would be, if the consensus approach is taken, there would then be at the time of enrollment those couple of pings before the student enrolled.

So I don't know if that helps people get to consensus at all but -- or not. And, again,
people might want redundancy on this contact. So I did want to just level set that.

MR. MARTIN: Would that help bring consensus to that, to that piece? Or is the redundancy that's being discussed vital?

PARTICIPANT: Can you repeat that?

MR. MARTIN: So, Jen, would you want to put, would you want to put a specific item that we could thumb? How would all that look together?

PARTICIPANT: Well, again, I sort of purposely did this in the form of a question because I'm not sure what my own view is. So I just want to preface that.

But it was more to level set because, like, we were so focused on when the notifications were going out to the student. But I did want to just bring everybody back home to the fact that in addition to the notification that would go out at the time of, I'm going to call it the time of enrollment, but at the time of enrollment, in addition to that there is a 30 day requirement that was within 30 days of the institution learning about the program's -- I don't even know -- results, that
that result be posted on the template.

So there is that added piece. So I don't know, I don't know if that -- so, I guess the proposed -- so I guess my question is with the addition, with the consensus that we had reached and the acknowledge -- I don't want to use the term acknowledgment -- with the acknowledgment here that the disclosure is also getting updated, you know, is that sufficient? Or are we saying, no, we still need an additional consumer -- So I'm not really ready to, I mean my own opinion I really was raising it in the form of a question to see if there were, what people's thoughts were on it.

I mean, we can thumb it and ask whether there's consensus around that. But I think we already did thumb that.

MR. RAMIREZ: Any comments, any thoughts on that?

(No response.)

MR. RAMIREZ: All right. I'm going to see if folks want to stretch their legs. All right, so let's do this, let's take a 20-minute break or a 19-minute break. We'll be back at 3:00.
And if you have an opportunity to throw some of your ideas that you want to make sure that at some point are considered, go ahead and put them in the section over there that it applies to.

Thanks.

(Whereupon, a recess was taken.)

MR. RAMIREZ: Okay. I know that we still have a couple other items. Apart from the striking of the sanctions piece there is a couple other little pieces in there that we need to hit.

But I think we're all seeing how quickly time goes by once we start getting into any topic at all. And so I think that I'd like to use the last couple hours here to at least start the discussion on the elimination of the restrictions -- I'm sorry, the sanctions.

So, Greg, is there anything that you want, any context that you want to add to that before we open the floor?

MR. MARTIN: No, not really. I'd just refer people to that, that area on page 7 where it talks about under (b) restrictions, and you can see what was struck there. As we discuss the
removal of, proposed removal of program sanctions
I would encourage people to think about if you favor
restoring some type of, some type of ramification
for having rates that are whatever we're going to
call them, is do you have any suggestions for what,
what that might be, you know, other than what was
here, obviously:

You know, restrictions on program
growth, things like that; any ideas you might have
about what types of ramifications there could be
in lieu of what currently exists. I'm not going
to commit the Department to doing that or not, but
I would like to hear people's ideas about where,
absent this, where we would go as opposed to just
are no, what we proposed here are no program
sanctions. What we had previously were the program
sanctions, you see here. Is there anything else
people would like to put on the table?

MR. RAMIREZ: Okay. I think that was
pretty clear. So, thank you. I appreciate that.

So, Laura, your tent is up. Do you want
to start, start us off?

MS. METUNE: Sure. I just wanted to,
hopefully, try and limit the scope of the conversation around the area where the Department currently has authority to implement sanctions. I just was hoping we could avoid sort of this theoretical conversation about if Congress changes where we have, the Department has authority to regulate gainful employment and sort of table that. And maybe we could just focus some parts of the conversation on the existing authority that the Department has.

That was my request.

PARTICIPANT: Well, like us, but yes, currently we would only, as far as the sanctions we see here, we would not have the authority to extend the loss of program eligibility sanctions to all institutions, only GE, only GE -- I shouldn't say institutions -- to programs other than GE programs.

MR. RAMIREZ: Okay, great. That narrows the focus. So, yeah, you had something else, Laura?

MS. METUNE: Oh, and then I was just going to -- with the idea of throwing other things
on the table, I like the conversation that came up a little bit earlier -- and I think Jordan was the first person to mention it -- about having multiple ways that a college or program could show that it meets the quality assurance, like including repayment rates in addition to debt-to-earnings.

And then I was also going to say that I personally would be interested in engaging in a conversation around, within the scope of gainful employment, are there programs at proprietary institutions where it's not appropriate, where we could make a distinction between those types of programs?

So those are two things that I would be happy to engage in discussion around.

MR. RAMIREZ: Sandy, then Whitney, then Johnson, Jennifer.

MS. SARGE: So maybe -- this is Sandy -- as opposed to looking at a sanction, maybe the suggestion could be that if somebody is below the metric or below the benchmark that there would be a requirement of improvement or, you know, something that we would have to do. So rather than
it being something that would be viewed as a
punishment, more look at it as an opportunity to
improve and put something around that.

And I'm not sure if that falls under
the Department of Ed or somewhere else. But I would
look at it as an opportunity for improvement.

MR. RAMIREZ: Opportunity to improve
or see it as punishment. Okay, Whitney.

MS. BARKLEY-DENNEY: So, on both of
these point, Sandy, starting with you since you
spoke last, I think I am amenable to the idea that
there would be some sort of opportunity to improve,
whether that's through, like, a change in the
program participation agreement or all these other
things that I don't really know that much about
but just throwing out there, you know, I think that
that's totally possible.

I think what I would want to see at the
end of that, if there has been a time period in
which the improvement hasn't happened then we have
to talk about loss of eligibility. But I'm totally
fine with the idea of ramping up to that instead
of going straight to it.
The other thing I wanted to say is I totally agree with Laura. I like the idea of adding something like a repayment rate as another metric. You know, when it was thrown out by the court several years ago it wasn't because they said repayment rates can never, ever work in this context. We just had to get to the right one.

And I think that we have more data available now, and understand repayment rates better, than we were positioned to in 2013 when we did this rule, and hopefully can come up with something.

MR. RAMIREZ: Johnson.

MR. TYLER: I'll be short. I agree with it. I think there should be a sanction after a time period to remediate. And the time period to remediate should be enough so that you're not using data of students who already grad -- who were enrolled and completed their courses before their remediation occurred.

So I think there has to be a relatively short time period. But I also think you have to be able to, if you're going to measure results that
way, you have to be looking at a new cohort. I think the way it was proposed before was that we just kept looking back at old failing student outcomes even before the school was advised that they were failing.

MR. RAMIREZ: Jen.

MS. BLUM: So I just want to seek clarification -- and it's good that Steve's back -- from a legal standpoint question. So, Greg, you said that yes, yes, yes, if we're doing gainful employment the only -- you know, we'd have to limit, or in terms of an enforcement we'd have to limit it to gainful employment programs.

But per something Steve said earlier, you know, if we were to keep a disclosure -- right? -- so we have disclosures and we have disclosures forever, but the Department could take those disclosures under non-gainful situations and decide that, yeah, that one looks like we could do a program review.

