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

BRIAN SIEGEL, Office of General Counsel

SARAH HAY, Office of Postsecondary Education

CYNTHIA HAMMOND, Office of Postsecondary Education
MS. BUCK: So, welcome back, everyone. Good morning. Again I just want to say I'm impressed by the passion and interest and involvement that everyone has, and the thoughtfulness of your responses. We have a lot to cover today, but let's first start by asking if there's public comment.

(No response.)

Okay. I think there isn't then. I would like to start with an agenda review. What we need to do today, I think, is first we had said we would come back to the data. I don't know which part of the country says data and which data; it's so interesting. Data questions for just -- but we think we need to limit that to 30 minutes, and that could include the document that was sent out by Jordan.

Then we would need to go to Issue 5. What we'd like to do is cover, I'm proposing to cover Issues 5 and 6 before lunch. Then to have lunch. Laura wants -- has a memo with regard to Issue 8, and she may need to leave a little early,
so she has asked if that could be moved up. So I'm proposing to put that right after lunch and then Issue 7.

Then we could see what time we have. The document, the technical changes that we didn't look at at the beginning, the technical and conforming changes document, and then the other issues that we hope to address if there's time. So that's a lot. So that's the agenda I'm proposing. Are there any comments on the agenda?

Daniel, did you have comments on the agenda?

MR. ELKINS: Yes, I did. You mentioned or referenced an email that Jordan sent out. I don't know if I was just the only one that didn't get it.

(Off-microphone comments.)

MR. ELKINS: It is?

MS. BUCK: It's been handed out, sorry.

MR. ELKINS: Copies. I will get it.

MS. BUCK: Very good. Yes?

MR. HELLER: So I know yesterday we discussed beforehand that we --

PARTICIPANT: Neal, can you use the
microphone please?

MR. HELLER: I guess I just want to make sure that we're going to address the metrics that go into the -- what we did yesterday.

MS. BUCK: So we have that listed as one of the things to cover after we cover the issues.

MR. HELLER: Okay, all right.

PARTICIPANT: Jennifer Diamond, did you have a question?

MS. BUCK: Okay. Yes, Sandy.

MS. SARGE: Hi, this is Sandy. I took a look through these things and I may be opening a can of worms, but 7 and 8 seem like they -- well at least 7 could potentially be pretty quick. If I read it correctly, it's just all crossed out, but maybe is there --

MS. BUCK: So it is the last item.

MS. SARGE: Okay.

MS. BUCK: So if we get to that and it's quick, that would be great.

MS. SARGE: Okay. I was thinking maybe first, to get it over with. Got it.

MS. BUCK: Any other comments on the
agenda?

(No response.)

MS. BUCK: Now the question I want to ask is what time people need to end. Is 5:00 too late for people?

PARTICIPANT: Yes.

MS. BUCK: Would anyone want to propose a different -- well how many people will be able to stay until five? Let's see that.

(Show of hands.)

MS. BUCK: So quite a few people could stay until five. Could your alternate be here until five? Okay. So it sounds like five is okay then. Okay. Then I wanted to mention that, if you have suggestions for the facilitation process for us for next time, please feel free to write those down and give them to us for our consideration between now and the next time we meet.

We're always interested in getting feedback and ideas about how the process could go better. Okay. So is there -- are there any other logistical issues we should discuss before we get started? Yes, Daniel.
MR. ELKINS: I just would like to request everyone who's participating in the negotiation to try and observe the protocols as much as we can. I understand that we all have very different perspectives on some of the details.

But I think out of respect for the process that we're all trying to, in good faith, participate in, I think it would be very helpful for people not to be interrupted and people to be respected. I would like to, you know, just have a, you know, a thumb up if we all can agree to do that, and if not, you know, just let me know. Can we agree to do that?

(Show of hands.)

MR. ELKINS: Todd?

MR. TODD JONES: Yes.

MR. ELKINS: Okay.

(Laughter.)

MS. BUCK: I don't see any thumbs down. All right. Thanks for that question. Yes.

(Off-microphone comment.)

MS. BUCK: Okay, thank you. Traffic can be a big problem in D.C. Okay. So I think
the first item on the agenda is Additional Questions About the Data.

So Sarah, do you want to come up and we are going to try to keep this to 30 minutes, and we want to remind you that, if you do have additional thoughts on this or anything, you can email Scott about it. Is that right, Greg? They can email Scott.

MR. MARTIN: Yes. Any questions you have, you can always email Scott.

(Laughter.)

MR. MARTIN: I'm always quick to point out that Scott's available 24-7.

(Laughter.)

PARTICIPANT: Is he not in the room?

Oh, he is.

MS. BUCK: Okay. So what additional questions or comments do you have about the data that was given, particularly questions?

MS. MILLER: Sandy.

MS. SARGE: Good morning, Sarah. This is Sandy.

MS. HAY: Good morning.
MS. SARGE: I have a question on the first paper you handed out, Debt to Earnings Analysis Using College Scorecard, and it's on Exhibit 1. I apologize. I feel like I should know this but I don't, so I wanted to just make sure I was clear.

It's under the Data and Methods Difference. Is the Scorecard information self-reported by the institutions, or is that information something you guys pull in through other sources?

MS. HAY: It is -- my understanding is that it is primarily Department of Education data.

MS. MILLER: Daniel.

MR. ELKINS: Yes. I wanted to thank you again for putting these together. Did some fact-checking yesterday just to verify, and as you said, you are legally unable to get the data that we want due to the expiration of that MOU. So I think the record should reflect that that is the case. The question is, is there an intent to renew that MOU at any point in time?
MS. HAY: That decision is above my pay grade.

MS. MILLER: Jeff.

MR. ARTHUR: Just a real quick observation. I think we might have mischaracterized programs that were excluded because of low n's. From my experience every program that was, didn't meet the n was a program we weren't offering anymore, and I think maybe there will be a number of small programs that we think are excluded, but actually they're a small n because the institution is probably not offering it anymore. When they're low n's, they're low demand.

MS. MILLER: Any other questions for -- Jennifer Diamond?

MS. DIAMOND: It's Jennifer Diamond. I just wanted to point out, since there was a question yesterday on Table 6 in the second packet on page seven, I know Sandy brought up the issue of looking linearly across the data about this point, about 97 percent of programs including that failing number being at proprietary institutions.

But looking linearly, they make up 65.7
percent we can see of programs, that 5-6, 5600 number. So I just want to frame this discussion with that note, that you know, even looking linearly, that's pretty disproportional, the number of failing programs in that sector, and then just going across and looking at the 200,000 students versus 1100 that failed at private institutions.

PARTICIPANT: Can I respond to that?

MS. MILLER: Sarah, do you have a response first?

MS. HAY: Sure. So that is a good -- it is important when the populations are not all the same size, to compare the percentages rather than the counts. So to that point, it is true that the proprietary programs make up about two-thirds of the programs covered under GE, and of those, 15 percent of them fell in the failing category.

When you look at private, they made up six percent of the programs and five percent of those programs failed, and in the public they made up 29 percent of the programs and when you round it's zero percent, okay.
The findings are similar when you repeat that math for enrollment counts. So the public, zero percent of the enrollees were in failing programs. Two percent of the enrollees for private programs were in failing programs, and in proprietary it was 14 percent of enrollees.

So if you want to figure out how to do that math, for example, you would take, looking at sort of the first row for public, you would look at one failing program divided by 2,493 programs to figure out what percent of the public programs failed, okay. Does that help clarify that for folks, or are there now more questions?

MS. MILLER: I think Jennifer, does that answer -- Jennifer Diamond, does that answer your question?

MS. DIAMOND: It wasn't really a question, but yes.

MS. MILLER: Okay. Well, Sandy.

MS. SARGE: So Jennifer, with all due respect and I understand what you're trying to say, but the problem here is that you're not comparing apples and oranges. So if you only look at what
all three categories reported on -- undergraduate certificate, post-baccalaureate certificate and graduate -- and then you look at it, the publics have 2493, the privates have 476 and the proprietaries have 3,288.

So you're looking at the total number, which includes things that none of the others include. So what I'm trying to do is keep the math apples to apples, so that we can get to some real comparisons, and not add in things that aren't there.

MS. MILLER: Marc Jerome.

MR. JEROME: So actually Jennifer, I think your comment frames our discussion maybe the best, because we're looking at the data and we're pulling which institutions failed at the highest rate, and which institutions had the most students at the programs that failed.

You know, I've been consistent since the beginning. The reason it's so important for the Department to go in the direction they're going is I believe when the -- when they finally run the data, the actual data is going to show the opposite,
that in fact more students attend institutions outside of the proprietary sector with failing programs.

That is why eventually the data side of the Department is so important, and it's one thing to make an argument with an incomplete set; it's another thing to make the argument with all the comparable data.

Just one last point. The essential issue is the data only shows for degree programs at proprietary, and there's no data for degree programs in the other sectors.

MS. MILLER: Thank you, okay. So Daniel, then Tony and we have about nine more minutes left.

MR. ELKINS: Jennifer, could you please just basically restate exactly what you said again?

MS. DIAMOND: Sure. Looking at the failing programs column, do you see it? So under the total number of proprietary schools that failed, we have 878, and the total number is 903.

We decided yesterday that's around 97 percent are
failing programs in the proprietary sector. The total number of programs reported on that -- in the proprietary sector is about 5600. The total is 8600. That's 65.7 percent under the Programs column. Do you see where I'm looking?

MR. ELKINS: You can deal with me afterwards. I don't math well.

MS. DIAMOND: Sure. I can point it out on the column.

MR. ELKINS: Thanks.

MS. MILLER: Tony. Tony.

MR. MIRANDO: Good morning. This is Tony Mirando, thank you. So when we're looking at the zone in the failing areas, the first thing that my brain goes to -- and again it's just my brain -- the same chart that everybody's been chatting on. We're still using earnings that may be distorted by the inability for Social Security to take into effect the non-wages that an individual may not claim, correct?

MS. HAY: We are using the data reported by Social Security Administration.

MR. MIRANDO: Okay, you answered my
question. Okay, great. Thank you. So I just --
just because, you know, again I think it's not a
fair analysis if you're missing a huge piece of
the data.

MS. HAY: I hear you. Yeah, I hear
your point.

MR. MIRANDO: Thank you.

MS. MILLER: Jennifer Blum.

MS. BLUM: I'm actually switching to
the shorter document, and just had a question on
Table, I'm sorry Exhibit 3, and there was -- just
before it in the narrative piece just above it that
describes, I guess, Exhibit 3, it talks about the
fact that -- and I just want to -- I guess that's
a question.

It looks like you've narrowed the
universe to just -- on Exhibit 3, you're using data
just of, quote-unquote, open enrollment
institutions. Is that -- or what do the references
-- I guess I'll do it in the real form of it. Can
you explain to me what you mean in the paragraph
just preceding Exhibit 3, where you talk about open
enrollment?
And then assuming that you are relying on, quote-unquote, open enrollment institutions, I assume that that was something that was taken from the Scorecard. You've heard me talk a lot about Scorecard flaws. But a lot of institutions -- I think some institutions are a mix of open enrollment, not open enrollment depending on their program level. The definition of open enrollment is a little bit squishy.

So just curious as to what, what's going on there in terms of what schools were included.

MS. HAY: Right. So the data that was presented to you were all of the schools that were contained in Scorecard. We did make an attempt to see if there were differences at open enrollment schools as they're defined in Scorecard, and we did not include them here because we didn't see hugely meaningful differences. Does that help clarify that sentence for you?

MS. BLUM: So Exhibit 3 is all institutions, not just, quote-unquote --

MS. HAY: Correct.

MS. BLUM: Okay, good. It just wasn't
clear from the narrative and the chart. Thank you.

MS. HAY: Okay, sure, yes. Thanks for clarifying. Okay. So I know we're running short on time. I do want to let folks know I'll be here today, so if you still have a question about what the numbers mean, you're welcome to try and catch me during a break or something like that.

I did want to sort of walkthrough -- I didn't have my page with me yesterday of all of the data requests, and I wanted to just sort of walk through them quickly and let you know where we're at with them, okay.

So we got a request to parse the Scorecard at the program level which, as you know, we can't do. So we gave you the best we could, which is at the institution level.

We got a request to see all wage and loan data by institution and program for all institutions and all programs. It's kind of the same situation. We gave it to you at the program level when we had the data, which was for the GE programs, and we gave it to you at the institution level using Scorecard data for the entire United
States, okay.

We had a request from negotiators to be provided all data Ed has pertinent to gainful employment. That's a really large request, so if there are more specific requests, we encourage you to make them in a way that we can try and solidify a bit more, okay.

So I don't actually have the names of the people who made the requests on my little cheat sheet here, but if you have a more specific request, you can send them to Scott Filter. That's scott.filter@ed.gov.

So for each program in GE and non-GE school programs, what is debt to earnings? And again, that's sort of the same response. We got a lot of questions that are sort of multiple ways of asking the same thing.

Can the Department of Education provide the debt to earnings rates using NSLDS so that it can be compared to the school-reported information? I wasn't entirely sure what that meant, so for the person who made that request, if you could clarify to us more specifically what you were
looking for, we can try and look into that one a little bit more.

We got a request for sort of what's the total enrollment after each GE year, over time, to sort of get a sense of what the effect of publishing GE rates was. We did not have time to get to that. If we have time, we will try and work on it. I can't make any promises, okay.

For those of you who maybe are not aware, we have been under a hiring freeze for more than a year, and we have lost a lot of really good people. So we are doing our due diligence and our best to get to the most information we can but we're very short-handed, okay. But that is one that we're going to try and work on.

But don't, no one get mad at me at Session 3 if we don't find a way to get it done, okay. All right. We'll do our best. The next one was sort of -- let me read it. Some of these are kind of wordy. Questions about what are debt to earnings, what are repayment rates and what are average total debt at repayment, so sort of at the point of completion.
We've given you what we can for debt to earnings, and we did repayment rate using Scorecard data. We could look at trying to get some debt values if that's of interest to sort of the larger group, and you can get back to me on that later. But again, a lot of it is sort of resource-based on our end of what we can get done in a short amount of time.

We got questions about loan status and defaults for every single institution and every single program from a negotiating -- this is talking about both negotiating rulemaking processes going on right now. We're not really seeing data at the institution level and certainly not at the specific program level at a specific institution. We're just not going to do that.

Oh geez, now I lost my spot. Sorry. I still only got four hours of sleep last night. I blame my son. Okay. We got a question about loan type and balance repayment rate and default rate, and that information was wanted again at the institution and program, specifically single data rows and we're not going to be giving out
information at the institution level.

We got questions about the thresholds and whether they were appropriate or not. If the group wants to know more information about that, put another request in. This is one that I think we may have data in the GE data where we could look at that at the program level or the SIP level. We have not done it yet, okay.

And then we got a request and actually this is a good one, and I'll turn it back to you guys. We got a request for, can Ed share any credible estimates of administrative burden it has access to, especially information that separately estimates fixed costs of initially adapting IT systems to track information necessary for reporting, and the yearly cost of complying with reporting requirements once these systems are in place?

So we have to write a regulatory impact analysis, and we would love to have this information. So if you have pieces of this information, we welcome your submission of that data. We don't currently have anything right now,
okay, because we don't keep -- we don't have any way to go and open your books and know that kind of stuff.

But if you are willing to share, we would love to have that information.

MS. MILLER: Marc Jerome, did you want to provide some -- okay.

MS. HAY: All right. And then the last one is a question about earnings parsed by a bunch of different variables, and because we only have earnings, we have mean earnings and median earnings at the program level, and not at the individual person level. So we're unable to parse by whether they completed or didn't complete, or whether they are under 24 or over 24 or those sorts of variables, because we just don't have the data at that level.

Okay, all right.

MR. JEROME: So it's Marc Jerome. I have a question for Sarah and for my fellow negotiators. I have run data that I think would be very helpful to all of us on what it would look like at 8 percent and 12 percent, running at 6.8 percent interest rate and 8 percent and 12 percent
DE by sector, based on the Scorecard.

My question is I've held it for two reasons. Number one, it has the identifiers in it, and number two, I didn't want to get involved with fighting over is the -- are the methodologies of a negotiator proper. I'm asking the group would it be helpful to submit it to the Department without identifiers, or is it just, you know, or is it better to ask the Department to run the same report?

No, I have it right here. I have the numbers, but I don't want to bog down the negotiation and the debate over whether the methodology was right.

MS. HAY: So how about this as a proposal: why don't you send it over to us, and we'll take some time and look at it and see if we can figure out what the differences are between the methods we used and the methods you used, and try and get back to you guys on that.

MR. JEROME: So just back on the institutional, on the issue of not naming institutions.

MS. HAY: Oh, you can give us our own
identifiers. That would be fine. Sorry, I'm teasing you.

MR. JEROME: Okay. I'll speak to you offline about that.

MS. HAY: Sounds good, okay. Okay.

Other questions?

MS. MILLER: Daniel, and then Jennifer Blum.

MR. ELKINS: I wanted to find out if you were able to get the numbers on the charts. I believe I had asked for that yesterday but --

MS. HAY: Yes. So --

MR. ELKINS: If it's not possible, that's fine. I was just curious.

MS. HAY: Right. So we did it a little bit differently, and this is mostly just because we didn't have much time to do it. But we ended up counting failing institutions, okay. So if you go on the Scorecard paper to page four, if you look at the bachelor row, there were two institutions that failed.

At the associate row, there were nine institutions that failed, and in the certificate
row -- all right. I'm making sure I'm reading it correctly upside down, there were 31 that failed.
Yes. So that the bottom room, the certificate row.
There were 31 that failed.

When you look at the public institutions, so I wrote it down here just by my little orange box, there was one public institution that failed. There were three private institutions that failed, and there were 38 proprietary institutions that failed. I do want to remind you that the sort of the number of institutions that fall in each of these categories is different, okay.