I'm just saying. I'm not recommending it. But I'm just acknowledging that actually I don't this has to be a conversation if we're putting
back in an enforcement, I don't actually think it has to be just for GE programs. I think there is, I think there's legal authority to decide, the Department can decide any time it wants -- didn't you say a few minutes ago that if a program were sort of floundering for a period of time that could, in the context of an overall, not just because of that metric, but for lots of reasons you could decide to do a pro --

So I just want clarification that there are enforcement tools, and we could have a conversation -- I'm not suggesting it but I just want to be clear -- that there are tools to address low performing programs outside of gainful.

PARTICIPANT: So, one of the reasons that I went into as much detail as I did trying to outline all the different ranges of oversight, and oversight at some point becomes enforcement and can lead to sanctions, was just I understand, I think we all understand there are a range of things that can happen to institutions that become marginal, if a program with this failing metric is determined to be substandard, right?
And we can look at the kind of things Whitney's suggesting, which is alternative measures perhaps that could be considered if they could be justified.

I think if you're talking -- I think we all think that just premising the loss of eligibility solely on a debt-to-earnings metric is much more of a stretch for institutions that are not subject under the HEA to preparing students for gainful employment or recognized occupations.

So it's a different thought process for looking at what it means to have a weak debt-to-earnings measure here and how that plays out over time.

MR. RAMIREZ: So that's a good example of how we could quickly go down a rabbit hole. So I just would remind folks that not taking away from that debate at all but let's focus our discussion on what we know we currently have authority over. Right?

PARTICIPANT: But he is acknowledging he does have authority over a broader swath. So it is not a rabbit hole.
MR. RAMIREZ: I think that, I think that what I was saying, though, was that as far as the gainful employment goes, that is pretty clear. There may be steps that might lead to sanctions in the other one with other institutions. And what those steps are before you get to that point, I don't know if we want to go down there.

PARTICIPANT: So, in my mind there are two different frameworks to work from here. There is the keeping with the -- so in what's been presented here, and we've kept disclosure. And then in the event -- and, again, I don't have a position, I'm just trying to get the ball rolling on two different concepts that would include some form of enforcement. And, again, I'm not taking a position.

But if you have kept the disclosures and then we were to decide -- you, we, whatever -- that if the program had, you know, X for this period of time, you know, the Department, there are -- as Steve has outlined himself, there are all sorts of tools in the toolbox for the Department that could trigger the Department to decide to do
something.

    Or -- so that's one frame, that's one regulatory framework. Or, and I guess I'm asking this in the form of a question to understand what we're working off of, or are we talking about then the disclosure piece that we just discussed, we're no longer talking about that but now we're going back to putting GE back in and we're only talking about those programs?

    So that's what I -- I am truly doing this in a form of a question. And maybe it's a question back to Laura. You know, to whom are we adding it back in? And I don't think the answer is it has to be only GE programs. I think the Department does have the authority in certain other contexts. So I don't think it's a rabbit hole, I think it's actually in order to have that conversation. We need to understand what we're talking about and which programs we're applying it to.

    MR. RAMIREZ: Okay, Laura.

    MR. MARTIN: This is Greg to clarify. That we're looking, I think we need to look at
this within the context of how these proposed rules are written. So, when we're thinking about what possible outcomes there could be for having less than satisfactory rates, or however we're going to characterize that, keeping in mind that what we have here, what we currently have, the loss of program eligibility based on, solely on D/E rates is something that we, as Steve pointed out, would be very difficult to extend beyond GE programs. That's our authority.

But outside of that there are other, I think there are other things we can consider. I would leave you with that.

MR. RAMIREZ: All right. So, it seems like, though, that we could take two, two tracks there; right? So let's focus on one and then the other. Right?

So if exploring the possibility of, for instance, for programs outside of GE is something that this group wants to do, let's do that after we discuss this piece here.

So, so what I'm hearing is that there may be a possibility for the Department to impose
some type of sanctions on underperforming programs that are not just GE programs. And what I'm trying to do is have the group focus their discussion on one piece at a time. And so, if that is something that this group says we would like to explore that, we could do that.

But I want to keep this discussion right now on what we do know as far as the GE programs. And if there are going to be sanctions, what would those sanctions look like? Or how would we deal with underperforming programs, not necessarily sanctions? Right? How do we deal with underperforming programs and that are GE programs?

So, I'm trying to keep this conversation narrow so it doesn't balloon into a bunch of different conversations. If we need to get to the other conversation, we will, as far as other programs outside of GE.

PARTICIPANT: Well, the way the regs are currently written here we couldn't think of sanctions -- I don't want to call them sanctions. We couldn't think of ramifications -- I like that word -- restrictions, ramifications without, you
know, the only way that we, the only way that we could consider what is currently here would be if those -- because they currently are sanctions -- are applicable only to GE programs.

So that would be, that would be considering that would give you a bifurcated rule where, you know, there would be grades calculated for all programs, but only this segment would be subject to loss of program eligibility. That's the only way that could work here. Unless we come up with, think of other types of ramifications/restrictions that are not, not these program sanctions.

MR. RAMIREZ: Okay. Stephen, if you want to add something to that?

MR. CHEMA: Well, I mean other than just to explain why, as someone who represents both gainful -- institutions with gainful employment programs and those that have none, that I'm not in favor of sanctions, including loss of eligibility, at this time. Everything we've heard since we've, you know, come together is pointed towards there are some flaws, things that need to
be ironed out.

Some of us have acknowledged that school or programs could have below benchmark outcomes and still be good programs. We have discussed issues with arriving at proper earnings, how debt should be calculated. And how on Earth can we provide an equitable appeals process? We haven't solved any of those things.

And I think unless we come up with some very good proposals, it just doesn't make sense to get to loss of eligibility precisely for the reasons that Mr. Finley said. You know, this is not in and of itself a compliance issue, it is a red flag that can be waved, that should be waved, that the Department should and can look into. And there is a vast array.

Having this gives the Department another data point to help it with its compliance regime. I think that's enough.

MR. RAMIREZ: Jordan.

MR. MATSUDAIRA: Thank you. So, I heard a lot of people over the last few days, and especially in the first session that we had back
in December, express the view that they would be okay with sanctions if we could get the metrics right. And in that spirit, I want to echo some of what other people have suggested, which is trying to think about having other metrics that might solve some of the problems, some of the deficiencies that have been pointed out with regard to debt-to-earnings.

And I think if we think about the 2011 structure of the rule, as kind of Whitney and Laura were alluding to, that have a retainment rate in it, and it was either/or, if a program was passing either a debt-to-earnings metric or a retainment metric then, then that, you know, could be an alternative structure that would kick in sanctions.

Now, again, I think we should think about, you know, what would be appropriate, not just, you know, what would be appropriate sanctions separately.

I want to say a little about what a repayment rate could look like. The repayment rate, as has been noted, was thrown out for being arbitrary, essentially because the Department
takes just a kind of a relative threshold in the
distribution without pegging it to really some
notion that it was bad in an absolute sense.

You know, I think we've kind of learned
more about these things. And there are a lot of
things that could suggest themselves. We could
benchmark the repayment rate against a very
conservative repayment schedule. Are you behind
relative to a 20-year repayment schedule?

Are the majority of students in a
program behind relative to a 20-year repayment
schedule?

Are a majority of students either
defaulting on their loans or in negative
amortization on debt?

Some kind of very conservative measure
like that as an alternative way of getting out of
things. So, you know, why have both? The
repayment rate allows programs that have, you know,
perhaps mis-measured earnings and so on, but their
graduates are going on to be able to repay their
debt. So that kind of gets you out of that problem.

And then the other kind of concern that
I heard is we don't want to go just with repayment because the institution doesn't have a lot of direct levers to be able to alter that, whereas you can control debt to some extent, and so the debt-to-earnings metric gives you institutions a way of kind of controlling your destiny a little bit more.

So that's kind of an alternative structure that respond to a lot of concerns. I realize maybe not all of the data concerns that I've heard. But that seems a reasonable approach. So that's kind of one set of things.

And then I wanted to just ask kind of two questions of the Department. So, one is on the data requests. See, I feel like today we've spun our wheels a little bit on items where, you know, I had made several data requests. And there are a lot of other people around the table who kind of made requests, so, of data items that the Department definitely has already and are not hard to produce. They can certainly be produced in a pretty finite amount of time.

So I just want to ask for an update on
when we can expect that data? If the data's already been done and it's just waiting for approval, then it feels frustrating that we're here spending a lot of our time waiting for that data to become available.

And then, lastly, I want to ask just for the Department's view on why the rule structure has been altered?

And in particular I want to ask whether the Department's current view is -- thank you -- whether the Department's current view is that disclosures alone are sufficient to pursue the goals or to achieve the goals that were described in the original rule, namely, to protect students from accumulating too much debt that they wouldn't be able to pay?

Or is the rationale that, you know, reducing the administrative burden for institutions kind of justifies whatever kind of increase in the trouble that students might experience with borrowing would entail?

MR. RAMIREZ: Greg, do you want to handle that?
MR. MARTIN: Regarding the data requests, you know, we've taken all those data requests. We're probably not going to be able to respond to all of them. Those that we were able to respond to we have the data. However, we have not been cleared to give it to you yet.

So we have indicated the need for that.

But, again, I can't -- I don't make those decisions and only the people clearing it do. So while I understand it might be frustrating not to have it right now, I don't know what else to tell you other than that. We'll have to wait till it has been cleared.

And at that, we'll give it to you as soon as possible. I'm not withholding from you anything that I currently have, you know, that's been cleared or anything. We're still waiting for that process to go through. So, when we get that approval I'll make sure we get the data to you post haste.

Also, regarding whether or not disclosures are consistent with what the intent of the rules were, they're -- I don't, we don't
consider that, we're not looking at the disclosures with respect to the prior rules. The disclosures that we've proposed here are consistent with the intent of this rule as it is before you. I'm not going to discuss their connection with either the current rule or the one previous to that. They certainly are consistent with what we have proposed.

MR. RAMIREZ: Okay, I have Laura, Mark, Bob, and Jen.

MS. METUNE: I think I want to defer. Can I defer?

MR. RAMIREZ: Yes.

MS. METUNE: Okay.

MR. RAMIREZ: Mark.

MR. McKENZIE: Mark McKenzie. Thank you.

There are a lot, a lot of non-starters in this whole process. And in coming back to Greg's kind of question around this is, you know, are there possible solutions.

One of the things that I think Tony had mentioned earlier, actually I think there's an
entire accreditation framework that is available, not that accreditors, that I want to put that burden on them. But when, when there's a triggering event, even like heightened cash monitoring one, the Department notifies the accreditor. The accreditor, you know, has to start taking notice. And that kicks in a whole process on the accreditation side. So I think whether -- I don't think you have to call it a sanction. You don't have to call it a ramification, it's a, it's a process piece on the accreditation side that there's notification this particular threshold has not been met.

And I can tell you from my perspective as the specialty accreditor that we're probably in the best position of anybody to identify what's going on with a particular institution when it comes to particular thresholds. So the process that would unwind for us is we've notified the institution, or actually the institution is supposed to notify us also within 30 days. That would automatically trigger a review, some type of monitoring report: okay, what happened?
What's the issue?

They have an opportunity to explain the issue in our case and then come back and say, look, these debt-to-earnings ratios do not apply because I've got 80 percent of my graduates are self-employed and they're not making money, and it's going to take five years before they're doing it. But we have repayment rates, default rates. We've got board scores. We've got all kinds of other things that we're evaluating.

So the accreditation process can step in and evaluate that. For us, we'd look at it as a potential non-compliance with Commission standards. A school has two years to fix it. If they don't fix it, then you take adverse action. If they've made good, you know, good faith effort and you have a process in place to evaluate that, then you can extend. But at some point it does have to be resolved.

So I think that's a process piece that may allow follow-up without this document having to get really challenging.

Now, it's going to work for specialized
accreditors. The challenge would be for big regional accreditors and, if this includes all programs, it may be much more challenging for those institutions.

So I'll just put that out as an option.

MR. RAMIREZ: Thank you. Bob.

MR. JONES: Well, Mark has made a point that I was going to make. I will take his last comment and say as one of the larger accreditors -- and I sit on the accrediting commission -- it is exactly what should happen. We are at a juncture where it is important -- and I say this to the Department -- to begin to articulate clearly the role of the accreditors in this process moving forward.

We can't keep going with two separate regulations, two separate outcomes and sanctions and things when, at the same time, I've got a fully approved accredited program doing great. This is not working in the public's eye. It's not working in the congressional eye. It is important.

And I think the answer to the earlier question is while the Department may have certain
constraints, the accreditor does not in terms of engaging in this issue and holding the programs accountable.

Last comment I would make is, it's very important, and I urge the Department to take a careful, careful look. The section that we've just removed is entirely focused on program but we keep confusing it with school. And we need to become very clear about which is which and what the actions are, especially if we broaden it into the standard university system.

Thank you.

MR. RAMIREZ: Thank you. Jeff.

MR. ARTHUR: Yeah, I would suggest that disclosures and labels, whatever the labels are, that notifications really are a sanction. And I don't think we should underestimate the competitive nature of institutions of higher education.

If we raise a flag on a programmatic debt level, I mean that's going to get attention. It will cause institutions to move the dial. And I think, you know, we make a statement about there's 1.3 trillion in student debt; that's a problem.
Okay, what do you do about it?

Well, that doesn't really move the dial just by declaring that. This disclosure at a program level can get it to a point where it can be managed. And when we have something to target we can improve these numbers. Just like institutions that make more effort in improving graduation rates when we highlight them. We highlight them for certain ethnicities. We improve them. We work on that.

If we see a default rate, repayment rate, we work on improving those things. We will improve the debt per students with these disclosures. And especially through the accreditation process, too.