And so the public being one and the private being three and the proprietary being 38 -- I haven't computed those percentages, but I would assume that the proprietary is larger because there's a whole bunch more of them. So just keep that in mind as you're thinking about what these mean. We did not do sort of the cross-tabulation across the two, but if you have more questions, I am going to be available today.

MS. MILLER: Jennifer Blum.
MS. BLUM: It's not a question. I just wanted to, and sorry you and I spoke last night, and I did send Scott an additional request on --

MS. HAY: Thank you, okay.

MS. BLUM: So it's on your list now, but it is in Scott's email.

MS. HAY: Okay, thank you, and I will do my best to prioritize the requests that we get in. So feel free to reach out to us.

MS. MILLER: Okay, so I see Laura and Kirsten, I think, is going to be the last word on -- Johnson, okay, the last word on this and then we'll move to Jordan's document.

MS. HAY: Right, good.

MS. MILLER: So Laura.

MS. METUNE: Thank you Sarah for your work on this, and just your openness to the challenges that the Department faces in trying to produce these reports. So I just want to say thank you, and I also just want to say to Marc, I saw the Wall Street Journal story. We've talked about this data that's available. Frankly, I promise not to debate the metrics of this table. But I
would like to see it, so that instead of sort of just making these broad categorizations, we could actually know what you're looking at and that would inform us internally.

MR. JEROME: So I'm going to -- I'll send it to the Department, so the Department can confirm the percentages were right and the formula is right. I'll leave it to them to take out the identifiers. But again, you know, we just double-checked it last night and we're seeing many, many more institutions above 12 percent.

And for those of you in the room, I just invite you to go to the Scorecard and look at the data that's public-facing. It's hard to imagine institutions, there's plenty with 20,000 of earnings and $40,000 of debt are not over 12 percent. And I especially ask the consumer groups about that.

MS. METUNE: No, no, Marc. You're totally doing exactly what I want to stop have happening. I wanted all of us to see the data.

MR. JEROME: Sorry.

MS. METUNE: Yeah, and how long will
it take the Department maybe to do that for us, so we can all see what he's talking about?

MS. HAY: Sure. So I will do a methods comparison. I'm not opposed to you guys sending each other publicly available data. But the Department's not going to give out information at the institution level. Does that help clarify?

PARTICIPANT: Sure. So Marc, I mean it's fine and I'm happy to hear what the Department has to say about the methodology, but I mean you've talked about it. It's in the Wall Street Journal. I really think it should be out for everyone to see. If you need to take out the identifiers, that's fine. But you know, you've talked about it a lot so --

MS. MILLER: Okay. So Johnson, can you take us --

MR. TYLER: So I wanted to follow up on Daniel's question to you about the numbers on Exhibit 3 of the Scorecard data, where you said there were 38 proprietary schools, three private, one public. Is there some way to figure out how many students this is affecting, because when you
did the gainful employment we actually see, you know, that there are 214,000 students who are in programs that are failing.

And I'm just trying to get a sense of the quantity here, too. I'm just not sure whether Exhibit 2 or something else might help me with that.

MS. HAY: So you ask a good question and it has to do with the amount of information we have relative to enrollment data. We have started collecting that in 2014.

The data were not high quality in 2014 and they're getting better. It's not an answer I could probably get you today, but if it's an important one for sort of making your decisions, follow up with an email so we don't forget about it, okay.

MS. MILLER: Okay. Thank you, Sarah. So I want to move now to the document that Jordan passed out. Does anyone not have a copy of it at the table or an alternate? So one, two, three, four.

Okay. I don't have any more. So we might have to share, and then we'll make sure that
we'll get extras.

MS. BUCK: So Jordan, do you want to comment on the document first, because we're just going to have five more minutes on this before we move on.

MR. MATSUDAIRA: Yeah, and I don't want to take up people's time too much with this. I just wanted to try to illustrate one of the concerns that I had with looking at the Scorecard data as a way of inferring where or how many low-performing programs there are.

So I just pulled data from the gainful employment rates just for one institution that has a lot of programs, and just what I was trying to illustrate here is, you know, the dots are -- there's one dot per program that this one institution has.

Overall the institution, if you average all the debt to earning rates kind of weighted by the enrollment in each one of the different programs, the institution overall has a debt to earnings rate of about six, six percent. And so if you're just looking at institution-level
averages, this institution would look like, you know, it passing the annual debt to earnings rate overall.

But that would mask the fact that there are still about 30 of the 97 programs that are actually failing. So you know, I just wanted to make the simple point that in institutions where there are failing programs, there also tend to be a lot of programs that aren't failing.

When we just look at institution-level data, we really mask all that variation below and miss like a lot of the programs that the rule is really trying to target. So I just wanted to illustrate that point if it wasn't clear yesterday.

MS. MILLER: Any questions? Todd.

MR. TODD JONES: I don't want go down this rabbit hole as well, but I mean one of the things that bothers me about going to programmatic data in this way is variability between years, and as all the variabilities we've talked about, for example, choices of career and debt as measured by cost of living expenses that are self-selected by individuals within it.
So as you know, one of the advantages of having larger data sets or groupings of data, regardless of the structure is you're able to take out some of those anomalies. To the extent that we can say this is either too many or too few if we're just taking a slice of one year, programs that should -- that are failing or not failing, you know, for me getting this specific doesn't necessarily indicate it's better or worse than the institutional level data we're talking about, for the reasons of data variability. I mean is that, is that a fair analysis?

MR. MATSUDAIRA: Yes, it is. I think it's absolutely true. I would think about the two things as slightly separate, although they're related in the way that you've described. So when you go to the program level, the fact that there are fewer people in each program, and because of that we might worry about, you know, it's a very noisy signal of whatever it is we're trying to measure. I absolutely agree with that.

But what I was trying to say is just if we're trying to learn about how a program-level
rule would impact the sector or how many programs it would identify and where they would identify them, then looking at institution-level aggregates is misleading.

So on the second point, I think, you know, the kind of data that we've asked for in the past, which is to see year on year changes in these kinds of measures as a function of the size of programs which is, you know, again hopefully something that the Department will be able to provide, would inform that question.

I think it's solvable, you know, as we've talked about, by kind of rolling up cohorts to try to prevent the cohort size of any given program-level metric of being too small.

MS. MILLER: Jennifer and Daniel.

MS. BUCK: And then we will be moving on. The facilitators are going to be very hard-nosed today. So just, you can get mad at us but we are really going to try to keep on schedule.

MS. BLUM: So Jordan, I actually find this slide interesting and helpful actually as it
relates to the framework that we discussed, the potential framework that we discussed yesterday as it relates to, you know, having a first tier of the programmatic level.

But then I think actually Steve Finley, you know, I think brought back up that on the second tier, institutional could be interesting. I do want to take issue with one thing that you said. At a university level, if you had let's call it five programs that were low -- and I'm going to call it low-performing, because we haven't even discussed whether we're going back to fail or not.

So I'm going to call it low-performing, but if you have five programs that were low-performing at a university -- I want to recognize and we've talked a lot about whether the fact that low-performing might not be an indicator of poor quality. It might be because of the profession involved.

So I want to actually use an example. If you have a major university that offers, that has an architecture school, and then it also has a business school and whatever other money-making,
IT, you know, bachelor's degrees, and we'll stick with undergrad. We'll even say bachelors in architecture, because actually that's a very good example.

Architects right out of school do not make a lot of money. So it is quite possible at the university level that you could have situation, right, and I want to point out that the masking that you talk about, actually what it's really revealing and will reveal, I think, in a lot of situations, and actually this across higher ed, is that universities in effect economically subsidize a college off of another college.

That's just the way they do -- and I'm going to call it business. That's how we do business. We don't ever want to get rid of an architecture school, but it's very hard to operate an architecture school by itself. So it's much easier to have it with a university structure with other colleges that might help subsidize it.

So I just want to like keep in mind real life of what a university structure looks like, and those decisions that universities make when
they're deciding what programs to offer and what -- they might very well know that there might be an earnings issue on the back end. But it's still a very important field to teach in.

So I just want to -- so the institutional level piece is helpful on that overall analysis. I'm not saying it's a replacement; I'm just saying it's helpful to get to the understanding of what it means to be low-performing. So thank you, because I think this is a helpful piece of paper.

MS. MILLER: Thank you, Jennifer, and finally Daniel.

MR. ELKINS: This question would be addressed to either Jordan or potentially the Texas AG, or anyone else around the table that could possibly answer this question. We've been trying to get an understanding of data at the programmatic level for public and private institutions: is it available.

I was curious if anyone can confirm or deny. I've been told that the state of Texas collects this data, and I haven't been able to find
it. But if we're looking for a true apples to apples comparison, it would be great if we could look at that data and find out if the private and public universities were doing well or not.

MS. BUCK: Let's just have one answer to that question and then other people maybe can talk to you afterwards with answers. Would that be okay?

MS. HAY: So we'll go with Ryan, since it looks like you're AG.

MR. FISHER: Yeah, this is Ryan. I just want to say we do collect that data. We have for several years. We do it for transparency, and, you know, I think everybody agrees that Texas has great schools, especially when compared to Oklahoma.

(Laughter.)

MR. FISHER: But you know, some of our schools do not pass the DE metrics, some of the programs. I don't think that says they're bad programs. I think it speaks to the efficacy of using that as a sole indicator.

(Off-microphone comments.)
MR. FISHER: Yeah, there's a -- I can send you guys. It's a study that the Higher Education Coordinating Board puts out.

MS. BUCK: So if there's other information for Daniel on this topic, please do let him know. Okay, thank you. Thank you for that discussion, those questions. I think what we want to do now is shift to Issue Number 5. Tony, did you have a question about that?

MR. MIRANDO: Yeah. So we're not going to finish number four?

MS. BUCK: We will come back to number four at the end, but we do need to keep on going. Otherwise, we would be discussing Issue 4, I mean, conceivably all day. But we will come back. We will come back at the end.

MR. MARTIN: Yeah. Re Issue 4, I know that there's still things people want to discuss about that. But if -- I don't want to finish the day just having done Issue 4 and nothing else. So we'll try to get back to that. That might give everybody incentive to move through Issues 5, 6, 7 and 8 in an efficacious manner.
So this is Issue Paper 5, Alternative Earnings Appeals. I also want to point out that I'm joined by our counsel for this morning is Brian Siegel. Steve Finley is not able to be with us this morning. He'll be back this afternoon. So I want to thank Mr. Siegel for joining us.

Issue Paper 5 is DE Alternate Earnings Appeals. I'll read this and then I have some comments about it. We proposed to change the minimum threshold from 30 to 10 students with respect to the number of students. SSA data is needed for the Secretary to calculate DE rates.

We propose to eliminate alternate earnings appeals in favor of appending notification language found in 668.401(b)(1), to include a disclaimer informing potential students that the DE rates measure could be affected if a significant number of program graduates under-reported earnings such as tip income, or were self-employed, and had business expenses that reduced the earnings being reported.

What you see here, and you know, we can -- the first part of it we don't have very many
changes at all, just again striking GE for educational program, and then on page three talking the SSA earnings, the changing from 30 to 10. But the big part of this obviously is, if you look at, and again after admonishing all of you to number your pages, what didn't I do, number my pages.

On page five, where you see 668.406 has been reserved, and that reflects what we said in the -- what I just said in the comments, that we are -- we had proposed striking appeals language in favor of the appended notification language.

However, I think that, given what we said yesterday, where I think we got to yesterday with -- what should I say, not consensus obviously but some general agreement in moving in the direction of what's called an administrative sanction, where we would look at debt to earnings and then repayment rights. So one thing that does is when we did these, this paper here, it was based on the -- predicated on the assumption that there would be no -- that we would not have any -- there would be no sanctions. There would be a disclosure-only environment.
Obviously, if you're adding back in the possibility of sanctions and you're looking at debt to earnings -- again, that's going to be a measure that could conceivably be used to move toward a sanction -- then I think it puts, it puts that back into play, and to a greater extent than it would have been if it had just been disclosures.

So as you think about this, I'd like you to think about it, especially those institutions with programs that you know have graduates whose earnings are comprised to a great extent of tips or gratuities, unreported income, how you feel about -- how you would feel about there being a debt to earnings, a debt to earnings measure, but there being no appeals for that.

Because remember that that figure would be published, and even if -- so say you didn't -- a program didn't meet debt to earnings. We'll say failed, even though we don't, going to use for that. But let's say failed, and you moved on to a repayment rate and the program passed that, so therefore there was no problem with the program.

Would those institutions still want the
opportunity to appeal the way we currently have the appeals in place, to appeal the SSA earnings using alternative earnings based on a survey? You might recall that in the first issue paper we did going back to December, we had proposed -- at that point we had proposed retaining the, I think, the appeals.

We'd come up with an idea of -- because let's be honest, and I think anybody around here who did any of the appeals would agree with me, that was not an easy process. It was not clean, it was expensive, it was convoluted and no matter what we did with these rules, I think we want to move away from that.

So we had proposed the idea of, rather than us putting out the much loved Regis survey tool, that we would -- we would allow -- we would have institutions conduct the survey and then, rather than under the current rule, send it to us and we would evaluate the survey, we would have institutions conduct the survey, come up with the results. The survey would have to be -- still have to be attested to by -- in your annual audit. So
there's no way to get away from the attestation.

The way I look at our rules, and Brian can correct me if I'm wrong or maybe our IG people.

But whenever we're having -- whenever we're having an auditor look at something you've done to confirm that you complied with a federal rule, it's got to be at the attestation level. So it can't just be a review. It's got to be an attestation. So there would be no way around that.

You'd have to have an attestation of your survey, but it wouldn't be sent to us for review.

We would in a sense be accepting that it was done correctly, and then once it was -- once the non-federal auditor had looked at it as part of your annual audit, then it would become -- then it would be final. So that's just something we proposed before.

I just want everybody to keep that kind of in mind, that system for doing it. Should you want to insist that we go back to having appeals for Social Security earnings, or would you be -- since we're talking about this system yesterday, where if you didn't meet the debt to earnings
threshold and then the repayment rate was also not
good enough to make you pass, but we went into that
second look the Department would take, you know,
second tier, thank you, based on other elements.

Would that be adequate for an appeal?

So I just throw -- I'm not saying I have an opinion
or we have a position. I just want to throw all
those things out there and then hear what you have
to say about that. So I'll shut up and let you
do that.

MS. MILLER: Okay, Jennifer Blum.

MS. BLUM: So I thought a lot about this
last night too, and actually on that second piece,
Greg, that you just said, that's what I was going
to propose, which by the way, without going into
too much detail on Issue 5 now, I would actually
suggest that Issue 5 and Issue 4 are pretty closely
linked.

So I'm not sure how -- it's a little
heard to do that. So what I would propose or what
I would have thought of last night is that the
appeals, and we can still -- I think we should still
have the conversation about earnings appeals,
because we actually had some success with it in the last rulemaking.

So I don't want to take it entirely off the table, but I do think of the second tier metrics as, in effect, it's an appeal. So when you think about what we're doing in terms of the issue papers and the regulatory framework, I sort of envision a section of the regs which is really in Issue Paper 4, of the debt to earnings and the loan repayment piece, and then Issue Paper 5 becomes the second tier review, which is really an appeal.

And then that's where we would outline what those possible other metrics for consideration, you know, by the Department would be. I would also encourage, and I know Chris brought this up, that in this same section new Issue Paper 5 language, we put some time frames and due process around it.

So I would also add that in this, because we talked about that yesterday and this is where I would add that piece as well. So I didn't write anything up, but mentally in my mind, I was thinking about the next issue paper, and that's
how I would approach this.

    I would just say that if others agree
with that, then I would propose, which I know might
screw things up for the facilitators, I think it
is really difficult to then get into a detailed
discussion about what those metrics are, without
first establishing a little bit what the debt to
earnings and LRRs are.

    And so especially if we do an
institutional DTE. So I would -- in thinking about
if we agree on that framework, I would then propose
that the continued conversation of Issue 4 and Issue
5 are a little bit blended. So I would say that
we jump to 6, 7 and 8 and come back to 4 and 5,
because I think that they kind of live together.

    MS. MILLER: Sandy.

    MS. SARGE: This is Sandy. I had a
question on -- I had a question and then a comment.
On page four, at the bottom of page four, you have
underlined based on the program information
provided to SSA. I'm not, I don't think I know
what that means. Could you elaborate on that, and
then I have a comment after that.
MR. MARTIN: Okay. This has to do with -- this is the challenge. This is just challenging the accuracy of the loan debt information, right. The Secretary used to calculate the median loan debt. The same challenge. The Secretary does not consider any objection to the mean or median annual earnings that SSA provides the Secretary.

Just clarifying, based on the program information provided, if it's based on the program information that we provided to SSA. So it's just saying that we're not --

MS. SARGE: What program information is provided to SSA, I guess is what I'm asking, because isn't it -- what's provided are the numbers, the Social Security numbers in the folks in the cohort and then here's this cohort is one, give us that. Do they get any program information at SSA?

MR. MARTIN: No, they get the list that we provide -- that we provide to them.

MS. SARGE: Right, okay.

MR. MARTIN: So it's just clarifying, I think it's a clarifying statement there. I can
-- you know, I'll check with my people just to make certain exactly why we clarified that.

MS. SARGE: Okay.

MR. MARTIN: So I want to make that clear.

MS. SARGE: And then with regard to the -- I appreciate -- I really do appreciate the effort that the Department made in the qualifying statement you added regarding tips and self-employment.

However, I think we miss a point about Social Security data that I still feel very strongly about, which is that we have no guarantee that it represents actual 12 months' worth of work, and those -- and a student or a borrower choosing, or for whatever reason may be not a choice, who could not work or did not work for 12 months, make the denominator and the numerator two different units of measure potentially.