I agree with the statements from the two gentlemen in that regard that accreditors measure outcomes. They look at graduation rates. They look at employment rates. This is another measurement that they could hold their institutions accountable to.

MR. RAMIREZ: Thank you. Whitney.

MS. BARKLEY-DENNEY: So I'm going to
disagree with the last two things said. And I'll start with you, Jeff.

I totally respect and understand where you're coming from when it comes to disclosures working for your institution as a sanction. But not all borrowers are the same. And some borrowers are going into this with a greater level of understanding of what that means and more of an ability to shop around; other borrowers are not.

In some ways -- and please understand I am not comparing anybody at this table to a payday lender -- but in some way it is like the disclosures you see in payday lenders. There are some consumers who see that this is a 400 percent interest rate; run away. There are other consumers who see that and say I need this money, and they take it.

And so that's why disclosures are not necessarily something that is going to be a sanction for all consumers at every level of education, at every level of income, and at every level of need.

And I also just wanted to say I'm very interested in this idea of the accreditors taking
a more active role. My concern, and just via because of my experience in this world, particularly as a former legal services attorney, is not, again, with any creditor at this table, but we all know that there are accreditors out there who aren't necessarily doing what they're supposed to be when it comes to overseeing and improving the programs that they are overseeing.

And I'm thinking particularly of some programmatic accreditors in the allied health field that I have approached or seen through the years who aren't, you know, ensuring these fixes are happening or are just taking the word of the institution when it comes to job placement. And so those are some things that I would be concerned about if we were to turn this over entirely to the accreditors.

MR. RAMIREZ: Yeah, go ahead.

PARTICIPANT: I just wanted to make it clear that my point was that institutions will pay attention to those metrics and work to improve them. Not all students will pay attention to them, but the institutions certainly will.
MR. RAMIREZ: Okay. Laura.

MS. METUNE: Okay, I'm ready now.

So, I similarly wanted to -- I'm interested in the idea of the role of the accreditor. And I do think it's a valuable role. And I don't want to minimize the role that they can play in improving education quality and student outcomes.

I want to push back a little bit on the idea that it's sufficient. In California we've had -- you know, many states experienced the closure of Corinthian and the harm that that caused for students. And one of the things that we faced in our state was that at the time that our state-level oversight entity was trying to investigate an institution that's in good standing with their accreditor and in good standing with the Department of Education, that can create some state-level barriers for taking enforcement actions against a problematic institution.

So I agree with the idea of trying to streamline and better coordinate the various, you know, 3-legged stool. But I am really concerned
with the idea that that's sufficient, unless we
make some changes to expectations in those levels
of oversight.

I also wanted to push back on this idea
that there shouldn't be a loss of Title IV
eligibility. I know it's extreme. And which is
why that should be after there are clear standards
in place, and there's appropriate timelines, and
there's appeals.

One thing that we've learned at the
state level is that it's really important to have
meaningful incentives in place to change behavior.

Sometimes for public institutions that includes
things like performance-based funding or other
state-level reporting requirements where we're
being held accountable for our outcomes.

And I just kind of wanted to end with
this question of why in the world we would think
it's okay for us to take away a student's Title
IV for not meeting satisfactory progress
requirements but not an institution's Title IV.

That's all.

MR. RAMIREZ: All right. So, I have
Johnson. Mark is -- Tony, is Mark's tent still up?

MR. MIRANDO: No.

MR. RAMIREZ: Okay. And then David.

Johnson.

MR. TYLER: I believe in the last six years there's been a lot of public shaming involving very large, for-profit institutions that cater to low income people who largely come from educationally-deprived backgrounds, who do not read disclosure statements. And those companies have not changed -- did not change their practices. There were Senate hearings. There were Frontline reports on them. They continued the way they were going until they were put out of business.

So the idea that -- I agree that a lot of institutions will be very responsive to bad ratings, debt to income ratio, that sort of stuff, but that's not going to help the people who don't care -- the institutions, it's not going to influence the institutions that don't care about it. And sanctions will.

Interestingly, a New York Times
reporter looked at the list of 2,000 programs that were in the zone or the fail area and tried to figure out who they were and what was going on, and found that 600 of them had already closed down because they knew that trying to make that metric was problematic and they'd been caught, you know, in that problem.

A lot of those institutions when I look at what my clients' experience and the situations they're in, they're still coming to legal services years later after going to these schools, they're on that list.

And I would say that -- to the statement there are a lot of good for-profit actors: there are. 80, I think it's 85 percent did fine on gainful employment. Okay? So, we're not talking about that. We're talking about, you know, moving, creating a consequence that will either make programs better, decrease tuitions, whatever.

MR. RAMIREZ: Okay, thank you. David.

MR. SILVERMAN: Thanks. Jeff, I think you made an excellent point. If we had to notify potential incoming students that we failed or
classified as not acceptable, to me is definitely 100 percent a sanction, especially for reaching a goal like 8.0 as opposed to 7.99. This will affect students attending our college, any other college. So, thank you for saying that. To me it's definitely a sanction.

MR. RAMIREZ: Okay, thank you.

John.

MR. KAMIN: Okay. I'm just going to get on my soapbox for the 60,000 foot level as I see it, since this really is the crux of the issue.

Now, the American Legion's membership voted on a resolution in favor of the intent and spirit of the gainful employment rule in 2017 over our convention. Now, that, the language provides us a lot of flexibility, as the largest veterans organization in the country, to look at rulemaking and afford compatible understanding regulation with industry and academic standards. That's why we really appreciate being asked to participate.

But by the Department's own admission, with this proposal changing the purpose and intent to remove accountability from the framework, that
is not an area that we can abide by.

So I'd just say simply, anecdotally, for us if the rule passes without sanctions it is compelled to remain a policy priority for the American Legion. And that's just us.

For consumer advocacy groups, passing the proposed rule without sanction, it's a late Christmas gift for their fundraising and development teams who can usually build outrage off of it. And that's hard to do, because gainful employment is not like borrow defense, which is very delicate and is very easy to get people upset.

Nobody really understands gainful employment. But, you know what, when you tell them you're getting rid of all sanctions, you got their attention. That's the way it's -- I can just see it playing out when it goes on without sanctions like that.

And what would naturally seem to follow is that in 2020, 2024, 2028 the pendulum is going to swing the other way even farther. I think all of us probably understand this with the idea that it doesn't take an MPA to see that that type of
oscillation over regulations is not effective governance. It's not good for students, not good for schools, and it's not good for taxpayers when we're constantly having this fight on both sides.

And the irony here is that I think that every stakeholder, every negotiator at this table has been excellent when it comes to standing up for your stakeholder, your school, and also being flexible and intellectual when it comes to looking at potential compromises.

But the proposed rule is not indicative of what we talked about the first session. You would not be able to tell that we would even be having this dialog based on what was written. And I think there are ways we can move forward. I think that going back to 2011 had a lot of interesting ideas how that can alleviate some of the concerns, especially with tips.