So I just want to throw that back out there, that we don't lose sight of it, that the qualification is not just about under-reporting tips and stuff. There may be legitimate reasons
why people don't work for a whole year in the periods in which we are measuring. And then is that -- so if you're in that situation, does the DE ratio really tell you whether or not that person has the ability to repay that debt if they're not working for the whole year? So that's another big issue on the denominator. Thank you.

Oh, and I agree with Jennifer's points completely.

MS. MILLER: Okay. So we're going to go through the queue and then we'll go back to the temperature check on Jennifer's proposal. So Tony.

MR. MIRANDO: Tony Miranda, thank you. So based on some of what my colleagues mentioned today and over the week and even some of the statements I have made, what I'm concerned about and I'm not an attorney, but I would think that even without -- even with this disclosure, that this would potentially bring up a due process issue, that if a school is being mandated to put something as a disclosure that's insinuating or referencing that they're failing something, and the data that's
used in order to determine that is flawed data, couldn't that potentially be an issue for whatever the reason may be.

Even with a disclosure, one could still say that that could be a detrimental disclosure that isn't, you know, for lack of a better word, fair to the institution because their program is a good program. And whether or not we come up with a second tier of metrics that could potentially get them out of having to have that disclosure, one could say well, you know, what happens if I don't meet those other metrics compared to another institution who may not also meet that metric. But because they have programs that are all W-2 programs, they're being more fairly measured when you look at oranges to oranges or apples to apples on this.

So that's one of my concerns that I think we should at least consider here.

MS. MILLER: Thank you. Johnson.

MR. TYLER: Thank you, Johnson Tyler.

I have a clarifying question really is, if you don't -- under the matrix we created yesterday,
there was a two-step thing. There was debt to earnings and then repayment rate. If you failed the debt to earnings but passed repayment rate, there would be no consequences. There's no publication or anything like that, is that right?

MR. MARTIN: Yeah. I think that's, that's on the table. I mean you know, certainly we would have the -- we would have the debt to earnings rates. We publish those now. If it would be -- I think it certainly would -- it would probably make a difference to schools if we published those rates irrespective of whether somebody, quote, fails ultimately or, you know, I'll say that, or gets to the point where there could be program sanctions. Let's put it that way.

So let's just say that the -- because the debt to earnings could still be failed. That portion could still be failed, but then they pass repayment rates, fine. But the debt to earnings is still what it is and would be published.

So that's one of the questions I have, how the, you know, potentially how would a school feel about a program where we're not saying we have
any problem with the program because of the way we're looking at the rates, but that rate would still -- would still be out there and I guess somebody might think it could be perceived as pejorative therefore, and say well but if I don't feel that those earnings used to determine that DE rate represent the true earnings of my students. Would I still want the right, even though it's not going to affect, it's not going to have any programmatic effect, would I still want the right to appeal that, if for no other reason than to have that -- to have that debt to earnings figure changed. That's the question.

MR. TYLER: If I can just follow up, I think maybe one of the follow-up questions to think about is if someone were to appeal that and you're using Social Security data, and they're saying well look at all the licensing, look at all the whatever, all this other criteria, what gets published after that appeal? Is it going to be left as N/A because no one can agree on what it is? Because that's, that could be equally pejorative and perhaps maybe,
you know, this is not something that's worth having that sort of appeal rate on. Maybe it should go through the other -- there has to be some consequence other than disclosure.

Disclosure is a different right than taking away your Title IV money. It's just a condition perhaps.

MR. MARTIN: I think that's what we're here to discuss. Given the framework we came up with yesterday, is it necessary -- to what extent do any of you here feel it's necessary to put that language back in, allowing for an appeal of an alternate earnings appeal, to say that you know, that the Social Security earnings are not reflective of the students in this program's earnings. Therefore, I want to do the appeal, put the appeal back in.

Understanding that, you know, if you go back to the appeal, there's really no way around doing the survey. All the statistical things we talked about yesterday would be applicable, and for those institutions who have done them, there is some cost involved in the attestation and getting
a CPA to attest.

So all those things are there. So I don't think anybody would want to do it frivolously. But do schools still want the option? That's the question we're asking.

MS. MILLER: Okay. Tony.

MR. MIRANDO: Yeah. So I can see, I can see both sides of this being an issue, and then just again trying to neutralize real concerns, real problems. This is obviously not for the bad apples. I mean obviously they're never going to be able to provide adequate information to the Department that's going to make them feel, okay we get it. I'm talking about real programs that are good and yet because of the disclosure piece here, that their graduates may be self-employed or they're getting tips or whatever, part-time, whatever the issue is.

Can we, you know, at least put on the table that the disclosure piece would have a non-detrimental, you know, verbiage, you know. Maybe instead of saying failing, which again has a negative connotation to it, we could say, you
know, something like this metrics could not be
determined for whatever this reason.

So it has a neutral effect, not
necessarily a negative effect, not necessarily
getting a pat on the back that you're meeting it,
but some neutral effect which would limit or
minimize a negative connotation to an institution
that's doing an amazing job.

MS. MILLER: Laura?

MS. METUNE: I think I need -- I have
a different comment, but I wanted to ask about this.

So what you're saying Tony is if a school fails
debt to earnings potentially because they have this
high, students have high level of tip income but
they've passed the other metric, they should have
a neutral disclosure because we're just going to
believe that the students have the tip earnings
or --

MR. MIRANDO: No, I wasn't even saying
that. I'm saying let's make believe it's me. I
have a good school. I'm doing a great job.
Students are coming in and getting them educated
and getting them a license to go prepare them for
gainful employment, which was what my job was. But because of the type of work that they do, their earnings, you can't control what they do, it's not necessarily a clear reflection of what they're actually making.

The Department comes up with this disclosure I've got to put on my website, which has a negative connotation to it. Regardless of whether or not, and this is just me personally. Regardless of whether or not I may meet one of these other pieces to the puzzle, just again from my point of view why should that institution have that negative stripe against them?

And so is there a way that we could then say well based on the fact that you're in one of those zip codes that a majority of your individuals are in this group? Everybody would come to a conclusion that their -- what they're reporting has a potential not to be accurate. And again, I'm being very careful how I say that, you know, because I don't want to make any mischaracterizations of people.

MS. METUNE: Right.
MR. MIRANDO: But these are real issues.

MS. METUNE: I hear what you're saying, and I totally understand the institutional perspective on that. I also though think as a taxpayer I might want to know if an institution or a program is leading to a whole group of people not correctly filing taxes. As a student I might want to know that this might lead to a job where I don't file my taxes legally.

So I'm just, you know. But my actual comment was about --

MR. MIRANDO: Oh that one, okay.

MS. METUNE: -- was about this -- it's a little bit hard to comment on this piece with so many other things left unresolved. But one of the things that continues to come up from the Department is this issue around capacity and the Department's ability to conduct all of these activities. The more levels we make in this process, it seems like the harder it's going to be for the Department to actually do this.

And so I just, I'm not sure if you've
thought through a little bit, like what kind of a process would be something the Department could actually accomplish, and maybe it's just a comment to say I hope that when we come back for the third week that's reflected in what we look at.

MR. MARTIN: A couple of things here. I want to clarify something about -- it's true that what we used to call warnings now are called notifications. It's kind of a disclosure but it's kind of different, right? You never disclose in your disclosure template we failed, you know. That's not what's on the --

Remember that currently if you are -- what's the warning? The warning, which you have to include on the disclosure template the way it is now, the way it's worked, but it's a warning that the program is in danger of all those things.

So think about this. If you pass, you didn't pass the DE measure but you did pass the repayment rate, if that's where we go.

So then you wouldn't be posting a warning because your program would not be in that level, right? And then turn around to the
disclosures, you would be disclosing median earnings, and that might be something you want, you know. There would be no context around that in median earnings, but you might want to say well I don't, these don't reflect what I feel. So that would be maybe why you want to appeal.

Now going to your question, what has the Department done about our capacity? Well, we are reviewing the current -- currently reviewing appeals. What we kind of had thought of was taking the Department out of the business of reviewing all these appeals. That's what I talked about before.

So let's just say, Tony wants to say well, you know, these earnings are not reflective of my student earnings. I want to do the survey, and I want to survey students and show that the earnings are different. So then conduct that survey, right. He has to conduct that survey according to maybe the standards we put out or generally recognized statistical standards for conducting surveys.

Then that would have to be attested to
as part of his non-federal audit. So the auditor would be required to look at that and attest to it. He would be required to pay for that, and then we could look at what the Department would do in response to that survey. But that's kind of what we -- where we saw that going if we were going to retain the appeal.

MS. MILLER: Jeff.

MR. ARTHUR: Yeah. I think this highlights the importance of a really sound metric base for this, that if we use really sound logic to set the metrics, debt to earnings, repayment rate, whatever by program across higher ed, that this will really minimize then. If we're truly identifying outliers, we will minimize the need to have this burdensome appeals process.

Otherwise, if we don't do that, then you're going to have certain programs, certain -- if we get to the graduate level there are certain programs where people earn very little at the start. We're going to have programs where half the institutions or many institutions are going to need to initiate appeals if we use a one-size-fits-all.
MS. MILLER: Daniel.

MR. ELKINS: So a couple of things. I think that transparency of labeling, you know, high debt, low debt, high earnings, low earnings is not necessarily pejorative, although people might think that it is. I think it's just honest, and I think that students and taxpayers and people have a right to know.

That being said, within the two-step process we're talking about or whether we call that an appeals or not, I do think that there's a lot of people here who would also say that this one size metrics to fit all, it doesn't allow for the idea of an exception to policy, if you will, so compelling needs.

For example, if this were to be applied to public institutions with, you know, teaching programs, that it might be honest to say that at first it's going to be a, you know, high debt low earnings. But there might be a compelling need in the state, let's say the state needs teachers. So for that program to then have sanctions, which is I think what we would like if these programs
don't meet that metrics, they fail the two things.
   It goes to an appeal.
   
   An institution should have the right to fight to say that those metrics are incorrect.
   
   But in some cases they will be correct. But that doesn't mean that there should be sanctions. So there should still be a way to have some sort of exception to policy on a case-by-case basis from the Department.

   MS. MILLER: Christopher Gannon.

   MR. GANNON: I have some issues with talking about yesterday's discussion as reaching consensus or agreement. I think that we heard some ideas and took some temperature checks on those ideas, but we did not reach any kind of agreement or consensus on those ideas.

   MR. MARTIN: This is Greg. I didn't mean to characterize that as consensus. I just was trying to find the words, some sense of where we might go, because that -- is that acceptable to everybody? To the extent that I intimated consensus, I heartily apologize for that. I didn't mean to do so.
MS. MILLER: Thank you. Jordan.

MR. MATSUDAIRA: I think my comments echo what Laura was saying about just crafting a rule that the Department can actually administer and, you know, one of the reasons that I thought that having this two part metric for establishing which programs would be, you know, potentially triggered into sanctions or whatever the next step would be, of having both debt to earnings and repayment rate is that in a sense the repayment rate would be kind of a presumptive appeal if you want to put it that way.

But you know, to the extent that debt to earnings doesn't measure your sector well, then repayment rate is the kind of backstop against those sorts of problems. So I guess, you know, I was hoping that having a repayment rate as that kind of backstop might avoid some of the complications of this kind of appeals process that we're talking about now and doing all the kind of earnings surveys and that sort of thing.

So I guess I'd favor an appeals process that was a little bit more limited to kind of
technical issues that might make both of those metrics problematic.

MS. MILLER: Thank you. So we have Mark McKenzie, Christina, David, Steve Chema, Jen Diamond and then Neal, and then I would like to get back to the proposal that Jennifer Blum put up. So let's go with Mark McKenzie.

MR. McKENZIE: Great. This is Mark McKenzie. I'll try and make it short. Concern I guess. I'd just bring it back to using any metric that's not an accurate measure. So the debt to earnings, what I understand I think from Sarah the other day is that by moving from 30 to 10 is going to significantly increase the potential negative impact to schools, and there's not a statistical reliable way to measure that.

So when you increase your -- the number of schools that may be impacted by this, what's that actually going to -- what's that number going to look like? So the risk is that you're actually putting out false information about good schools, which damages not only schools but the students at those schools.
So it's a real challenge and clearly you want to reduce burden, but you also want to make sure you're using accurate information.

The other thing that I kind of picked up on, I think Sandy said this earlier, is that the disclaimer starts out almost with the negative by implicating that in certain areas, program graduates are under-reporting earnings. You also have probably as much impact by the self, those that choose to be self-employed. But those that are making choices, either personal choices by family, circumstance or to not work full-time.

So I think the disclaimer language would need to be worked on a little bit if there's going to be disclaimer language that intimates that there's also personal choice that could be impacting this. Clearly, we don't want to -- we don't want to hide the fact that there are under-performing institutions that this is a problem. That's not it at all, but we also don't want to penalize, you know, create a penalty where we can avoid it.

So you know, when it exists, I think
what Chris was saying the other day of actually having an institution come back. It's like okay, if you don't meet these metrics, you have to actually explain in the disclosure how you, you know, how your students are dealing with that. I don't know whether that's through the appeal process or not. So I'll stop there.

MS. MILLER: Thank you. Greg, did you want to respond to that? It's okay if you don't.

MR. MARTIN: No. The point's taken. I don't think there's anything I need to say about that.

MS. MILLER: Okay. Christina, then David.

MR. MARTIN: Sorry I had my thing up. That's why you asked me that question. I'm an idiot. Thank you.

MS. MILLER: Thank you.

MS. WHITFIELD: This is Christina. This question may be premature, but I'm wondering Greg if you can give us a sense of what proportion of the failing programs of those that were eligible to conduct the survey did, and how many of them
were successful?

MR. MARTIN: We have that information, but while I can't tell you how many were successful because we haven't adjudicated the appeals yet, under the current -- under the current system, the appeals come to us and they have to be -- it has to be an attestation from the CPA. We're in the process of adjudicating them now.

I cannot tell you what the rate of approvals will be. At the break, I can check with some of my people from FSA, my colleagues there. Cynthia can tell me probably how many -- remind me of how many appeals we've had or what those percentages are. So I think I can get that information. What I cannot give you is what the rate of approvals or denials are.

MS. WHITFIELD: I just think that would help us. If we have that information, it would be helpful to sort of put a scope or scale on how many of these -- to what extent is this really the case, that they're able to document this tip income.

MR. MARTIN: Right. Well again, we don't know how many formal -- it will be awhile
before we have that, you know. It's not going to happen either during this session I can tell you, or during the next.

PARTICIPANT: Do you have an expectation on when it would be completed?

MR. MARTIN: I hesitate to give a time frame for that. Part of the problem with that is that we in some cases can just say that this is good and we can prove it. In many cases where we have some issues, it's we need more information from the schools. We have to go back and sort of get more from them. So that process could take longer than you might think.

I don't know any other way of getting that. I mean you could ask people who have submitted them anecdotally what they found in their surveys, but that would just be coming from them, and we would not have approved those yet.

MS. MILLER: David.

MR. SILVERMAN: I have a question regarding the earnings. I think we offended some people last time by saying people are fudging their taxes. The earnings is what's reported by the
employers to SSA; correct?

MR. MARTIN: No, not always. The earnings would -- it goes on IRS data from what people report, what people report to the IRS. So if -- so if an individual is not reporting, you know, a significant amount of income that is tips, then those figures would obviously not reflect the total amount of earnings somebody had.

It's true that they're technically violating the law by not reporting those earnings, but then it's also true that their earnings as reported don't reflect the total amount that they made.

MR. SILVERMAN: So if you made $500 from some employer as a 1099 and they didn't report it to Social Security, but you reported on -- but they did report that $500 on their tax return, would that be counted?

MR. MARTIN: I would have to check. I believe so. I think it's based upon what individuals reported. Obviously if you 1099 somebody, you know, the IRS wants that to check to see that what you -- what you have indicated
on the tax returns matches what, you know, what
you were paid.

I don't know all the IRS protocols for
all that, but I am fairly sure that what we're
looking at here has to do with what people reported
on their income taxes.

MR. SILVERMAN: Under 600, you're not
required to report for 1099s.

MR. MARTIN: Yeah.

MR. SILVERMAN: The employer's not, the employer of the employee --

MR. MARTIN: I think that's correct, but I think all this is predicated on -- is predicated on what people report on their income taxes.

MS. MILLER: Okay, so Jordan did you want to help out with this?

MR. MATSUDAIRA: Yeah, I just want to clarify. I imagine somebody can confirm, but Greg I don't think that's right. I think the earnings that are on both gainful employment and the College Scorecard are coming from W-2 reports from the employer. So they also add in Schedule SE
self-employment earnings which are self-reported to the extent --

(Simultaneous speaking.)

MR. MARTIN: Okay. Well I'll make sure. I'll make sure I get that correct.

MS. MILLER: Tony, one last point on this?

MR. MIRANDO: Yeah. Just again for somebody who's been in private practice, I can say when you're starting up a business which again is reflected here, and again in the schools that we predominantly accredit, a good majority of the people are kind of going out on their own, and for your first year or two, you're buying all kinds of equipment. You're buying, you know, to get yourself into business can substantially reduce your net income reported to the government.

And so again, it's not an accurate reflection of how much income they actually earned, but it more reflects them being an entrepreneur and wanting to go into their own business.

And as anybody who's started their own business, that may not be pretty high for the first
couple of years, as you're kind of establishing your own practice. So again, it's important to understand those pieces to the puzzle.

MS. MILLER: Thank you, Tony. Okay, so David wasn't quite done, and then we'll go to Greg.

MR. SILVERMAN: So Tony, so the -- if you had a Schedule C, which is self-employed income, the income that is getting reported to SSA for this is after expenses?

MR. MIRANDO: Again, if you're -- again, I'm not an accountant here, but I would assume the number that's being reported is your income, is the end -- the end number.

MR. SILVERMAN: Does the Department know that? It really should be gross income, because someone on a W-2 is all on gross income. They don't get any of their expenses. But if you're Schedule C, you made $1,000 and you have 500 of --

(Simultaneous speaking.)

MR. SILVERMAN: Then they'd only be showing 500.
MR. MIRANDO: I'm assuming you're paying taxes, and again I'm not --

MR. SILVERMAN: You're paying taxes on the net, correct.

MR. MIRANDO: You're paying -- that's exactly right.

MR. SILVERMAN: But what's being counted for -- I'm asking, I'm sorry. I'm not asking you. I'm asking the Department. So if you've got a 1099 for $100,000 but you wrote off 50, is the 100 being counted or is the 50?

MR. MARTIN: I was -- we're using -- it uses both W-2s and self-reported income. So --

MR. SILVERMAN: But is it gross or is it net, because people are writing off cars and -- as they should --

MR. MARTIN: I'm not -- I am not a tax expert. So what I'll do is I'll take this back. To the extent that I can get those questions answered for you, I'll come back and make certain that what we say here is correct.

(Simultaneous speaking.)

MS. BUCK: Okay. So that question can
be answered later.

MR. SILVERMAN: So you know, bottom line is then schools that not only have tip income, that have -- that have a lot of students that become private businesses or 1099 or Schedule C, we're going -- and performing arts has both, of course, we're going to need earnings appeals, because -- and I found, because we did the appeal and we were successful in moving the needle.

For reasons like this, you know, especially if there's going to be sanctions or even disclosures which will make us lose students, we are going to need some kind of earnings appeals, because I've already found as a fact that there's more income there that -- not that people aren't reporting, but they're being able to write off and there's more money being made than what's being counted.

And that hurt my school, and when we're at 8.01 and a 7.99 is passing or failing or telling students we're failing or something like that, it's extremely important.

So I'd ask a lot of these people to make
sure we leave the appeals on the table, as well as until we know what the metrics are and what's an 8.0 and what's passing and what's failing and what's unperforming, especially we have to tell people please leave their earnings on the table.

Thank you.

MS. MILLER: Okay. Steve Chema.

MR. CHEMA: Like David, I have some familiarity with the challenges of putting together an effective earnings appeal, and as Greg said all the work, time and expense that goes into it. So in spite of all that, I find it a little ironic that I'm not ready to let go of that process.

I mean I think what Jennifer proposed earlier is reasonable as a concept, but you know, part of what gives me some hesitation is going back to the N size, you know. Greg, when we introduced the concept initially, your comments on the scope paper were that in a sanctions or in the absence of sanctions or in a disclosure-only world, N equals 10 is understandable.

Is your thinking still that way, given the potential framework we've talked about?
MR. MARTIN: I think it's on the table. I don't think, you know, that was what we proposed, is on the -- whether or not to stick with that and 30 is something we would -- we'd entertain comments about.

MR. CHEMA: Yeah. I would just say that, you know, to the extent that we eschew an earnings appeal structure in favor of, you know, other factors at a Tier 2 approach, you know, the potential for swing that we saw year to year with those small cell sizes worries me. I think we'd be going through a lot of iterative processes potentially when, you know, you might not need to at that sample size.

MS. MILLER: Jen Diamond.

MS. DIAMOND: Yeah. I just wanted to echo what Jordan said about the repayment rates maybe solving some of these concerns as a backstop, but also just to build on Laura's question from earlier about capacity. In terms of the appeals you were discussing before Greg, just a clarifying question.

Is there then capacity to review that
survey work, etcetera, to ensure that it's not just
taking the institution at their word for what
they're reporting on?

MR. MARTIN: Well okay. We're talking
about what's currently, right? The structure is
such that the appeal that gets submitted to us.
It's attested to by a CPA, so they're looking at
did the -- was the appeal conducted according to
NCES standards, right? So the auditor attests to
that. We get it. But still have to -- we still
have to approve the appeal currently.

You don't see this language there
because we took the appeals out, but we had this
thinking that to move to a smoother system that
you're talking about the Department's capacity,
and I just jokingly say we were thinking of taking
ourselves out of the game regarding capacity.

Which would mean that the auditor
attests to it, right, under the audit, and that
we would -- we're thinking, just thinking that there
could be a tentative acceptance of those revised
figures until such time as the audit becomes final,
and then accepting the CPAs attested to, you know,
figures and not having it, not having a system whereby a school submit these to us and we adjudicate them, which is really where the capacity comes in and the time, and the length of time it takes to adjudicate all these.

So that's what we were thinking of. I agree with you. Under the current way we do it, if you expanded this to all institutions and all programs and you had a huge increase in the number of appeals, it probably could stress our capacity to look at all of them, yes.

MS. MILLER: Neal.

MR. HELLER: Good morning. This is Neal. Well, the Department has in the past put language in the preamble to the original gainful employment rule which spoke specifically to the cosmetology and beauty-related sector and those zip code programs, in that they accepted the fact that there was under-reported or unreported income.

And yet when the rule came out, there was nothing that allowed these schools to have some sort of exception, and it was just you're going to be treated like everybody else, even though we
know you're not like everybody else. So today or in this session, the Department has graciously provided us with a disclaimer, which again alludes to the fact that we pretty much know it's an accepted practice that in these particular programs, there's going to be under-reported or unreported income.

So I guess what I would ask is why can't we instead of using that language, just come up with specific zip codes, where we know it's an accepted practice, whether or not the state of California likes that or not. It just is, and then put some sort of a factor in which increases those earnings. So let's say it's a factor of 25 percent or 30 percent, whatever the factor may be.

Now you may think that's a high number, but if you just look at a tip, a $20 haircut, a 20 percent tip is $4. But that $4 is against $10 of reported income, because typically it's a 50 percent split. So that's a 40 percent increase in that person's reported income. It's very significant.

But again, instead of language, why not be specific and offer some sort of factor so that
we don't have to worry about having an appeals process? Which is a very difficult process, as everybody is very much aware.

Secondly, in terms of repayment rate being the, you know, the alternative if you will, you know again, our student predominantly is a low income student. They have the option of choosing an income-based repayment rate.

And yet you're going to hold that income-based repayment rate against us. That's not fair. I mean we know the students we serve. You know the students we serve, and there has to be something put in there as some sort of an exception or something that at least takes into consideration that there's nothing wrong with an income-based repayment rate if that is what the federal government is providing.

It shouldn't be held against the school. Anybody who again is under-reporting their income and now is eligible for an income-based repayment rate is going to choose the income-based repayment rate, and we are the ones who suffer. Thank you.
MS. MILLER: Okay, thank you. So I have Jen Blum and then Ahmad, and then I do want to get back to the proposal that Jen Blum had put on the table. So Jen.

MS. BLUM: Well, it's a good segue from what Neal just said, because I actually wanted to say with regard to Jordan that I support definitely the pursuit of looking at loan repayment. But I just want to be really clear that it's not a backstop. It's an alternative metric to measure how the program's doing.

But as you yourself said when you discussed the data yesterday, they're actually complementary. They're not measuring the same thing at all. So it doesn't resolve -- I mean just to be clear, I agree with a lot of people here that it doesn't really resolve the debt to earnings question.

So I also want to clarify, because Steve, you know, I know what you meant. But I just want to be clear. I did start my proposal by saying I still think we should keep the earnings appeals discussion on the table, and so I'm not taking it
off the table by the proposal of having all the other metrics, you know, in the mix in the appeals process.

So I support actually this conversation on appeal, on earnings appeals. So I just wanted to clarify, just so everybody was clear on that.

MS. MILLER: Ahmad.

MR. SHAWWAL: Ahmad here. I just want to re-center this, the conversation on the framework that we're potentially exploring. So it seems like we use DE. If that doesn't work, they get a second chance. We use the repayment rate. If that doesn't work, we give them a third chance. They have a second step process in which maybe it's an appeal, maybe we'll call it something else.

Whether or not that might include a policy exceptions to that, I'm not entirely sure how I feel about that, but that's something I'll think about.

But generally I do want to say that that in itself is a very -- it seems like we're giving institutions a lot of chances there to prove that
they are indeed capable and that they are indeed worthy of, you know, or that they indeed have good outcomes.

The student delegation, me and Gannon, have been very generous and very patient in this entire process. I'm not entirely sure if I'd be willing accept anything that pushes that bar further off the cliff from what we had discussed yesterday. I assure you the student delegation is not as generous, as you heard from Jocelyn yesterday.

MS. MILLER: Okay. So Jen, can you indicate again your proposal?

MS. BLUM: Yeah. So my proposal, I mean it’s pretty -- so the proposal for now actually is to consider Issue Paper 5 on appeals something that would include, and for continued conversations, the earnings appeal. But that also the second tier of metric analysis would in effect be an appeal process by the institution to the Department on whatever metrics it is that we come up with.

With time parameters and Ahmad to your
point, with time parameters and due process, you
know, notice and comment type due process in the
mix, and that that proposal or concept, because
it is so really closely tied to what we are
discussing in Issue Paper 4, that we move this to
a framework conversation together, you know, that
the two get joined in a conversation.

In the interest of time, we go to six
and seven and come back to four and five in a
framework that's joint. And can I just make --
so on that proposal just Ahmad to your point, but
just to clarify, the loan repayment rate in my mind,
so just so I'm putting the proposals so everybody
understands what I'm proposing, that it's not three
stages.

So the way it worked in Gainful 1, for
example, is the two metrics were produced at the
same time. So debt to earnings and loan repayment
were produced at the exact same time.

So just when you're concerned, and I
hear you on the time piece, those were done at the
same time. So it's not like an if then, then that.

It's -- it is that the loan repayment might help
in the process, but there's not a time variable between debt to earnings and loan repayment.

So that's -- DTE and loan repayment would be in Issue Paper 4 as or in 1 through 4 I guess in fact. Those would be the metrics, and then the appeals would include potentially an earnings appeal, but also the other Tier 2 metrics and the list of potential steps that the Department could take if they've had findings.

MS. BUCK: So Jennifer, I think you're proposing that proposals be made about Issue 4, Issue Paper 4 and Issue Paper 5 together because they're connected. But could we go through 6, 7 and 8 before we do that?

MS. BLUM: That's what I'm proposing. That's exactly what I'm proposing.

MS. BUCK: Okay.

MS. BLUM: I'm proposing that we now stop on 5. It's been a really good conversation, but that we stop on 5, move along to 6, 7 and 8 and come back, you know, to spend the afternoon, whatever we can on 4 and 5 together.

MS. BUCK: And we had originally felt
we would go through all the issues before we got to proposals, and I think what you're saying is maybe we can go through them even more quickly, to allow you more time for specific proposals. Would that be okay with people?

PARTICIPANT: Yes.

MS. BUCK: Okay.

MS. MILLER: Let's see a show of thumbs then for Jennifer's proposal.

MS. BUCK: To go -- to quickly go through 6, 7 and 8 and then to come back --

(Simultaneous speaking.)

MS. BUCK: Well, I pray we're going to need to go through relatively quickly in order to leave the time for what you're proposing.

(Show of hands.)

MS. BUCK: Okay, all right. So I think maybe at this point it is time for a break. Why don't we take a 12 minute break. Ten's a little too tight, and come back at 10:50.

PARTICIPANT: Can I just before we -- can I propose a consideration? I know this is a pain for the public, but could I propose a
consideration of a working lunch?

MS. BUCK: So why don't you think about that over the break and we'll come back to that?

(Whereupon, the above-entitled matter went off the record and resumed following a brief recess.)

MS. BUCK: So let me ask a logistics question. If we're going to quickly go through 6, 7 and 8, what about this? What about 40 minutes for 6, 40 minutes for 7, lunch, and then 8, and we could decide at the point at which it's lunchtime if you wanted to do a working lunch or not? You don't want to do a working lunch, okay.

But in terms of the time frames I'm proposing, 40 -- doing 6 and 7 before lunch and 8 after, how does that sound to people? Let's see thumbs.

(Show of hands.)

MS. BUCK: And one down thumb. Do you want to comment?

PARTICIPANT: Yeah. I don't think we'll need 40 -- I mean I just like we'll do the two of them, but you said 40 and 40 and that's not
realistic. Issue 6 is definitely going to take longer than 40 minutes.

MS. BUCK: But what would you propose?

PARTICIPANT: Well, you said 6 and 7 together. I'm not sure 7's going to take much time, because it's reporting and I think there's less of that. So I'm okay. I just want to clarify, I don't think it's 40 and 40. Can we not divide up how we're -- what the rationale of that is?

MS. BUCK: You're okay with doing 6 and 7 before lunch; you're not okay with saying only 40 for 6; is that correct?

PARTICIPANT: That's correct, and then I would just --

PARTICIPANT: Can we do 7 and 8?

MS. BUCK: All right. So well let's go forward with 6 then, and we'll see where we are after 45 minutes, and assess how much more time you think you need. How about that? Okay, very good. Let's go to Issue 6.

MR. MARTIN: Thank you. A couple of introductory things here. Social Security reported wages. We are going to be passing around
an information page based on that. So I just want to -- you know, what I was trying to say poorly was that yeah, the employer does report W-2s to the IRS. Some are self-employed, some are Schedule C.

But that, you know it is -- I guess my point is that it is possible for the employer to report a certain amount of money and for wages not to be -- for that person who's in a tipped industry, but for that individual's -- they look at both, the self-reported and the W-2. So it's still possible for those wages Social Security has to not reflect what the student, what the borrower actually earned in his or her field.

But we'll get that information paper out to everybody to clarify that. Regarding lunch, I understand the desire to take a working lunch. I kind of like lunch to decompress a little bit. I don't know what other people think.

MS. BUCK: So we're going to address that issue when it gets to lunch time --

MR. MARTIN: I'll go with the consensus of the group there, with my preliminary vote against
up front. That's no offense to -- no offense to Jennifer. I love you all.

MS. BUCK: Okay, very good.

MR. MARTIN: Okay. Those who know me and work here know how I'm kind of a fanatic about lunch, it's like, you know. That and iced tea. Those are the only two things in my life that I insist on. Okay. So let's get to -- let's get to Issue Paper 6, Program Information Disclosures.

We propose to remove 668.413 and allow, instead allow for the method of calculating loan repayment rates for students' mean and median earnings to be specified through a notice in the Federal Register. We propose to eliminate program cohort default rate as a specified disclosure, as well as Subpart R, which describes the methodology for calculating program cohort default rate.

We propose to add a disclosure item for a link to any web page containing the state's mandatory qualifications for licensure if a program prepares students for fields requiring licensure, and a link to the institution's page on the College Scorecard. Again, we propose to delete language
related to direct distribution to prospective students.

So we can go through this briefly. The first part, you'll note again striking GE. We struck any reference to the Secretary, obligating the Secretary to conduct consumer testing. We have taken out references to 413 because we've proposed to remove and reserve 413. I can spend a lot of time walking through all of this, but again, I didn't number my pages.

So I'm not going to walk through all of this, but you'll see on page four where we added for programs preparing students for fields requiring licensure, a URL link to any web page containing the state's mandatory qualifications for licensure. We also are requiring a link to the institution's page on the U.S. Department of Education's College Scorecard, or its successor site should that occur or other similar federal resource.

You'll see on page five at the bottom under (e), direct distribution to prospective students. The direct distribution is struck, and
then a simplification of the disclosure protocols.

And at the bottom of page six, seven, you can see where 413 has been removed and reserved. Let's stop there. I'd rather leave more time for discussion than my tedious overview of the paper so --

MS. MILLER: Chris Madaio.

MR. MADAIO: Thank you. Chris Madaio.

Greg, if I could just ask first why the Department would remove the direct distribution to prospective students?

MR. MARTIN: This is Greg for the record. The removal of direct distribution in considering the -- again, part of the effort here with these regulations is to simplify the regulation, reduce the burden on institutions related to disclosures, and in that vein we took out the direct distribution requirements.

MR. MADAIO: Okay, thank you. So my comment, a little bit of, you know, incorporate everything I said yesterday when we were talking about the notifications. But basically this is important information. Obviously, this is why we
have this issue paper.

That's why we debate what information should go out and just putting it on a website somewhere where a student may or may not see it, or having it in a promotional material again, which may be very early on in a process or may be at a time when a student may or may not ever get that promotional material.

I think it is very important that a student actually receives this before they enroll, with the acknowledgments and all the language that also goes along with it, to ensure that it is actually received and it is the only thing in an email, so that it is clear when a student is getting it. We talked a lot about that yesterday, about pre-enrollment disclosures, why they're important.

So I just think that ensuring that students get this information is important and should be included.

MS. MILLER: Okay. Ahmad, your tent is up. Did you have --

PARTICIPANT: No.

MS. MILLER: Okay. So Johnson, then
Whitney.

(Simultaneous speaking.)

MS. MILLER: Okay, Whitney.

MS. BARKLEY-DENNEY: I second everything that Chris just said about, you know, the direct distribution. I think that's a really important way of reaching borrowers. Again, particularly when we're talking about certificate and associate degree borrowers at certain schools.

You know, you might be going to a school because it's what's in your neighborhood or it's where somebody went and were not necessarily again shopping around in a way that bachelor's degree students do or students who have the options of private or public schools. I also wanted to ask why the PCDR was eliminated? Was it a calculation issue, or was it also a simplification issue?

MR. MARTIN: Yeah. Again, in looking at streamlining the disclosures and the myriad things in here which were calculations that we had, many of which we hadn't, we didn't do this last time, we can't remember the disclosures, the way the disclosures are set up. It doesn't obligate
the Department to -- we're talking about the current rule, to request, to require any particular disclosure.

It's a list of what we can disclose and what we can require to be disclosed rather, and we can also request something or require something additional to that list. It was just the streamlining of those -- of those possible items and an acknowledgment of where PCDR stands now, and we didn't see it as something we wanted to carry forward.

MS. MILLER: Excuse me, Greg. I have a request. What is PCDR?

MR. MARTIN: PCDR is Program Cohort Default Rates.