Accreditors, I think even looking at the actions, like, with Charlotte School of Law and how accreditors and the Bar really got on them first, I think there might be some lessons we can learn from them and compatibility they can have
moving forward.

But to make it clear, I mean this is not -- without sanctions that's where we're going to end up. It's we can't drop it. And that's the crux of it on our end.

MR. RAMIREZ: Thank you. Mark.

MR. McKENZIE: So I appreciate that. And I've always been one who, if I felt a rule was right, would be okay with sanctions. My consistent position with the Department has been there remain too many high quality programs that get caught up in the sanctions. And if they can solve that, we can look at it.

But I still would ask our members to recognize that there are many programs serving low income borrowers where the evidence is clear the borrowers are suffering with too much debt and not enough earnings. And those programs, this rule does not reach them, even if they're gainful.

So I just want to remind everyone gainful could have been completion rates, which is a big deal, and it would have affected a whole different sector.
Gainful currently reaches no gainful program that has default rates higher than graduation rates in anywhere other than the for-profit sector. And there are many of them. And so, you know, this is my principal objection, and this is what we've heard, if the Department can figure these things out to truly get to identify programs that aren't performing I think it would be easier to move forward. But it's proven to be very difficult with the pressure on the Department.

MR. KAMIN: I would just say I appreciate that, Jeff. And even when it comes -- there's not an inherent objection, I think, to the idea that transparency could be something that solves everything. I think it's difficult to take that seriously when you look at the web traffic for the college scoreboard and on face value see that. It's just not going to hit everybody.

When you deny schools the opportunity to appeal whatever those rulings are it doesn't -- we're not seeing enough serious evidence to disrupt the point that in terms of protecting those lower income borrowers this is the only proposal
we've seen that seems to have the legs.

And to your points, I think that's exactly what we should be discussing in terms of where those deficiencies are.

MR. McKENZIE: I would ask -- this is a follow-up -- maybe the members look at a report by the Education Trust called Tough Love which basically -- and I'd ask the Department to look at it -- which basically suggests a simpler model than debt-to-earnings.

It says, if the Department only focused on the institutions with the lowest completion rates and the highest default rates in each sector, however they decided to measure it, the Department would be able to aid the most students the most effectively, with simple existing data.

And if you wanted to add one more metric to that, looking at programs where borrowers default in a higher rate than they graduate, and I would just add one other thing. I am generally not a proponent of the loss of all Title IV aid. I generally believe the appropriate penalty is loss of loan eligibility because that then turns...
the program into it looks then exactly like any other public program.

And there are people who have been doing the research if private institutions, non-profit and for-profit receive the subsidies some public institutions did, there would not be the need for the debt.

So I'm asking the group to revisit, it's called Education Trust. I believe it's called Tough Love. And it has a very interesting approach that's simpler, and I honestly think may have a more beneficial effect.

MR. RAMIREZ: Mark, is that something that you could forward to us and then we could send to everyone?

MR. McKENZIE: Sure.

MR. RAMIREZ: Okay. Sandy.

MS. SARGE: So, I think what I'd like to pose to the audience, maybe in particular those that are saying that they definitely want -- that sanctions should be on the table, if we -- we haven't even, we haven't even talked about -- and maybe it's because it's the white elephant -- but we
haven't talked about GE programs versus all programs.

So, let's say for sake of transparency to students that we're going to keep the all programs would have to report, then what sanctions make sense? Don't go down the rabbit hole of these are only GE ones. Right now what's on the table is all programs. So then what sanctions make sense?

PARTICIPANT: You can't have sanctions to the non-GE programs, so just take it off the table. It's not permissible.

MR. RAMIREZ: Yes, so that's what we're trying to focus on to the GE and then go from there. And even though this program does cover, the proposal is to cover all institutions, that doesn't necessarily mean that all institutions would receive a -- I don't want to say penalty, right -- but they would receive some type of corrective behavior.

PARTICIPANT: Can I just say, I mean to use a metaphor though, I mean, if we're applying to all sectors -- and I'm probably going off on
a limb here -- but supposing I have a vaccine to pneumonia but when I introduce that vaccine to a patient it causes some side effects that are pretty severe. I think the first order of business is diagnosing the side effects for that, for patient zero, rather than giving that vaccine to ten other people and then trying to find out the solution for potentially ten other different kinds of side effects.

So if there are faults, the time to diagnose those faults are within this one sector before categorically applying it outward, if that's the contention.

MR. RAMIREZ: All right. So, any other ideas then? Whitney, you have something?

MS. BARKLEY-DENNEY: I was wondering if we could take a temperature check on adding repayment rates back in or figuring out a way to add repayment rates back in. Would that make sense to everybody? And maybe focus the conversation again on, you know, what we could do to strengthen this, these rules.

MR. RAMIREZ: Yeah, Pamela, go ahead.
MS. FOWLER: Okay, it's official, I'm confused.

I'm confused with what is it we're trying to do here. I have heard things like debt-to-earnings doesn't work; repayment doesn't work; default rates we all know what the issue is with default rates. And then I've heard Mark just said good programs get caught up in this. Well, what measure says they're good?

And if that's easy, then let's look at that in addition to some of these other things. Because I don't think we should throw everything out. Because some of these things have to be good for certain programs. And maybe we don't look at one thing or two things, we look at several things.

PARTICIPANT: And I agree with that.

MS. FOWLER: And then if you fail one of several, something happens. If you fail two of several, if you fail several of several --

PARTICIPANT: Yeah. What the Department had trouble responding to was there was multiple requests for some kind of quality exception when there was a failing program. And
just to be clear, there are full institutions that under the first rule the Department promulgated had 100 percent passing. And then two or three years later when the repayment rate went from 12 to 8, had 80 percent failing.

In my mind, that's the definition of arbitrary. When that happened we approached the Department with various exceptions, you know, whether it was high repayment rates, high graduation rates, no consumer complaints, whatever it may be. But they didn't take hold in the last administration. And, you know, I spent the last seven years essentially petitioning them just to recognize those programs so that the totally poor performing programs could be identified and the institutions that weren't intended to be caught up in it got caught up in it.

But you're back to -- and I'll end with this -- the Department chose to publish a very large, very complicated rule that each way you go something else comes up, as we're seeing. And so there is some reason to simplify because of the complexity of the whole thing.
So that is my answer to you. If the table can find and can agree with some quality exception, I'm happy to have the discussion.

MR. RAMIREZ: Whitney.

MS. BARKLEY-DENNEY: So I feel like we're trying to do that. And we just keep getting bogged down.

And so I really appreciate, Pamela, your suggestion and would, you know, be happy to put something up to work it out more. But my concern is it's almost 4:00 o'clock on day two of this, and we are continuing to have sort of this almost philosophical discussion about whether or not it's even possible without getting down to brass tacks and trying to put pen to paper and say can we actually do that.

So, my proposal is that we move into trying to actually do that.

MR. RAMIREZ: So, what would the components be?

MS. BARKLEY-DENNEY: So, I'd just, like I said, I think repayment, you know, we could check and see the temperature on several different modes
of figuring this out, whether it's debt-to-earnings, whether it's repayment, you know, whether it's other ideas for how to scale it up. But I think we need to start putting those ideas on the table and seeing how much buy-in there is around the table, and then trying to work them out more.