MS. MILLER: Okay.

MR. MARTIN: That would be as opposed to when we talk about CDR cohort default rate for institutions, this is a similar calculation but only for programs, individual programs.

MS. MILLER: Okay. Thank you for that. I know in D.C. we love our alphabet soup, but for some people they don't understand the acronym.
MR. MARTIN: That's true. I testified in a court case once in front of a federal judge, and I used the -- they used the acronym FSCOG, and she glared at me and said Mr. Martin, we do not use alphabet soup in this court and I was -- I was duly admonished.

MS. MILLER: Thank you. Whitney.

MS. BARKLEY-DENNEY: So you know, I can let others weigh in on PCDRs. I do think we're sort in a different place with CDRs than we were, given the myriad of repayment options for borrowers and that repayment at a program level might be more illuminating.

But I just want to stress, and I think that this table has in some ways done a better job than others, you know. We're not just talking about streamlining regulations for institutions, but also doing that in a way that protects students and borrowers and taxpayers. I think that having that first disclosure, and that direct disclosure is an important piece of that.

MS. MILLER: Jennifer Blum.

MS. BLUM: I don't know where to begin.
So I didn't know whether to go in order of the regs, and this is a very complicated conversation to have on this issue paper without people having the benefit of seeing the template. So I'm going to try and I'll just start with a couple of examples, and then we can try to get through.

So on the disclosure even of the occupational codes that are used for the disclosure of where graduates are employed, I just wanted everybody to know the template pops up and says "program graduates are employed in the following fields."

Well actually what the Department is asking for are the zip codes, I mean are -- yeah, zip codes that tied to -- I'm sorry, the SOC codes that tie to the zip codes that are being used for the metric. So it's not an exhaustive, exclusive list of every field that gets -- that a student might get employed in, and if we're extending this and I know I'm probably speaking now for the non-profits too, it's problematic enough at our level. It's really problematic if you extend this to all programs, where the statements, and again
that's why it's hard to have this conversation.

I don't want anybody to have the impression that I'm not very supportive of the disclosures. It's just that when you then post a statement that says "program graduates are," which is a very affirmative statement, "are employed in the following fields," and you only fill in, you know, a few zip codes or SOC codes and the list could be endless of the potential fields.

And again, this was all developed around gainful, but now we're taking this into a whole different level. So I just wanted to flag those types of issues, where you know, can there be a more expansive list of SOC codes that can be provided, that aren't just tied to the zip codes, or how -- or yeah. It could say "could be employed," but I don't know how the consumer groups feel about that.

So I'm just, I'm flagging issues for the Department. I don't have -- I'm sorry that I don't have solutions, but I do feel like it's important to flag these in conjunction with what
will actually appear on the websites. And so I don't know. I have -- I mean should I keep going? I'll stop there for a few minutes if anybody else has something.

But I then obviously there are going to be some other issues like these.

MS. MILLER: Daniel or Greg, go ahead.

MR. MARTIN: Yeah. To respond to that, you made some excellent points about the way the template works, and what I can do, I don't have it in front of me now, but the template's published, and actually it's very -- since the way the template works is we give you this template where you enter the -- We don't collect the information. You enter it in and it creates an output that becomes your template. Anybody can go in and play around with it. So as long as you use any kind of -- just put it in your school's OPID, and you can go through the template. Just you could enter dummy information and see how it works. So for those of you that like to see how it would potentially work, I can tell you how to get in there and just -- and do it.
MS. BLUM: That's actually a really excellent idea between now and third session. For programs that haven't had to face this, I think -- I would encourage you to spend some time between now and the third session to see, because while you can play around, you actually can't play around too much. So in terms of -- and we'll get to that issue too. It's very limiting.

MS. MILLER: Daniel, then Andrew.

MR. ELKINS: This is Daniel for the record. When it comes to state licensures and requiring links and whether or not the program and discussion will allow a person to sit for the license, we think it's imperative that the Department disclose that. Many veterans have been recruited to institutions, telling them that they will qualify for a specific program, and be able to sit for that licensure, and then they have been unable to do so.

So I do appreciate and understand that that is potentially burdensome to some institutions and/or the Department. However, I think that it's kind of a non-starter for us. Like if you're going
to get a nursing degree and you can't become a nurse,
I don't think that you should be able to use your eligibility for that program.

MR. MARTIN: Yeah, I thank you for that comment. We did add it to the disclosures here, and we also have a discussion of that in certifications as well.

MS. MILLER: Andrew.

MR. HAMMONTREE: Okay, this is Andrew. I wanted to respond to Chris and Whitney's concern about the direct distribution of the disclosure to prospective students. I think across all sectors, we would agree that students need to have all the information. We want to be transparent and provide students with that information.

But I know that this -- the rule that's being struck out here was in the current rules and across all sectors we all went into panic mood when we realized, because included in that is this active confirmation piece, that we just did not know how we could comply with. I heard from a lot of the community colleges, public vocational schools, we don't know how we're going to be able to do this
because the way it's written is that we needed to get some type of a piece of paper or an email from every single student.

I think Chris or Chad referred to this as like that's a small city. You're going to get thousands of pieces of paper from students before you can actually enroll them. We didn't -- so we know that they're getting the disclosure. We want to go over that with them, but to get that active confirmation piece we just didn't know how we could possibly comply with that realistically, because there's so many varieties in how we enroll students and that was going to create a tremendous burden.

I don't have a problem with getting active confirmation on a program that's determined as low performing. I think that might be more important. That might be a good compromise. But to require -- to require that for every single program at every institution, I just don't think that we're -- we're setting schools up to fail on that piece.

PARTICIPANT: Could I ask you a question on that? Are you opposed to
pre-enrollment disclosures then totally, or are you only opposed to an acknowledgment for the pre-enrollment disclosures?

MR. HAMMONTREE: The acknowledgment. I think -- I think for the most part the students are getting them. I don't know that they read them, but I know that they're provided them. That acknowledgment piece, that's where I didn't feel like we could realistically comply with that.

MS. MILLER: Kirsten.

MS. BARKLEY-DENNEY: Follow-up.

MS. MILLER: Well Kirsten was next, if she's okay with you following up.

PARTICIPANT: Go ahead.

MS. BARKLEY-DENNEY: Thank you Andrew for that concern. I mean it's certainly interesting to hear your perspective. I was wondering if -- I guess I wonder if it would be easier for institutions to ensure that people using Title IV do this? I mean I'm guessing that you have a lot of cash pay students or --

MR. HAMMONTREE: Yes.

MS. BARKLEY-DENNEY: Would that make
a difference?

MR. HAMMONTREE: At my institution yes. I don't know holistically if that would work for a lot of people. So I'm looking around the table to see if people are -- apparently not.

MS. BARKLEY-DENNEY: Okay.

(Simultaneous speaking.)

MS. MILLER: Sandy.

MR. HAMMONTREE: Right.

MS. SARGE: Sorry. It does say -- well I guess it says makes a financial commitment. So I mean there could be a different. I'm just wondering if there's a different point in time when we could require it that would make it easier.

MR. HAMMONTREE: At my institution, the problem is is I couldn't control this process. It became an admissions process, and I have a lot of concerns about my admissions department being able to comply with that. The financial aid office is the compliance office, okay. So this is going to happen long before they ever came to the financial aid office.

I don't even know what they're
enrolling in at the time that they do the application, which is when most schools I think wanted to do this. It was going to take a lot of staff, and my concern was that if we hire more people tuition has to go up, and we want to keep our costs as low as possible.

The other concern is if you don't hire more people to handle something that takes up this much time, is you're taking away that one on one counseling that is so important. This is gainful employment or whatever we call this. This is only one piece of the Higher Education Act.

That's one piece of the whole financial aid landscape, and there's just so much complexity. We're getting a lot of first generation students coming in that are very, very confused, just getting the FAFSA filled out. The more time that we spend making sure that we have this piece of paper before we enroll a student, that's less time that we're able to spend one on one with those students, counseling them through a very complicated process.

So while I understand getting the active confirmation maybe for programs that are
low performing, where it's -- they're at risk of
losing Title IV eligibility if we went down that
path, I just don't think you can do it for the tens
of thousands of students that don't fall into that
category.

MS. MILLER: Kirsten.

MS. KEEFE: So actually my first
comments were related to that and I hear what you're
saying, and I don't know what the solution is.
I will just add though, I think that this disclosure
being provided at the point of somebody actually
signing an enrollment and coming up is a really
critical time, right?

It's one thing to provide information
to folks that are looking at a bunch of different
schools and what they might go to. But it's really
that next step that's a really critical time for
them to get this information. Maybe not all
students need it. I hear what you're saying, but
it is a critical time for the people who need this
information to get that information.

I will also just add, and I again hear
what you're saying Andy about the logistical issues
with the acknowledgment. I think the acknowledgment is really important though, again for the students for whom this information is most critical.

Because, you know, we're all reading a million disclosures, especially if you're getting them on your iPhones. You just hit terms of whatever so you can get onto the next page. But if you actually have to acknowledge and sign, to me that's a huge red flag that oh, this is a disclosure that you really need to read Kirsten, you know, versus all the other disclosures in life. So I think it is a critical component, you know. Again, I appreciate your issues.

Let's see. The second thing that I just wanted -- oh, I wanted to ask the Department about the elimination of the consumer testing on the template. I assume that that's because -- so this is on I think page one of the proposal, in the first paragraph. I assume that's because it's already been done; is that correct?

MR. MARTIN: Yeah. Yes, we did conduct -- we did conduct consumer testing
previously. In these regulations, we didn't want
to obligate ourselves to do that every year. There
are budget considerations with that, and we don't
-- it doesn't preclude that we would ever do
consumer testing, but these rules don't obligate
us to do that.

MS. KEEFE: So then is there a
commitment from the Department that the template
will not change at all, or that if it were to change,
there would be additional consumer testing or is
the template what it is?

MR. MARTIN: The template. There's
two things here, and I think Jennifer was pointing
that out. There's the disclosure rules and then
how it manifests itself in the template.
Currently, the way it works is we have in here what
the Department may require you to disclose. But
we don't require -- if you looked at the template,
we absolutely don't require anywhere near all of
these things, right.

So we -- each year we determine what
will be required to be disclosed. We issue, we
put out an electronic announcement with that
information in it, and we issue -- we put that in
the *Federal Register*. So the template itself is
not -- the way it looks is not dictated by these
regulations now, nor would it be.

So I couldn't make any guarantees that
the look of the template would change. We didn't
change the template much this year over last year.

We did change some items. So what could change
would be what we would require you to disclose,
and again since in the old rule and in this rule,
the Department has discretion to use what's here
or additional things, that could change from year
to year.

MS. KEEFE: But the pieces that you did
the consumer testing on wouldn't change? That
would be more on the wording and -- I mean if we're
going to be relying heavily on disclosures now in
this new construct, you know, I just really want
to make sure that the disclosures are clear and
readable and, you know, readable to somebody at
a low education level, etcetera.

MR. MARTIN: And we make -- and we make
every effort to do that, and I think when I give
you -- I'll give you later on today the link how to get in there and look at the template, so you can all get an idea of what that looks like. So when you come back, if you have comments about that you can let us know.

MS. KEEFE: Okay, and then my final question is just -- so if a template, if an institution puts a template out that's incorrect, is there oversight of that and are there any ramifications for that or repercussions?

MR. MARTIN: Yeah. I mean a template that's incorrect -- if like anything else a school does is incorrect, that would be something that would be looked at in a program review or potentially an audit. So yes, there would -- it would be a compliance issue if somebody put a template out that was -- we don't have something in place where we automatically check each template all the time.

But as with anything, as with any of the other disclosures, consumer disclosure that schools are required to make, if it's incorrect that could be a compliance issue, yes.
MS. KEEFE: Okay, and one last final compliment. I'm glad to see a link provided to the state certification. I think that's a good addition.

MS. MILLER: Laura, Jeff and then Jessica.

MS. METUNE: I similarly wanted to appreciate the addition of the link of the state licensure requirement. I think that's a good addition. I wanted to agree with Daniel's comments about the importance that students can sit for licensure. I just -- I want to make sure I understand the current structure of what you're proposing.

So in the certification requirements, the state where the institution is located, there's a strict requirement that the institution's program meet that state's licensure and accreditation requirements.

But then an institution might have a service area that includes another state, and in those instances, the institution is not required to meet the licensure or accreditation
requirements, but must disclose to the student what those are. Is that the way this works?

MR. MARTIN: Before I characterize that, I'd like -- give me a chance to talk to my, some of my people before I --

MS. METUNE: Okay, and then just a comment that I think it does seem to -- if I'm correct, which you can correct me later if I'm not, but if I'm correct I do like the appreciation that there's this recognition that students will enroll in institutions that may not ultimately meet their accreditation or licensure requirements.

I think it's really important that we make sure that those students do have an assurance that they will ultimately be able to sit for licensure in the state where they are located.

MR. MARTIN: Thank you.

MS. MILLER: Cynthia's here.

(Pause.)

MR. MARTIN: You characterized that correctly. I just wanted to make sure that we were in on it.

MS. MILLER: Jeff, Jessica and then
Sandy.

MR. ARTHUR: Yeah. When you take a look at that template, you're going to see currently there's a requirement to disclose the completion rate based on 100 percent completion time. I would assume that this -- that as we do this, the disclosure would probably evolve to a more standard, 150 percent or 200 percent graduation rate, which is fine.

But we're also disclosing the length of the program and then the total cost of the program based on that. But I would suggest, based on a couple of stats that we're aware of, I thought it was 5.8 years that is the median completion time for a bachelor degree. Roberts had indicated to me it's 6.1 I believe. But we know it's well over five.

And we also there was a survey, and the Chronicle and Inside Higher Ed, others I think referenced it at some point that was fairly recent that showed that families spent on average 40 percent more than they calculated they were going to spend when they were starting a program. And
so there's a real misunderstanding of the cost of higher ed and this, the way the disclosure's done here may propagate that.

So I would suggest that we also include in the disclosure a median completion time for the program, so that people can understand at that institution what the normal time that a student took to complete the program.

MS. MILLER: Jessica.

MS. BARRY: Thank you, Jessica Barry. I just want to echo Andrew's comments about acknowledgment. It would be extremely difficult, and one of the pieces that makes it even more difficult that I think was mentioned earlier in the week is that young people aren't checking their email and they're not responding to email, and that makes it even more difficult.

One of the suggestions that if acknowledgment is something that we want to work in in some form or fashion, in the state of Ohio we're required to disclose certain rates. So how we handle this is when a student is accepted to our college, we send them their acceptance letter
with their enrollment agreement, explaining what those next steps are, and we also put the acknowledgment piece in there.

So there's a form that says "I have received completion rates and placement rates."

And it says if I have not received them, here is where they're located or here's who I can contact to get those rates. And we don't accept that enrollment agreement until we have that signed acknowledgment.

I think that's the only time that I could see it really working and us being able to collect that data. So I just wanted to share that example and ask the group to consider that.

MS. MILLER: Sandy, then Pamela.

MS. SARGE: Thank you, this is Sandy.

I had a couple of thoughts. One is, and maybe Greg can help me. I guess I'm getting a little bit lost in the weeds between what a disclosure is versus a notification. I think that yesterday or the day before we had a lot of very good points made, and I think we had all sort of come to a place where we felt that a student should have
notification before signing a financial obligation to a school or entering into a contract.

We again not consensus, but certainly felt like the crowd was sort of getting there on that one. So what's the difference then between what we were talking about that day and this? I'm a little confused there, and then I have some thoughts, other thoughts.

MR. MARTIN: Greg for the record. Yeah, well they are different. The current, let's talk about now, what we have now as a warning or we talked about notification. So at the point at which the program could potentially lose eligibility, in the next year you're required to provide a warning.

Now that's separate from disclosures. It's a separate thing. You're warning a prospective students and students that the program faces loss of eligibility and there are certain things attached to that you have to inform them of.

It's kind of linked to disclosure currently because going back to Jennifer's point
about how it helps to distinguish disclosure, because what happens is with a disclosure template, currently if your program is in that situation where you have to use a warning, there's a different -- two different templates. One's a warning, one's a non-warning template.

So you have to -- you'd have to use the template that contains the warning language at the top of it. It's in red. It's pretty bold. So it is kind of amalgamated in that way, in that the template itself sort of forces you to put the language on there.

But that's sort of separate from the requirement. You still have to have -- there's still the requirement that you issue the warning. Schools can use the template as a way of issuing the warning, but they're kind of separate things.

Does that -- does that describe?

And I invite anybody at the table who has done the process to say no great, that's convoluted. Here's a better way of describing it.

But I think I described it accurately.

MS. SARGE: Okay, yeah. That makes a
little bit more sense, and I think that I definitely thought about, because Pamela gave an excellent example, and I'm not sure I certainly got to hear it, which was great. She gets 100,000 inquiries, if you will. Right, 125,000 FASAs, 60,000 of which then --

(Off-microphone comment.)

MS. FOWLER: 60,000 apps for admission.

MS. SARGE: Apps for admission, 6,000 are admitted and 1,000 ultimately get Title IV or something like that. So I mean you look at that. So what I'm hearing is based on prospective student, then she would be sending out notification or disclosures on to 125,000 FASAs?

(Off-microphone comment.)

MS. SARGE: You send it to 60 now, okay.

So is that -- so trying to get acknowledgment, is that what Andrew you guys are concerned about is that type of thing? I could see that definitely. I do agree that it is important that there is -- there is almost a looking in the whites of their eyes, making sure that students clearly
understand information before they get into a legal contract with the school or along those lines.

So my question I think would be to the groups that represent students. Has there been any type of research done about what, like focus groups or surveys about what students, what is effective to students when it comes to all of this disclosure that colleges are giving? Because I think that the concern, and the one example I have had for many of my financial aid peers has been I didn't get a loan. I got financial aid.

And yet they had to sign a master promissory note; they had to do entrance counseling only if they get loans, not if they get Pell. They then had to acknowledge the receipt of each disbursement, you know. So but at the end of it, they're like why did I get something from a servicer about a loan?

So all of this disclosure, I know that sometimes it's hindsight. Like I go back and go oh, now I understand what that meant. So have you guys done any research on that, because I'd be interested to know what the student masses that
you represent think about what's already out there.

Thank you.

MS. MILLER: Okay. Pamela, then Chris Gannon.

MS. FOWLER: Pamela. There are certain consumer information requirements right now that have to go to enrolled and prospective students. So I consider a prospective student anyone who completes an application for admission. So I send an email to over 60,000 students who I know 90 percent of them will not be admitted, giving them this information. If that comes back, if that email comes back, they get it in paper.

That's the best I can do. Now what we're talking about here has nothing to do with anything in my office. We're talking about program and institutional stuff. But I guarantee you it will fall to the financial aid office to do this.

I have a staff of 53 down from 55, and two of those people know nothing about financial aid. They do consumer information day in and day out. Now if I have to go back and tell Casey she has to add every program at the University of
Michigan to what she's already doing, she'll quit.

(Laughter.)

MS. FOWLER: And if I go to my boss and say I need -- she needs help, because one of those people is an editor. She formally wrote for the Ann Arbor News. The other person is a graphic designer. She's going to say I need help, and I can't disagree with that. But I go to my boss who's more interested in what color the carpet is and the walls. She's not going to give me more money to hire someone else.

VOICE: That's reality.

MS. FOWLER: And so, you know -- absolutely reality.

VOICE: That's reality.


MR. GANNON: Yeah. I have some concerns on -- as far as knowing how the repayment rate is calculated. I think it says in here that you're going to publish that in the Federal Register at a later date.

I think that maybe that's something
that the negotiators here should decide, so we know what that is. I just want to know what the department's justification is for doing it this way.

(Off-microphone comment.)

MR. GANNON: I think it's very first top of page one, first paragraph.

(Pause.)

MR. MARTIN: Yeah. Well part of this, Greg for the record, part of this comes from the -- when we were looking at this, the recognition that -- I think I'm not saying anything that we don't already know. The department has had a few different recalculation rates, repayment rates out there, so of which this was one in here.

We didn't want to be obligated to the one that was in these -- and this was just for disclosure purposes, right? So as far as repayment rate goes moving forward, you know, yesterday we discussed here the idea of using a repayment rate as a -- as part of an evaluation of whether or not there would be administrative sanctions against a program, right?
So I think moving forward, I think repayment rate, given what we talked about yesterday, repayment rate takes on more of an importance than it does simply as a disclosure. So I agree with you, especially in the context of that, then what that repayment rate would be becomes -- becomes a matter for discussion with this group that takes on a higher degree of importance than it would as simply a disclosure, because now you're looking at it as a possible program measure.

So we certainly would be willing to hear anybody's thoughts about what repayment rate would look like. We have some ideas. I think certainly we'll come back the next round with some language on what that might be. But we would welcome any of you to -- I think, I don't know who made the point that it's something which is being considered in legislation that of course we have no control over.

But just keeping that in the back of our minds, that we, you know, whatever we do we'd want to stand. So I throw that out to anybody, you know, that we're not committed, right,
especially with regard to how it affects program eligibility. We're not going to be committed to a certain rate. We want to hear from you what you think.

But in any case we wouldn't -- I don't think we want to obligate ourselves to the rate here which is struck out. Thank you.

MS. MILLER: Whitney.

MS. BARKLEY-DENNEY: So I think it would be helpful, and we were talking about this sort of offline yesterday, you know, for any of these rates to be included in the issue papers, at least what you're considering so that we can think about them and talk about them. I don't think as negotiators most of us, possibly Jordan exempted, have access to the data, you know, that would allow us to sit around this table and come up with a rate.

We might -- if you hand that to us, then we may be able to say this makes sense or this doesn't make sense based on these policy decisions.

MR. MARTIN: I agree with that, and
that's obviously not going to happen today before
the end of the day. But we can -- we will have
something for you next round, and I invite any of
you that have ideas about that to send it to
scott.filter. He also has an advice column he's
thinking about doing.

MS. BARKLEY-DENNEY: And I do have one
more follow-up for Marc on what Sandy was saying.
I think actually Sandy your point really
highlights Kirsten's point and the need for
c consumer testing with the way these disclosures
work. You know, sometimes what we consider as
people who are professionals to one degree or the
other in this realm, you know, as being obvious
isn't obvious to the average consumer.

Even more importantly, even if you're
going into, you know, the great -- if you're going
to Harvard, it doesn't mean that your parents have
a Harvard level education when they're reading it
and trying to understand. So I think that that's
why the consumer testing is really important.

Just from my own standpoint, you know,
my first time I encountered a loan because my
parents were able to pay, thank God, for undergrad
and the first year of law school. But I had no
idea that I was getting into, you know, the former
loan program that allowed you to take out private
loans for grad debt.

And I didn't know that I couldn't
consolidate it with my federal loans, and I didn't
know that, you know, I wasn't going to be able to
get an income-based repayment program on that.
And now ten years later, I still have the same amount
of debt as I had when I took it out. I was smart
enough to get into the University of Michigan law
school, which as Pamela said has a very low
admissions rate. I hope we all notice.

(Laughter.)

MS. BARKLEY-DENNEY: So you know, I --
right. But yeah. So you know, I just want to
qualify that as, you know, even if I as someone
who now works in this didn't understand it as a
22 year-old or 23 year-old, it's probably hard for
somebody as an 18 year-old to understand it.

MS. SARGE: So that's kind of the
point, right. I'm sorry. I'm going to directly
respond. Whitney, that's exactly it, and I'm wondering -- I think it's somewhat imperative for all groups that are at the table. I can certainly speak that some of my clients have gone out and done focus groups. They've paid for that, they've done that and all that, to find out what works for the student on a variety of issues.

Now if this is important, we need to get to what's going to work, because no matter how hard we try to come up with something and put it in the front of a 22 year-old, sometimes it just means you have to go through the process before you even know you had questions about it at the beginning, right? I mean it's like driving a car or anything.

But the more experienced you are in a scenario, then oftentimes the more questions you end up coming up with that we can't think of or know of. So I'm -- I think one school has done -- one anecdotal way they've done a great job is they have required their students to go to financial literacy every quarter. It's mandatory for every student in the school, and they go through
all these disclosures again.

They talk about their debt as they become more experienced. Through their journey of accumulating debt, they make it mandatory for the student to go. So in essence their associate students, two year, they've gone eight times and that's after they had all the disclosures.

So I think my point is we've got to know from you guys. I want to hear what's out there, not just anecdotally the exceptions, but what would work so that we could do it and figure it out. So we need that information from you guys, not the department. I don't think they're the right people.

MS. MILLER: Sandy, thank you. Okay, Kelly, then Jen Blum, then Daniel.

MS. MORRISSEY: This is Kelly. I have concerns about the template in general if we are now expanding our universe to all educational programs, because this was designed for a view of gainful employment programs. So now what is relevant to a student entering a short-term certificate program designed for them to obtain
gainful employment is not relevant, does not have
the same relevancy as that of a bachelor's degree
student or an associate degree student in a liberal
arts program.

For example, a typical liberal arts
student in a two-year program is perhaps not looking
at the types of occupations that they're being
trained for. They're looking for what types of
programs they can then transfer into at the bachelor
degree level.

I also wonder if we could examine the
fact that the students graduating on time really
is not reality in terms of in a one-year program
why are we reporting how many students graduate
within a 12 month period, where the typical student
never graduates within one year for many different
reasons.

So I think that many of these different
elements really require further examination if
we're now applying these disclosures to all types
of programs. Furthermore, I really want to
emphasize the fact that I agree with my colleague
Andrew in terms of the overwhelming job it would
be for all of us to obtain active confirmation of the fact that students have read these disclosures.

However, I am very, very concerned about how can we amplify what is in these disclosures, so that students are using this information to make enrollment decisions. I listened very carefully to the public comments that were made particularly yesterday, and the information that students are making enrollment decisions about are advertisements that they see on TV or a few other types of media that are making claims about earnings potential of their graduates, and they're not based on any reality.

How can we ensure that instead, students are using the earnings data that is in these disclosures? Why can't we get at the fact that these schools are making these false advertising claims that are not related to any type of fact in terms of the graduates' earning potential?

MS. MILLER: Thank you. Jen Blum.

MS. BLUM: So I think I said I have a list. I'm going to try to be really thoughtful
about this. So first of all on consumer testing, I would really urge the Department that on the items that they're adding, so anything that's being changed, that they do consumer testing around and that segues me to licensure.

But actually first Kelly, I just want you to -- I just want to clarify something. Gainful employment programs today include university level programs, and so we've been shoe-horning for years. So I just want to -- so it is -- I hate to say, but it is doable. It's just magnified obviously exponentially now, but I do want to say that it is.

Okay now I'll go to licensure. I actually want to put on the table right away two things. One is that I totally understand the need for disclosure in this area, but we need to get a little bit of a reality check about how we do it, and how best to do it.

And so I am going to list out some of my concerns, but right off the bat I want to suggest, and this is going to be very hard for me logistically, but I want to suggest a subcommittee
during the time between session 2 and 3, of Laura, me, non-profit representation and I think that actually could be it, although I welcome others. But I'm just -- those are the ones that I absolutely need to have, to get to a better place on what's being proposed.

Let me just quickly, and I'm going to do it quickly and I purposefully came up with the subcommittee idea, because we could spend hours on licensure and I want to respect the time. So I would urge us to consider, and it needs to be frankly a smaller group to really get at how to solve this.

So let me just say really quickly, I just want to give you another example from the template and this is current. So obviously the department's making changes, but the current template requires you to select when there's not -- so when there's a state where your program does not lead to licensure, the pop-up, right. So you have to sort of flag those states where there's an issue.

The pop-up is the following state does
not have licensure requirements for this profession. What? That's not -- so I'm just. I'm pleading that we get this right on the template, and that we have a reality check. So the other thing I want to say is this ties to program disclosures. But for any one program, there could be multiple potential licenses that are possible in each state by profession.

I love the fact that the department keeps using the word "any state" or "the state," as if there's one license in each state. There are hundreds of licenses and licensure boards in each state. So your drop-down can't be by state. It's got to be every single licensure board, every single license, and I'm not saying it's not doable.

So I just want to be on -- we understand the need for students to understand something about licensure. We also need for them to be responsible, to then get educated themselves on what those licensure requirements are to some degree, because they fluctuate and change while the students are enrolled, and we work -- we have talked about resources.
We have a whole cadre for each of our licensure programs to work through this. But it is time burdensome, and so, you know, that example is a pretty stark one that I just gave. But there needs to be -- there has to be a serious drop-down list that's not just by program, because it's by license and that's very complex to get to. So I urge us to sort of spend more time on this one.

MS. BUCK: I want to interrupt just a minute, to tell you that it has been 45 minutes. I told you I would let you know when that had passed. I think from seeing the cards up that you probably would like to continue this until probably 12:00 and stop for lunch at that point. Does that sound okay with people?

Okay. Now there was also a proposal of a subcommittee that was just made. Are the people that proposed -- sorry, and the department probably should be included, sorry.

MR. MARTIN: Can I make a comment about that? I just want to say, and I'm not saying we can't have a subcommittee, anything like that. If we're talking about the structure of the
template, remember what the regulations say, is that we require you to use the template. Nothing in regulation currently or proposed -- we're not putting the structure of the template in regulations.

So every year we issue the template.

We will soon have our Federal Register out, which will give everybody the opportunity to comment on the template and what might be improved in the future. I wholeheartedly agree that there are things that could be improved with the way that the template captures information.

But I just want to be certain that we don't have a structure here that, you know, we're not going to regulate how the department structures the template. Is that -- I just want to -- I just want to make that clear. We certainly -- we certainly put out the Register and we get comments from the community on how the template is structure, take those back.

But I just want to be certain that we're not talking about, you know, a whole new regulatory section here which would lay out how not what will
be required of the template, but how we'll structure the template. I'm not sure that's appropriate --

MS. BLUM: Understood, except that the following. I totally understand that, don't want to create a whole new regulatory framework around the template. But because the regulatory language leads to what the template includes and how it's structured, the regulations have to be much more clearly written than they are with regard to licensure. It makes assumptions. In the regs, it makes it look like each state has one license, you know, there are hundreds in each state.

And so the regulations need to reflect what ultimately is going to be on the template. Then I will say how the department then this is a huge problem for institutions, and if it spreads to all institutions, it's going to be a huge problem for all institutions, where students are being misinformed.

So let me give you one other example that's not licensure, completion. You have on completion, because we have graduate programs, you have an N/A with an asterisk that says N size less
than ten. That's not why our completion rate's not there. Our completion rate's not there because we don't -- it's a completion time at the doctoral level of more than 54 months.

So you don't allow for that ability.

So completion, so here's another one. Completion and withdrawal, which you have here and this is what leads to the template, you don't allow for true completion and withdrawal rate, which causes huge confusion at the graduate level, huge confusion at the doctoral level in particular. So that's another area where I don't have time right now to give you a proposal.

But we would have proposals around what the completion and withdrawal rates should look like, because the result of having these vague regulations is that you don't have good templates, and then there's a problem on the student end.

MS. MILLER: Thank you Jennifer, okay.

So before we take a vote or a temperature check on the subcommittee, we still -- I do want to say that it is 11:46 and we have six tents still up who still need to make a point, okay. So let's
take a temperature check on the subcommittee for licensure as Jennifer Blum has proposed, and that includes the people who would be on it.

(Show of hands.)

MS. BLUM: And there could be others on it.

MS. MILLER: It's a subcommittee for the licensures.

PARTICIPANT: Is it limited?

MS. MILLER: The people, one is Laura, some other.

PARTICIPANT: Could we add? I mean I would like to include a consumer representative and a student maybe.

MS. MILLER: Right. We can figure out who would be on it.

MS. BLUM: Yeah. I was just saying the people who I felt like are involved in the issue, who needed to be on it and then I don't -- it can be others.

MS. MILLER: And if you want to be on it, you can see Jennifer or Laura to ask if you want to be on it.
MS. BUCK: So it sounds like that it is positive, so talk to her about it.

MS. MILLER: So no thumbs down on that. Daniel.

MR. ELKINS: Just had some, a clarifying question from the department. I'm going to piece together some of the code, so I will start on page one. Then we'll go to page 2 and then 3, starting in "Disclosure Template," line 1, 2, 3. I'll just read it out and you can just follow and let me know if I'm hearing this correctly.

"An institution must disclose template provided by the Secretary to programs, to enroll perspective students. That information may include, but is not limited to." Then breaking to page 3, item 13(i). "Whether the program does or not satisfy." A, B and C all talk about licensure.

Then 16 "For programs preparing students in the field requiring licensure, a URL link to the state's mandatory qualification for licensure." So can you just provide clarity? When
you piece all those together, basically what I read it is we're not requiring an institution to disclose specifically that it will not prepare a student. Is that -- is that how we should interpret that currently?

MS. BUCK: Don't forget to turn your speaker on.

MR. MARTIN: I'm sorry, yeah. So you're talking about -- well I'll start with your first one there, where you talk about the template itself, where it says "The information may include, but is not limited to." That is the way the current rule is written, that allows the department flexibility is what we require.

I think that was written originally with the intent in mind that the department would not be limited to what is here. If there's something else we thought we should -- we wanted to require to be disclosed, we could do that and not be limited by the regulation. So that remains as is. The next one you went to was on page 3, is that correct?

PARTICIPANT: Yes.
MR. MARTIN: At the bottom where it says what the --

MR. ELKINS: 13.

MR. MARTIN: 13, whether the program does or does not satisfy. So it's either one, whether it does or does not as written here. So the template does collect that. As Jennifer pointed out, there are some operational things with it. It's really hard to -- you have to think about -- it helps to have seen the template, to see how that works. But currently, that is what we do, we have required, about licensure.

MR. ELKINS: What I would then propose then is a change in the statute to -- that "the information may include but is not limited to," to "the information must include" and then you would carve that out to the licensure pieces.

MR. MARTIN: Can't change the statute, but yeah. As far as like including --

MR. ELKINS: Right, yeah. I got it.

MR. MARTIN: Are you suggesting that -- were you suggesting that we say must, that we obligate ourselves to that?
MR. ELKINS: Yes.

MS. MILLER: Okay. So Todd, then Steve Chema, then Johnston.

MR. JONES: Well, the licensure discussion greatly limited what I'm going to need to say about this. But I think there is a serious misunderstanding on the department's part about the unified nature of licensing, and also an issue I'll get to is the variability of kinds of licenses that are available under an educational program that may or may not be linked to what is perceived to be the student's goal.

You look at different types of educational and assistance aid programs that some do, some don't. You look at the division between teaching programs, where is your elementary education program something that permits you licensure for fifth graders or fourth graders? Well there are states where you have -- like mine at one point, a four to seven licensure, which is elementary school but it's for the middle grade bands.

The differences in licensure there are
putting, we keep using this description, it's putting the department down a rabbit hole and it's taking the schools with them, that is simply not going to be possible for anyone to verify if thousands of schools in tens of thousands of programs, in thousands and thousands of different licenses are going to be applicable here.

I guess that's my greatest concern is, and hopefully we can come up with some language that limits that. But I hope everyone who's discussing this in the interest of students is thinking about how do we modestly understand to make this workable. Because if it's unworkable, it's going to be like the piles of notices that we've been throwing at people for the last 40 years in the interest of consumer protection.

At a certain point, it just becomes things to use as doorstops, and nobody pays attention. I think if we're going to make this one around licensure a useful one, and it should be, that we need to do it in a way that's not going to be one that is requiring a degree of universal precision to every conceivable license. It's just
not going to be viable.