MR. RAMIREZ: Yes, Sandy then Johnson.

MS. SARGE: So I, I think that's a great idea. And I've got to be honest, I hate throwing ideas out there and every single time it's a no, no, no, no, no. So I'm working on my -- ah, thank you -- you know, I'm working on my coat of armor.

But, you know, for 100 reasons I'm not a proponent of the composite score. But there, but there is something about a blended, weighted, it is a composite of various scores that we could potentially look at, an outcome based. So you would have maybe three things we all say are critical elements. We measure them and we weight them, and then it gives us a blended sort of score in which you would say no one becomes the killer.

So, if completion rate -- and I agree
with you, Mark -- I mean if you're not, if you're not completing students and they're taking on debt and not finishing a degree, then that's something we should all be concerned about. I think debt, the average debt that a student takes out on a program is something that's important. I'm not, I'm not -- I'm a proponent of pulling the numerator and denominator apart and as opposed to having it in a ratio.

But if we come up with two or three or four things that we think are all important metrics that we should be striving to attain, and then even if we did 25 percent on each of them or figure out something that's, you know, weight them based on reliability. Like, we're all concerned about the earnings component. So weight debt-to-earnings a little bit lower to take into consideration the variability in the earnings.

Weight completion rate higher because it's something that's easily measurable.

You know, I'm throwing stuff out. But if we did something like that, would that be palatable as a measure?
MR. RAMIREZ: So --

MS. SARGE: Somebody just tell me yes.

MR. RAMIREZ: Does anyone have any comments on the idea of a composite score? Is that something worth exploring? Johnson?

MR. TYLER: I had two thoughts. One was I like the idea and I'd like to explore it. There's a lot of details in that.

I think we have to get buy-in to the idea that there's a sanction first. Because there are two parts to this question. I think it's easier to be engaged and get people involved in how, what triggers a sanction or a consequence, or whatever you want to call it. And who that's applying to, also. Is this applying to gainful employment or everyone in the universe?

I think we have to get that down first before we can deal with the other part.

PARTICIPANT: I think we did have that the last time because we said things like if we could find a measure that we believed wasn't fuzzy and that we all could get around, then nobody was -- I felt like the majority of the room was at least
neutral on keeping sanctions on the table.

PARTICIPANT: Could I just frame why the sanctions are impossible to resolve without some comparative data? I'm just going to throw it out to you so you can hear it.

So, there are some fields where there's only one or two proprietary degree-granting institutions. And in these fields debt-to-earnings look like they're very high across all sectors.

So now, assuming there's some disclosure across the sectors, and assuming, whether it's 8 or 12, the proprietary institution fails and is now losing the current -- the current sanctions are all Title IV, you then have all the not-for-profits and publics who have either worse or the same offering a program that the Department of Education has pronounced so inferior it has to close. And it's going to lead to, number one, irrational higher ed policy but, number two, litigation, results we haven't thought about.

It's just we're not in a tenable position with the identical degree programs not
having the information out there.

PARTICIPANT: But if we could address Sandy's idea maybe there's a different component, like a repayment rate that overrides the debt to income. Or maybe there's something like that, or completion rate, or something.

The question is is there going to be a sanction for the -- because I'm hearing Sandy say people agree that there are some bad apples that aren't, shouldn't be getting Title IV money.

Can we agree to that so we can then try to figure out how to identify those people?

PARTICIPANT: But it's, in other words it is not, again, this is not a bad apples rule, this is a bad outcomes rule. And on bad outcomes, again, if the Department publishes the data it's going to cause great -- I'm going to say it like this -- introspection across all of higher ed. That's how I'm going to say it.

Because the data's out there for us to look at on this debt-to-earnings metric, it is problematic outside of the one sector. And so we have to, you know, think through the impact of the
federal government saying the program is so poor it's closing, and the identical programs are out there with worse outcomes. And that's for consumer people to really look at.

And so that is a -- and this is where they were going with this proposal. This proposal at least is the first step to address that concern that the public would get to see what data looks like in identical programs across all sectors. And then you can have a debate about sanctions.

PARTICIPANT: I think we're having a discussion of whether we have an agreement about sanctions. And the answer is no; right?

PARTICIPANT: Oh, yeah.

PARTICIPANT: In other words, theoretically, theoretically the answer would be yes. Again, if the Department had come into this session with debt-to-earnings published, and we were able to look at that and we saw for-profit sector 15 percent fail; not-for-profit sector 2 percent fail; publics it's 1 percent; we're only going to do the sanctions in the for-profit sector, maybe we'd have a discussion because you'd at least
see fairness and a logic to it.

But without that there it's very tough for us to feel comfortable with the sanctions.

MR. RAMIREZ: Let me get to Jen, Kelly, Whitney, and Tim.

PARTICIPANT: I'm sort of changing something. I mean, I'm going back to Whitney's mention, I hope that's okay, on loan repayment. And before I sort of opine on loan repayment I have a question for the Department. And I acknowledge right off the bat that it comes up in Issue 6, I believe. But I'm going to raise it here because loan repayment has surfaced.

So, I took note that in Issue Paper 6 the Department, I think, punts the loan repayment metric to a future Federal Register notice of some form. Am I correct in my recollection on that before I --

MR. MARTIN: Can you tell me what you're referencing in Paper 6?

PARTICIPANT: I think there is a reference to -- I have to find it.

PARTICIPANT: Page 2.
PARTICIPANT: Thank you. On page 2 -- oh yeah, thank you -- so, page 2, paragraph 6, top of the page, sort of top of the page.

Loan repayment rate for any one of the following groups of students who entered repayment, to be calculated using a method specified by the Secretary in a notice published in the Federal Register.

And I don't mean -- I'm not going to go down a rabbit hole -- but there is a reason the Department seems to be indicating that there's going to be a loan repayment rate conversation in a future --

MR. MARTIN: Yeah. We'll --

PARTICIPANT: --- that was for disclosure purposes. And now Whitney and others --

MR. MARTIN: Right.

PARTICIPANT: -- have put it on the table for discussion here.

And I just wanted to understand what the Department's thinking was in this context so I can understand whether loan repayment rate is
really a viable conversation on the sanctions issue.

MR. MARTIN: We're not at that paper yet. But this is Greg, for the record.

When you look at the disclosure, that's under disclosure requirements. And it says that --

PARTICIPANT: What page are you on, Greg?

MR. MARTIN: This is on page, this is on Issue Paper 6, page 1, where it talks about disclosure template. And it simply, this is simply identifying the information to be included on the template that will be included in the Federal Register, which is what we currently do. Remember most of these rates look pretty similar.

And that information may include, but not limited to. It gives us the -- it lists, it lists the number of disclosures.

PARTICIPANT: It gives you the ability to --

MR. MARTIN: Yes.

PARTICIPANT: I got it.
MR. MARTIN: To request that disclosure, to request the schools make that disclosure should there be a loan repayment rate.