MS. MILLER: Steve Chema.

MR. CHEMA: Steve Chema. Sort of glomming onto Todd's concept of piles of notices, I wanted to turn the discussion to the treatment of promotional materials on page 5. You know, I want to at least suggest based on, you know, what we've been hearing that we consider, you know, the balance between burden on the institution and the efficacy of this.

I know Kirsten, when she was discussing the direct distribution of the template, you know, mentioned that one time, and I think Johnson has said this similarly throughout the session, that you know, at the time a student is making a financial commitment or making a decision to apply or become admitted is, you know, a useful time for this information to be in front of them.

But when we're talking about promotional materials, we're not there yet. We may be very far from ever getting to that point, and yet there's a whole lot that you have to do in order to comply with the current rule and, you
know, that would all continue in this proposal. So you know, I want to consider whether we really feel like it's necessary to try to reproduce this disclosure on every piece of promotional material that, you know, mentions a program by name or otherwise promotes the program.

I mean that's a lot of things, you know. We're discussing catalogues, invitations, flyers, billboards, advertising on broadcast, print, digital media and so forth. Some of those things, it's fairly easy to pop these disclosures in the back of a catalogue. That's probably appropriate frankly. But you know, how do you do it on, you know, broadcast media or through social media?

The department with the current rule has said through guidance for a long time that, you know, where it's impractical, you know, to reproduce this information that's on your template, you can go ahead and indicate through a phrase and a link back to your website, you know, a way for the interested party to get to those disclosures, and that phrase says something like important information about educational debt, earnings and
completion rates of students who attended this program, you know, four more important and then the link.

Even that creates in practice some real problems and challenges with ways that schools attempt to promote their programs in their institutions. Specifically, if you're engaging with any number of vendors that do social media campaigns or digital media campaigns, oftentimes the way that these things work is that you craft your message, and there's only one --

You can embed a link, but just one. And so you're defeating the purpose of your promotional campaign if you're going to say something about your school or something about your program, and then all they can go back to is the page for your disclosures. They don't get to see the landing page for your school, the information that you also wanted to show them, really what the whole point of the exercise was.

So there's some -- there's some disconnect between, you know, how we can actually do this in a way that still allows for channels
to reach students, prospective students, and whether it's the appropriate time to do it.

So I'd ask that we consider whether promotional materials, as they're defined here, need to be defined so broadly, and whether we can have a more informed approach about how we can provide that information when it's not practical.

Getting back to the idea of giving a "for more information" phrase with a link. Why can't we have at least a two click solution, you know. Have a link to a landing page that also contains on it information about, you know, with one click that can get to a disclosure.

I mean, you know, these are ideas that at least allow institutions to continue to do the kind of marketing that they want to be able to do without, you know, running afoul of the rules here, assuming we feel like we still need that, you know, to have this treatment.

MS. BUCK: I think there are two more people, and then after they speak, I'm proposing that we stop for lunch.

MS. MILLER: Yeah, so Johnson and then
Whitney.

MR. TYLER: Oh, I do have -- I really think disclosures are not a useful way to achieve what we're trying to do here. I'll just say that.

If we really want to get the bad apples out, we have to create sanctions that will get them out of the field or improve their game, not try to inform people that this is a bad place to go. So I really feel strongly about that.

Having said that, almost everyone has the experience of someone saying you need to read this before you're committed to this contract, to see this doctor, to come to legal services, all this stuff. We all have to do that.

So at the very least, I think when you're signing up for school, you've got to have some statement that you're looking at that gets unloaded in the system, that shows that you are aware of what you're getting into, or what the program is about. So those are my two thoughts.

MS. MILLER: Whitney.

MS. BARKLEY-DENNEY: Just to echo what Johnson said, I think that this is incredibly
important, and I hear the concerns that we get it right around the table, though I will say that, you know, I just think we need to remember that we are here not only to reduce the burden on institutions, but find a way to balance that with protecting students and taxpayers.

I want to make sure that that is at the forefront of our mind. Frankly, you know, I think that -- never mind. I'm not going to say that. So you know, I just want that to be the last thing on our mind as we go to lunch, is that that's what we're here to do.

As Daniel pointed out so eloquently, this is one of the biggest complaints that we hear, is that people didn't know that either the licensure that was being pushed by the school was not actually a relevant licensure for employment. So we all know that there are thousands of licensures or tests, certification tests that are floating around that employers don't care about.

And we need to make sure that what we are telling students when we are, as the person spoke to about yesterday, advertising to them,
promoting things to them, that the licensures are contained in that and that they are the relevant licensures for what they're going to need in order to actually work in their field, because that's what we are getting at, right, gainful employment in a recognized occupation.

If you don't have the right licensure, you cannot be gainfully employed in the occupation that you studied for. So that's all I have to say.

MS. BUCK: Thank you. Now there was a proposal that we have a working lunch, but I saw some objections to that. So I'm thinking that we should go ahead and have a break for lunch, and come back and try to do 7 and 8 pretty quickly. So is an hour the right amount of time? I think I heard yesterday 45 minutes is not long enough. Is that correct?

(Off-microphone comments.)

MS. BUCK: So we'll come back promptly at one o'clock. See you then.

(Whereupon, the above-entitled matter went off the record and resumed following a brief recess.)
MS. BUCK: I hope you had a good lunch, a good rest, and we're now in the last half day for this session. I again appreciate all your work. I think what we want to do now is to quickly go through 7 and 8.

Not that we've thoroughly covered any of them, but quickly go through 7 and 8, and then allow time for the proposals that many of you have really been wanting to focus on. So let's start with 7.

MR. MARTIN: We're going to start with 7? While we're doing that, I'm going to be passing around something we have that explains the Social Security Administration's master earnings file. So Steve will be passing it to one side and I'll pass it to the other. Thanks a lot. I appreciate it.

Okay, thanks. We'll get started with Issue Paper 7. This is reporting requirements, and this one's pretty simple actually, because you can see the consistency of nothing but strikeouts.

So it goes back to what we talked about in the beginning with scope and purpose, where we had
proposed to eliminate reporting requirements in favor of an administrative calculation of debt to earnings, based on information that is currently in NSLDS.

Our reasons for doing or currently being reported to NSLDS by institutions under enrollment reporting. So I think we've gone over the basics of this already, obviously the huge plus for this is that it eliminates a lot of burden on the part of institutions.

I think any institutions here who had -- who have programs that had to do the reporting, especially if they had a lot of programs and a lot of students, can tell you that they had at least some modicum of burden associated with that process, and so the option would be that we had in front of us was to try to seeing as we were expanding this to all institutions, all programs, would be to expand that DE reporting under NSLDS, which is separate than enrollment reporting, a separate process. Expand that to include all schools, all programs, or to find a way to do it administratively without having to make schools
report.

This obviously reduces a great deal of burden, takes off the table a great deal of burden, and we already know that the potential other side of this, which consider it a give or a take, whatever, would be that in looking at what information we have being reported to NSLDS, what that doesn't include.

So it doesn't include tuition and fees, books and supplies, which would allow us to do the capping of debt at that level. It also on the other side of that equation does not take -- does not capture either institutional or private debt.

Which means that DE calculation could not include any of those items. So I just before -- everything's on the table, throwing it out there for discussion. Just want to say a couple of things that are absolutely in stone, which is that the only options for us to go, direction for us to go in if we're going to continue to calculate DE rates going forward without a huge amount of lag time is to either use the information we have or require all schools to do what is under the current DE
reporting. So go forward from there.

MS. MILLER: Okay. Does every --

first of all, does every negotiator have the paper that Greg is talking about, that he just handed around?

MR. MARTIN: Oh, that's the Social Security master file. Hopefully you'll have --

MS. MILLER: Does everyone have it? So Jennifer, Whitney and then Laura.

MS. BLUM: So on that last point, so just I mean this again, this issue paper is relevant to what we end up working on in terms of the debt to earnings metrics, because it goes back to this all debt issue. And so if -- you know obviously I'm fine with this issue paper as with all the strikeouts if the metric accommodates the notion that we're talking about all debt, which it currently doesn't really contemplate.

So that's a metrics conversation. But what I would say is is that, and you've said this a couple of times now Greg. In my mind there is a third option, which is the ability of institutions to report, which they can, the amount of loan that
they keep versus the amount of loan that goes to the student.

So I'm just flagging that. I don't want to get into a huge conversation because I think we need to move on, because I also think that's a metrics conversations. But sort of reserving the right that that -- this is going to come back up and that would be one place where there would be a reporting.

MR. MARTIN: Could I just ask what mechanism you would foresee that being reported through?

MS. BLUM: Well I mean that's a good question, but there wasn't really -- I mean was there a peer mechanism before we started Gainful on tuition and fees? We created that.

MR. MARTIN: We created the whole gainful employment, DE reporting process for that, that whole file you have to submit. So I mean there's not -- what I'm saying is there's not -- we don't have a way to build in either getting tuition and fees or what you propose, getting the amount that was credited to the student's account,
as opposed to the amount that --

All those require modifications to current DE reporting, I mean current NSLDS enrollment reporting, if we weren't going to use the DE reporting.

MS. BLUM: So I'm just going to say something along the lines of what Whitney has said before, in terms of like oversimplifying to the point of bad policy. So I hear you on the constructing, but I mean we're creating a regulation, and so creating -- It's hard to just think about the fact that we're confining ourselves to the limited abilities of the department, and so we're going to deal with --

I mean so I'm just bringing it home that's just going to definitely affect how the metric looks if you're including all debt, which I don't think is good for students because I think you're burying the lead for students, by the way, by doing all debt, because the lead for the students should be like what is a tuition that I'm paying at the school.

I'm not saying that the living expenses
isn't also relevant, but you're burying -- you're putting all the story into one piece of information conglomerated, you know, instead of broken apart. And so I hear you, but it's a little disappointing for you to say we're moving away for gainful, but if we're going to do a reporting it has to be using the gainful framework technology.

I mean so that piece seems a little twisted to me but -- or we're not doing reporting at all, which is also an extreme in terms of the all debt issue. So I'm just flagging it. It's going to come up again when we talk about the metric so --

MS. MILLER: Whitney.

MS. BARKLEY-DENNEY: So I want to reiterate something that we talked about, another issue paper which I don't remember which one it was. But the elimination of institutional and private loan debt is a real issue here. I think most people around this table would agree that for the vast majority of borrowers, federal loans are a better option given their repayment rates, the repayment options that private and institutional
loans don't have.

What we don't want to do is set up an incentive for bad actors to push borrowers into private and federal loans in order to mask the overall loan debt that people are taking out in order to go to their institutions. So however we need to figure it out, I think that institutional and private loan debt is incredibly important to really understand the financial health of a borrower, particularly if they've borrowed that obviously for the tuition.

MS. MILLER: Laura.

MS. METUNE: Second to Whitney's comments, and maybe just a question to the department about, I mean we know with Corinthian what happened in regards to those loans, and I'm wondering if you've thought through what the other mechanisms to identify that kind of a problem early on might be and how the department could address it outside of this metric. I'm certainly open to those ideas as well.

MR. MARTIN: I'm not sure I can 100 percent speak to what -- what happened at Corinthian
and to what extent other mechanisms were used or could have been used to catch what was going on at an institution like that. You know, as far as -- with respect to reporting, I don't know -- you know, and I acknowledge that if we go this route with getting rid of this, that there are certain things we just -- we just can't use.

And that that's -- that it's correct to say that we're looking at that from a practicality level first and foremost. Again, other mechanisms we can use other than this? We certainly are aware of institutions' financial difficulties. We look at that. We have letters of credit we can require of schools and we have done that.

We've done some very large ones. So there are a lot of other things we have in our, I hate to say arsenal; that sounds a little bit military. But at our disposal, let's put it that way, that we can use to go after those players that are chiefly responsible for abusing the programs.

And you know, but probably at varying
levels of success with that. But with this particular thing, again there is a certain level of practicality involved with it. I mean you have to understand if you're going to say that we're going to include all these other things in this calculation and we're including other programs, other schools, not just GE programs that going forward --

PARTICIPANT: It's good to be useful.

MR. MARTIN: I should point out, I mean people think I have this group of people probably who are required to bring me things. By and large, the people bringing me things are above me in pay grade so it's -- they just do it because I'm such a nice guy, not because they have to. So yeah, we're looking at then having to get that information, to understand it from schools that are currently have GE programs. We have that information. You're reporting it to us. You're required to do it.

But then if we look at a school, a program that wasn't required to report, we have to get a certain number of years of that data before
we can start to put those rates out inclusive of that tuition and fees, private and institutional debt. So there are ramifications to it however you go.

MS. MILLER: Sandy, Kelly, then Johnson.

MS. SARGE: So this is Sandy for the record. So I just want to make sure that I recall properly what -- the proposal is that it would not be all debt. I think this is -- it would be only the Title IV debt as we've been saying.

One of the things that is potentially difficult with private loans is that the -- doesn't always come to the school. It can come to the individual and then they pay the school cash. So we don't know that it's necessarily a private loan sometimes.

Now other organizations like Nelnet, Sallie Mae, and all those guys, they do send directly to the school. So it's a combination. Private banks not always. But I just want to make sure. At this point, I think we need to keep in mind tradeoffs.
So length, where we may have the Title IV debt, which is not necessarily representative of the lower cap on two, you know, it's more on the numerator, the extending of the amortization could in effect bring it back into line of what it would have been more specifically.

I think we're -- I agree with Greg's point. We have to start thinking about some practical ways to get to a place where numbers are meaningful, and that's what I would continue to encourage us all to think about. Like are there tradeoffs here that we can talk about, so that we get to a number that makes sense for students?

MS. MILLER: Kelly.

MS. MORRISSEY: My comments are similar to Sandy's, in that I believe this is definitely a tradeoff. We are definitely welcoming the easing of administrative burden that was involved with the former GE reporting requirements.

I think as we discussed in December, there may be opportunities to include data elements in our current reporting structures that are not
present at the moment, that would allow us to report
tuition and fees that are being covered by Title IV borrowing.

I understand that's in the future and
maybe that's a goal that we could work towards. But I think especially in an environment where we're looking to expand this to all educational programs, I don't see how it's practical to then pass that level of administrative burden on to institutions which will directly then pass along the administrative cost of that process directly to students.

That will result in less time for us to spend directly with students in counseling them about matters that are of grave importance to them in making enrollment decisions. So I really do think it is a tradeoff, but that's exactly what we're trading off.

MS. MILLER: Johnson, Whitney, then Chris Gannon.

MR. TYLER: I have two comments, first with respect to the private loans. I was looking at the website of a non-profit school the other
day, trying to figure out the tuition there. When I went to tuition, it immediately popped up we already have an arrangement with a bank to do private loans. So and we're preapproved for $1,000, and it was a $3,400 program.

So it's -- it is a problem. It's a real problem, and those debts are very different than federal debts. But I do also appreciate what Greg was talking about, in terms of getting the data to protect the students sooner rather than later.

I just want to respond a little bit to what Jennifer said about the people taking out money and using some for tuition and some for living, and we talk about this whole debt to earnings ratio as a return on your investment. And part of what is getting paid that doesn't get counted is your Pell grant, and if you're in California your Cal Grant, and in New York your TAP grant.

Those things don't get counted as a return on investment. So and when we look at the documents that Sarah gave us, we can see 90 percent of the people who are in the gainful group, the
original gainful oversight group are getting Pell grants.

So I really think we should put aside this issue of, you know, what was tuition, what was -- what went to living expenses, because there is a loss of opportunity. If you go to a school and you don't get a return on your investment that you could have gotten if you had taken your Pell, your TAP, your Cal aid to a higher performing school.

MS. MILLER: Whitney.

MS. BARKLEY-DENNEY: So with regards to private loans, I do want to point out, and I'm sorry, I did not follow instructions and number all of my pages, but on the second page, I think we call it numerette ii, or 2, I don't know. Underneath 2, Roman numeral ii, so it was -- the rule was always conceived as what the institution should reasonably be aware of, and I think that there's some room if we decide to do this to figure out how to be more specific about that language.

But I am just going to reiterate that I think private loans are different than
institutional loans, because the institution knows the institutional loans that they're giving out.

So even if we say okay, the private loan thing was too hard, I think we really need to think about the institutional loan piece, especially again considering the abuse that we saw with the two institutions that rhyme with Smerinthian and PEE.

So we all know that they had institutional loans that they were expecting as investors a 50 percent default rate on those, and that's not really, I think, the same type of burden as figuring out a private loan.

MS. MILLER: Greg, Greg.

MR. MARTIN: You know the problem is with my glasses off, and with them on, I can't see this. So and I'm too vain to get what do they call them, progressives. Yeah, don't say that word. That's for old people, not me.

All right, now. I just want to point out one thing, and this is just something to throw out there, that you know, to the extent that there's
a concern about that we all know that schools can currently put students in other instruments other than the Title IV, private debts or whatever, we do have the capability of looking to see if students are -- if schools are pushing students into other forms of debt.

We can look at disbursement records, whatever, to see where a school is now. So you know, these rules go into effect and we noticed a huge decline in loan volume. We could certainly have our compliance people look at a school to see are they pushing students into other instruments. So we would have that capability. I just want to point that out.

MS. MILLER: Chris Gannon, then Daniel.

MR. GANNON: Yeah. So I have serious concerns leaving out private and institutional loan debt, because it incentivizes bad actors to issue bad institutional loans. I think that this would disproportionately hurt low income students.

MS. MILLER: Thank you. Daniel.

MR. ELKINS: It's already been said
better than I could, so I second what Jennifer and Chris said.

MS. MILLER: Okay. Jeff, then Sandy.

MR. ARTHUR: Yeah. Having experienced the reporting process and understanding the burden, I mean I absolutely understand. It is not going to be practical for all institutions of higher education to go through that exercise. You just wouldn't get through it in three or four years for one year, to resolve everything and for it to be accurate.