PARTICIPANT: Should there be a loan repayment.

MR. MARTIN: Right.

PARTICIPANT: So you don't have a --

MR. MARTIN: --- a note that says here at 6, as calculated by the Secretary under 668.413. That's struck.

PARTICIPANT: Right.

MR. MARTIN: So the loan repayment rate for any one of the following groups of students who entered repayment, that does not mean that we're going to look at a loan repayment rate as a program metric or that we are going to calculate it.

PARTICIPANT: Or that you know, if you did calculate it, what the rate would be because you struck Section 413.

So we would be at the drawing board if we were putting it on the table for sanctions. Right?

MR. MARTIN: Right. It was not related
-- it was not, in these proposed rules it's not related to, it's not related to sanctions. It was only ever a disclosure item.

It's still a potential disclosure item, but we are not going to be, in these rules we will not be obligating the Secretary to calculate a repayment rate.

MR. RAMIREZ: Let me get to Kelly, Whitney, then Tim.

PARTICIPANT: I should point out, though, that it doesn't preclude you from putting that on the table, the fact it's not in this reg. That issue paper in that portion of the proposed rule does not include repayment rate as a sanction or a ramification or something like that. But that doesn't preclude our discussing it.

PARTICIPANT: Has the Department since two thousand and whatever year that the case came out, 2012, given any thought to what the rational basis would be for a rate?

It would be a very complex -- I'm not saying, you know, I'm not -- I'm just saying on day two of a second session to get into a
conversation about loan rates. So just to answer
Whitney, I think it's just a really tough
conversation to come up with what that methodology
would be that would then pass a rational basis test,
which is what it would have to pass.

MR. MARTIN: I think that remains an
open question. If any of you -- I mean, there have
been a number of methodologies for repayment rates
over the past couple years.

PARTICIPANT: Well, that's actually my
point, too, is there are so many different versions
of loan repayment rate, and some of which we, even
the Department has, that we have multiples of
different rates, that I'm not sure from a consumer
disclosure standpoint. I mean we, again, we'd be
adding like, I think, the fourth or fifth loan
repayment rate to the mix, or something.

So I guess I would hesitate unless we
were to, you know, the Department were to sort of
get uniform on, yes, this is the rate that we're
living with on loan repayment rate for absolutely
everything.

MR. RAMIREZ: Yeah, go ahead, Whitney.
MS. BARKLEY-DENNEY: Yeah. So, I mean, I guess I don't quite understand the objections. Because that's what we're here to do. We're here to do hard work. The Department didn't pick us because we're just going to, like, go through and say, "Disclosure. Sounds great. Okay, we're fine. Or we want to change this B to an A." We are here to figure this out if we can. Maybe we can't.

Maybe we can't figure it out, and maybe we throw our hands up at the end of it. But I guess I don't understand saying, well, we would support sanctions, except for it's really hard and we don't really think we can get to it without sitting down and trying.

We have another week. We have three more days. And I, personally, am pretty bored going through and talking about, you know, whether this thing on the margin matters. Because what's going to matter for borrowers and what's going to matter for institutions is having real things, with teeth, that aren't just disclosures.

And like I said, if we don't get to it
I won't hold it against anybody here at this table, but it needs to be discussed, it needs to be fleshed out. Instead of just saying it's impossible, we need to prove it's impossible.

MR. RAMIREZ: Let me get, let me get a mod and then -- oh, I'm sorry, Kelly. I thought you put it down.

Go ahead, Kelly, you're next.

MS. MORRISSEY: So I echo exactly what Whitney just articulated in terms of our ability to figure it out. But I think in my mind and in speaking with some of my colleagues around the table, I think that we should really be making some data-driven decisions.

And to Mark's point, I think there are lessons to be learned from the multiple years of data that we have all disclosed, and our inability to review really, what that tells us all and in what direction we should head in.

So, I really echo Mark's request to look at this data and look at what we can do in order to turn the corner here. I mean, I am struggling to understand what types of multiple measures that
are meaningful across sectors where we all have programs that have different missions. We have some programs that are designed to immediately employ students. We have others that are transfer programs and, by their very nature they have low completion rates.

In the community college sector we have a 13 to 14 percent participation rate in loan borrowing. So how is a repayment rate even meaningful in that regard?

So, all of these facts rolled up together in an effort for us to arrive at what a single measure would be that would be meaningful, is what I'm struggling with at this time.

MR. RAMIREZ: All right. Let's do this, let's take a one-function break.

(Whereupon, a brief recess was taken.)

MR. RAMIREZ: Okay, let's pull it back in. Sorry about that, it was a long two minutes. Let's go ahead and get started.

Thank you all for your patience. That was actually a few function break.

But the reason I called that break is
because it's very evident, right, the frustration within the room. And so as a facilitator I'm trying to think of how do we, how do we harness all this?

Because we've got some great minds here; right? And even maybe without the data that you would love to have, I'm guessing that folks can make very well-informed, educated estimates, right, of what may work and what may not work. But at least for discussion purposes; right?

And I think that in order for that to work, though, we have to be looking at the same thing. And so I was trying to see if there was a way that if we were to capture some of this can we project it up onto the monitors there so we could all look at the same thing. And as you could probably guess, it's not that easy.

But I'm going to be working with somebody tomorrow in the morning to do that so that we could at least capture some of these ideas. Because quite a few ideas were thrown out. And I want to start capturing them so we could look at it and say what is truly doable or not doable, or what do we need more information on. And I think
if we could do that, I think that would help focus
the conversation.

But speaking of tomorrow, folks are
monitoring what's going on with the potential
weather. And we're hearing that it's likely that
we might get some, some ugly weather. So it was
suggested that we just modify the start time for
tomorrow at 10:00 o'clock.

If we get a notice that it's greater
than an hour delay, we'll send out an email to all
of you letting you know of anything later than that.
But regardless, we'll do a 10:00 o'clock start
tomorrow.

And then, so what I want to do is end
it for today. We have -- I want to do the comments.
But I want you all to think about a couple things.

One is, what would be potential metrics
that we could use, understanding that there is no
silver bullet; right? There is no silver bullet
that's going to be either the metrics to determine
whether somebody is underperforming, or what the
remedy might be. Right? Or, you know, what would
happen if those schools are underperforming.
So, think about both; right? What would be the metrics to show that? And then, what would be some potential options to deal with that, to change that behavior, to correct those outcomes.

Right? I'm trying to avoid penalties; right? That's a word I'm trying to -- or sanctions, I'm trying to avoid that.

It might be, but is there something else as well that we could consider? And so I want you to think about that. And that's what we'll start on tomorrow.

But a couple of tents went up. I think I saw, Whitney, you just put your tent up right now. Go ahead, Whitney.

MS. BARKLEY-DENNEY: I was just going to throw out there -- we don't have to decide on it today, but something to think about would possibly be going into a large caucus tomorrow to get into these things.

I am loath to suggest it because I obviously believe very much in the openness of these meetings. But I think that people might feel more comfortable putting metrics on the table and being,
you know, more amenable if this were, if this particular part of it and fleshing it out were a caucus.

So, I just wanted to throw that out there. We don't have to vote on it now, but just something to think about overnight before we come in tomorrow.

MR. RAMIREZ: Yeah. No, that's a great idea. And I would like to see what type of ideas we as a group could generate, and then possibly break down to some smaller groups if need be. Right? So I think that's a great idea.

Before we -- Laura, did you have something as well?

MS. METUNE: I was going to make a similar comment about caucusing. But I also just -- so, yes, thanks for that suggestion -- I also just wanted to mention that I handed out at the beginning of the day a memo on Issue Paper 8. I did that today because I wanted folks to have a chance to read it before we discuss it. So I won't go into it.

But if we do by chance get to Number
8 tomorrow, I hope that you will have had a chance to take a look at what I provided. Thank you.

MR. RAMIREZ: Okay. So a couple of homework assignments for everybody.

Ahmad and Tim, before we took the break both of you had your tents up. Do you still want to make your comments?

MR. POWERS: Do it tomorrow.

MR. RAMIREZ: Okay, perfect. Thank you.

Ahmad?

MR. SHAWWAL: Ahmad. In the spirit of making some sort of progress, I was curious if we could get a temperature check on some of the ideas Pamela and Sandy had mentioned, this sort of combinatorial metric that would necessitate sanctions.

And, Mark, I'm sympathetic to some of the things that you have said. And you have referenced some data a few times. Given that we don't have access to this data yet, it's just really difficult at this point to see those things through that very same lens. And I feel like people here
would be open to changing their minds, but based on what we have access to now I would like to see some sort of temperature check on more than one metric that would necessitate sanctions.

Thank you.

MR. RAMIREZ: All right. I think that, I think that we will do that because I think I am also hearing that there's some understanding -- and I pause short of saying agreement -- but understanding that there is no silver bullet here. There is no one metric that's going to be able to say that this is a poor performer. Right?

So I think it's probably going to end up having to be some type of blend. And so what I'd like to do is find out what are some of those potential metrics. And that's what I want to do tomorrow.

So, if I could, I'd like to see what's out there first and then see if we could narrow it down from there. Okay?

And in the meantime, what I would do is I would ask both Sandy and Pamela if we do get to that point, can you get a nice couple of sentences
to make it clear on what that thumb would be. Okay?

Jordan?

MR. MATSUDAIRA: I wanted to just make a suggestion along those lines that maybe everybody email you a list of metrics that could be used or they'd be interested in using. And then perhaps somebody could consolidate and distribute.

MR. RAMIREZ: We could consolidate and project it up onto the screen. So, yeah, if folks want to send me those.

PARTICIPANT: Yeah, things that people have already set out.

MR. RAMIREZ: Yeah. So, put some up there. And if there are metrics under Number 4, we will start capturing those. But if there are any others, you can send them to us tonight and we'll have that ready for you in the morning. Okay?

Yeah, you can send them to my email, jramirez.

PARTICIPANT: Spell it.

MR. RAMIREZ: R-A-M-I-R-E-Z @fmcs, Frank, Mary, Charlie, Sam, fmcs.gov.

And I hope that wasn't being -- yeah,
a lot of emails.

All right, I already have 2,000 unread.

Okay, so any comments, any additional comments from the negotiators or alternates?

(No response.)

MR. RAMIREZ: Okay. Any public comments? Come on up. We've got a mike up here for you. State your name.

MR. HUBBARD: Hey, good afternoon. My name is Will Hubbard, and I'm a Marine Corps veteran; Vice President of Student Veterans of America; and also a fellow negotiator, rulemaking negotiator.

As a primary negotiator for the military-connected students in the bar defense negotiations I am bothered by the Department working to eliminate strong student protections on gainful employment or education programs, I guess as we're calling them.

On the one hand we're fighting to restore students, yet we're here dismantling legitimate protection. At Student Veterans of America we are driven by outcomes and data. There
is no data to support the idea that a disclosure-only framework is effective at dissuading bad actors, demonstrated patterns of bad behavior, and altering their actions.

While the Department wants to keep all education programs under the same umbrella, the Higher Education Act specifically separates out gainful employment programs. This makes it clear that Congress intended these programs to be treated differently in light of their differing purpose and outcomes.

The Department has repeatedly said that the potential loss of program eligibility under the gainful employment rule is not the only way to make a problematic program. But the Department has also consistently struggled to name other robust tools available in its arsenal.

Program reviews and certification requirements cannot be solely responsible for protecting students. Moving towards a framework where schools no longer pass or fail, but instead are acceptable or low performing, does not protect students.
Moving toward a framework where low -- and low performing as to what is the question really. Actually, as Chris Gannon pointed out yesterday, students who do poorly in class do not receive a mark of low performance; they fail, plain and simple.

Words matter. If we want to protect students and inform consumers, we need to be clear about program outcomes. What can a student expect for earnings? What can a student expect in terms of debt? Students are the ones who are expected to have the answers in class, yet schools are all too quick to keep secrets from students with regard to true costs, expected salaries, and so much more.

Students deserve better. Simplification is an idea I have seen throughout the Neg Reg, as well as discussions for reauthorization of the Higher Education Act on the Hill. However, student protection should not take a backseat to simplification. The amortization of 15 years, regardless of a program length, is one example of simplification being the wrong solution. It should not take a student 15 years
to pay off a debt for a one-year certificate.

Students pursue a variety of education paths, and amortization periods should reflect these differences.

As Jordan highlighted yesterday, there are some categories of programs that are sufficiently low quality that students should not borrow from the government to pay for it, period.

If we're truly concerned with protecting students and also protecting taxpayers, then it is imperative that the Department get this rule right.

Thank you for your time.

MR. RAMIREZ: Okay. Thank you, Hubbard. And thank you for your service.

All right, any other public comment?

(No response.)

MR. RAMIREZ: Okay, then I just want to remind you all again, a 10:00 o'clock start tomorrow unless you get an email from us that it's later than 10:00. Okay. Unless it's later, yeah.

Okay.

Thank you, everyone, for your hard work today.
And, I'm sorry, Tony had one more comment.

MR. MIRANDO: Yeah. Is that then the assumption that we're staying an hour later or no, just a normal leave time?

MR. RAMIREZ: The anticipation was no. But I have nowhere else to go. So --

MR. MIRANDO: No. And I wasn't offering to stay an extra hour.

MR. RAMIREZ: Oh.

MR. MIRANDO: You know, I'm just trying to figure out my time schedule as well. So I just wanted to be clear.

MR. RAMIREZ: You know what, that's a good question for the group. What would be the expectation of the group, would you like to stay an extra hour or do we end at the normal stop time?

(Group conversation.)

MR. RAMIREZ: Okay, I'm hearing, I'm hearing a desire to play it by ear.

So we'll shoot for 5:00 o'clock. If we're making progress, then we'll, we'll go on. Okay?
All right, thank you all.

(Whereupon, the above-entitled matter went off the record at 6:27 p.m.)