But I've got an idea that might help move this along. Maybe not, we'll see. So if we look back at the disclosures, and the department has discretion.

At some point when it's determined that there may be some way to gather, capture institutional, private debt, whatever, that why not just say okay, when the department's able to or at some point they've got the discretion to add that element to the disclosure, although it might not be in the DTE calculation for the official DTE disclosure.
But it still may be supplemental information that could be provided through the disclosure process. Better than nothing, right?

MS. MILLER: Any other comments or questions on this? Whitney.

MS. BARKLEY-DENNEY: Does anybody, and I'm not going to, I promise, attack you. I just have a question. Does anybody here issue institutional loans as part of their institution, other than -- Okay. So I guess my question would be as far as the burden in reporting those, I mean I imagine that they're somewhere, right, and it's a matter of just transmitting over the amount that has gone out per student.

Like it seems like -- and unlike the private loans we have to go ask about that, that information should already be somewhere in a presentable format, because certainly you have to go back to your investors or to whomever's helping to fund that institutional loan program and show then what disbursements look like.

MS. MILLER: Sandy, and then David, did you also want to answer?
MR. SILVERMAN: She asked about loans.

I thought I raised my hands about loans.

MS. BARKLEY-DENNEY: Oh yeah. I was just asking is that -- I mean is it something, is it really that burdensome to transfer that. I understand the private loan issue, but I don't understand why it would be burdensome for the institution to show who's borrowing.

PARTICIPANT: We track it. I mean every school has a different amount of students. I mean at any one time we have 1,500 students, but some schools might have 25,000. We track it. We don't have investors by the way, but we track loans. We don't have too many. We just do it really --

You know, you're looking at institutional loans as a bad things. We do it as a good thing. We know they're hard to collect, but if the student really wants to come and there's a bridge of five-six thousand dollars, we'll give them a loan knowing it's risky. But they want to come to school, so we want to get them into school.
So we kind of do -- or someone that's already in school and is having trouble. So we do it for a good cause, to keep them in school because they've already paid and they want to stay and they want to graduate. But yeah, we do track it and but I don't know how a bigger school would do the same thing.

MS. MILLER: Jeff and Kelly, do you want to respond on both?

MR. ARTHUR: Yes.

MS. MILLER: Well, I want to see if she didn't want to respond on the institutional behalf. So Jeff and Kelly.

MR. ARTHUR: Yeah. One of the points here, this is institutional debt, not institutional loans the way it's been used before, and that was not very well or actually not defined in a way that actually was institutional debt prior, and I think we discussed that at the last session.

I mean if you have payment plans, that they exceeded the TIL requirements, where you had to have a certain instrument, that that was being counted as debt even though -- so anything we do
on institutional debt should be long-term planned debt, whether it's a payment that goes well beyond graduation.

But the way it was done before is payments that were made, even if somebody had a balance that they had to clean up after they left school that -- or you know what? You owed a balance. You left school and you owed a thousand bucks. You should have paid that. Well now, you know, they take a few months to pay that.

But they're going by the LDA, what's a debt, and even payments that they had made by the LDA were counted as debt, which was pretty absurd.

MS. MILLER: Kelly.

MS. MORRISSEY: What Jeff said.

MS. MILLER: Thank you, Sandy.

MS. SARGE: Yeah but to some degree yes, that's true, and oftentimes debt -- longer-term debt comes with an interest rate oftentimes, and much of the institutional gap payment plans that schools put in place, it's while they're in school there's no interest. Oftentimes
there's never any interest on it. It is a way to support the cash flow deficiency between what they can get from other sources and what the tuition and/or living expenses may be, like if they're in dorms and stuff.

So there are institutions. I think it would be easy where -- you know, in order to get repaid, you have to know who has the debt, right? Who owes you money, right, yeah? And a lot of the schools that I work with, they have collections within the school. Some of them outsource that.

But most of them that I've seen put together retail installment contracts, which is different than a loan for everything Jeff said in their payment plans. So yes, it is available.

MS. MILLER: Tim.

MR. POWERS: Yeah, and I just, you know, I'm not advocating one way or the other. But just to sort of jump in from the non-profit perspective, some of our schools do offer institutional loans and I'm not a financial aid administrator. Let me make that abundantly clear.
But what they -- what we often hear is that it's in many times I don't want to call it a bridge, but when there's an unforeseen financial disruption that can't necessarily be caught by the one time a year you fill out your FAFSA, it's a way for schools to sort of offer you a little bit of a lifeline. Again, not advocating one way or the other, but that's typically how our schools do it.

MS. MILLER: Sandy.

MS. SARGE: Could I just ask a clarifying question? So Chris, maybe you can be more specific in what you mean when you say the bad actors incentivizing bad loans, because I want to make sure that I am putting it in my head. What does that mean to you? What's a bad loan? What's -- explain that as a compared to how we've explained some of the financial mechanisms that the schools are using?

MR. GANNON: Yeah. I'm concerned that certain schools will issue loans to students, you know, to incentivize them to go to school that they
can't repay, that they're not in a position to repay. So they're bad loans, because they can't, they can't essentially afford to take them on and they deceive them into taking them on.

MS. SARGE: And then when they don't pay, the school doesn't get the cash back. So they've loaned them the money. I just want to make sure that the relationship, it is a bad loan. If they don't pay it back, you know, that the next step is that that cash doesn't come back to the school.

They can't do that forever, because if they keep doing that -- they don't have the cash flow to run the school. So I want to make sure that if it was coming in from some other source. And you're thinking it's coming from investment money?

MS. BARKLEY-DENNEY: No. I'm thinking that you can get it back by selling it to a debt buyer. I mean you might not get everything that you have, but you know some schools, depending on the institution, and I'm not saying anybody here would do that. But you know, you could
have a bunch of loans that you know you're going
to write off as a loss, and then sell whatever you
can to a debt buyer and get your profit from that.

MS. SARGE: Okay.

MS. BARKLEY-DENNEY: I mean, you know
--

(Simultaneous speaking.)

MS. SARGE: That's a good example.
That's a good example. I was just trying to get
understanding.

PARTICIPANT: Or they're loss leaders,
so that you can continue to be in compliance with
9010 and can continue to get federal student loans
and other private loans.

MS. BARKLEY-DENNEY: Yeah, that's
right.

MS. MILLER: Jeff.

MR. ARTHUR: Yeah. I just also wanted
to point out that I don't want anybody to get the
impression that there aren't reporting
requirements. This means there's no reporting
requirements to the Department of Education. The
disclosure process is still a tremendous reporting
burden already.

So this is something that's layered on.

Don't state that schools aren't going to have to do anything.

MS. BUCK: So are there other comments about Issue Paper 7?

(No response.)

MS. BUCK: I think we're ready to move on to Issue Paper 8.

MR. MARTIN: Okay. I'm going to ask Cynthia Hammond from FSA to come up and join me for that discussion.

MS. MILLER: While Cynthia's making her way up, I know Laura did a good job of handing out her memo on this. But does every negotiator have a copy of Laura's memo for Issue Paper 8?

MS. BUCK: And we'll let her comment on it shortly.

(Pause.)

MR. MARTIN: Do we all -- you know what? After we introduce this, I'll introduce the topic and maybe Laura can take just a few minutes to just briefly go over, just so we all know what that's
about. Just a brief, I don't want to impose upon her to launch into some detailed thing, but just to give us a brief overview of what it is, so that people will recall.

I'll start with an introduction of the paper and then we can do that. Okay. We're looking at Issue Paper No. 8, and this is certification requirements, and we propose to require that for any Title IV educational program that prepares students for employment in an occupation for which the state or federal government has requirements for certification or licensure, the institution certify and it's a program participation agreement that the program is approved by a recognized accreditation agency and meets the state or federal requirements.

As noted previously, with the removal of loss of Title IV eligibility as a sanction, we propose to clarify the ramifications of that proposal by removing the requirement for schools to explain how a new program is not substantially similar to another low-performing program.

Let's look through this briefly before
we start. You'll note that we struck the language related to transitional certifications for existing programs. We don't feel that that is any longer germane. I'm trying to see what we did here. What else did we have to go through? Yeah. Basically eligibility and transition rates.

So that's the main thrust of what we did. So I'm not going to go through -- I'm not going to bother going through, in the interest of time, going through the whole paper. So why don't we take -- is Laura willing to give us a few minutes explanation of the paper?

MS. METUNE: So you might recall that I mentioned this when we gathered in December, when we talked about this issue of certification, and I think I've also mentioned that before coming to the community colleges, I was the regulator for California's for-profit institutions.

One of the first school closures I faced was in 2012, when an institution was found to be offering programs. They were related to MRI technicians for which they didn't have the proper programmatic accreditation and students ultimately
weren't going to be able to sit for licensure.

   Thankfully, students were being charged $14,000 and at the end of the day they would be left with the loss of time, loss of money and no ability to get a job in this field. Thankfully California's laws were really clear. We said essentially that if you wanted to offer a program in a field that requires licensure by the state of California, you must meet the licensure standards for that program, so that the students could ultimately be qualified to sit for exam or to be licensed.

   That provision of our law allowed the bureau that I worked at to take action to ultimately stop the school from enrolling new students and close the school, and we were able to get students back the tuition that they had paid. But we, you know, we prevented any more students from being taken advantage of, but we did have 400 students who even though they got their tuition back, they still lost their time and really their goals.

   They realized that they had spent a lot of time towards a goal that they were no longer
going to be able to fulfill. So putting aside the need to protect students, which is really a priority for me and it's probably obvious from the things I say while I'm here. I do want to recognize the burden that is placed on an institution when you have to go through a certification process to assure your program's qualified for state level licensure.

So when I thought about preparing this memo, I approached some of our career education programs to talk about this, and they were really shocked by the concept that an institution would offer a program that ultimately doesn't allow a student to be eligible for licensure. They felt that this was a no brainer, and that of course you would not enroll a student in a program that doesn't meet the requirements of the state.

We also talked about the growth in online education, and for some smaller states this issue of cross-border enrollments. They really felt like it's not an unfair burden for an institution to be responsible for ensuring that the student can ultimately sit for licensure in the state where the student is located.
So I appreciate that Issue Paper 8 continues to maintain this requirement for the home state, essentially the state where the institution is located, and my proposal is that we extend that to the state where the student is located.

Essentially, that if I'm offering an online program say for nursing or teacher credentialing, I'm not going to enroll a student from another state unless my program meets the requirements of that state. I did recognize that there will be instances where a student might want to still enroll. Like if they have a plan to move to the state that meets the requirements, obviously that student should still be allowed to enroll, and I think that the language in this proposal addresses that and would continue to allow that.

I also just -- I do want to recognize that fundamentally there's a difference here between what's required for a student to practice in that field versus what additional certifications just might be recognized by the state. So this is really intended to be targeted only on that base level requirement to practice in the field, not
the myriad of other optional certifications that a state might offer.

So what I was hoping to do is just spend a few minutes talking about it. I'm happy to participate in a subcommittee. I thought we could get your feedback, maybe take a temperature check to guide the work of the subcommittee, and then maybe discuss it in more length in March.

MS. BUCK: So maybe some initial feedback to the ideas expressed here?

MS. MILLER: Okay. Daniel, then Jennifer Blum.

MR. ELKINS: Thank you for putting this well thought-out document together. I couldn't agree with you more, yeah. Thank you.

MS. MILLER: Jennifer Blum, then Whitney.

MS. BLUM: So this is so complex, but here we go. So there's no difference between an -- in my mind, there's no difference between an online institution that enrolls a student, students in 50 states and a major state university that has students from all 50 states or 30 states or even
ten states.

So I would say that this is -- broaches on an issue. You don't say online explicitly, but there's a significant issue as to who this would apply to beyond the online, and we would argue that it would have to apply to any institution that had students from multiple states, because why would there be any -- from a consumer protection standpoint, why would there be any difference? And so that's just one point right off the bat.

And then I just really want to point out, and this is what we suffer through. So if you take -- well, I'll give you two examples. If you take -- I don't even want to use one of our programs. It's just a program that's subject to licensure in 50 states, and say your home state has particular curriculum, and by the way the Department's going to need to be very, very careful on this regulation because we are now in the curricular weeds, and we are.

Because that's how they build their licensure requirements around course work and what type of courses are required for licensure. So
if in your home state, and you need to meet your
home state sort of first if you will. So if in
your home state they say you need to take the
following 25 courses and credit hours in the
following X places, and then -- and that's State
X.

And then State Y, the licensure board
says you know what? We're going to have you do
30 courses. What we do, and I think a lot of schools
do this, is we build it to meet our home state,
and then we will have the other courses available
to the students. We try to always make sure that
that student in that state, right, understands that
they have to take five more courses.

But when you get into certification
around it, you're going to get really, really
tricky, and again I want to emphasize again
licensure boards are not like legislatures or
regulations. They change their interpretations
all the time. I mean literally all the time, and
it's student by student.

It's not like they have a set, you know,
somehow standardization. I wish they did, but they
don't. I'll give you another example. You have in here "if accreditation is required." Accreditation, while a lot of states are increasingly, and I don't necessarily think this is -- I think it blows up the triad what I'm about to say, I think is a practice that I think is not productive.

But states because of the burdens are increasingly saying "and if you have accreditation of X, you get a free pass." Now so that's why I know you have "if accreditation is required." Most states, thankfully for students, because there are -- sadly there are specialized accreditors who for whatever reason have dispositions against online, and so they just say oh, we don't approve online. Psychology, which you have in your paper, is a good example.

They don't accredit online programs, which is sort of goofy but whatever. Most states, understanding that that's the case, create alternative pathways for students. So that students have a different way of becoming licensed that's not reliant on if accreditation is required.
So that's an example where I think we can work together to clarify, that we're not talking about just if accreditation is required. We're talking about if there's an alternative pathway to licensure as well. So that would be a good example of I think a place that could be, you know, improved and tweaked.

Then my only other comment is not on your paper but it's on, actually the Department's paper. So I can reserve that or I can mention it now.

MS. BUCK: Why don't you wait?

MS. BLUM: Okay.

MS. MILLER: Okay. So Whitney, Chris Madaio, Daniel and then Tim.

MS. BARKLEY-DENNEY: Yeah. So I'm going to have to disagree that it is the same thing for an online program to be offered in a school as it is to have students come from another state to a brick and mortar school.

I think a brick and mortar school that is serving students in a particular state, you know,
their assumption can truly be that they need to meet all of the standards of the state that they're operating in and, you know, that student knows that by going to that state, then the requirements that that school meets are going to be the requirements set up by the brick and mortar state.

You don't expect if you're going from Ohio to University of Michigan that, you know, University of Michigan is going to meet the standards for an employment in Ohio. That's different than if you are living in Ohio and you are reached by an online program to train you to do something in your home.

You expect to be able to stay in your home, to stay in your home state. That's part of why you are doing the online program. So I think that it is important that we recognize that difference, and that we really understand that as hard of a burden that this seems to be for institutions, it's way harder for borrowers and students who don't know where to start looking, or even what the requirements might be. Truly, the people who have the expertise to do that in
this field are the institutions themselves.

MS. MILLER: Chris Madaio.

MR. MADAIO: Thank you, Chris Madaio.

So certainly I agree with the proposal that Laura's putting forward, in that schools that have the resources to offer these programs, schools know where students are living, especially in online programs.

You know, obviously I think Whitney, and I know you hear some grumbling, is drawing the distinction between online, you know, obviously where the school expects that students are living in various states, and a brick and mortar campus where a school, you know, may expect.

Of course in smaller states, you know, it's easy for students to cross state lines and, you know, larger states. Maybe it's easier to assume that the student is likely going to try to get a job in the state in which they're going. But I think Whitney's not saying that those brick and mortar schools shouldn't have to follow this. Right, exactly. So I think that that's just kind of drawing a line.
I mean right, and I agree with that and I think what Laura says, that a school sure, that has students from states should be able to explain, assuming where the student lives because the school knows where the student lives, should be able to explain to that student where that he or she would be able to get a license in their state.

My only other point is just that, you know, Maryland for instance, passed a law that says that for private career schools and for-profit institutions, they can't offer programs that will not allow a student to become licensed in a field in the state of Maryland.

So I think there's a basis for this, that states recognize that it's important that for students in states who are taking programs, they're going to be able to get licensed and therefore get a job if a license is required to get a job in that state.

MS. MILLER: Daniel.

MR. ELKINS: I understand that the administrative burden for all schools will be difficult when it comes to this issue, so I would
suggest that the Department look into O*NET, Department of Labor. They currently are tracking career certifications and licensure, ones that have certain levels of earning potential, ones that require or are required to practice based on state and so forth. That could be a halfway step.

MS. MILLER: Tim, Tony, then Johnson.

MR. POWERS: So this is actually a question for the Department, but one that I think actually sort of pulls together a lot of these loose threads, which and forgive me because a lot has been happening with the change in administration, and if there has been an announcement, I just haven't seen it.

But and I apologize for bringing in an outside regulation to the table, but the distance education state authorization regulation, that is still scheduled to go into effect on July 1, right?

So you're not going to hear us, and I don't do this very often, but we would -- we actually really have a lot of praise for the Department, for the way that I think they constructed -- I know
Greg's laughing -- the way that they constructed that regulation, because I think it actually does sort of balance the two, which is they say, and correct me if I'm wrong, but essentially what Laura's suggesting, but if the state requires programs to be authorized.

So in other words, sort of what Chris was saying has happened in Maryland, would sort of apply nationwide. Is that generally the gist of it?

MR. GANNON: That's correct, and it's also just there's a disclosure to students built into the regulation as well about whether the program would meet requirements in certain states.

MR. POWERS: Okay, because I think that's actually a pretty good sort of middle line, because it doesn't tread on any sort of federalism issues, and it kind of allows states to operate, to regulate as they see appropriate. But it doesn't necessarily create a burden on institutions to sort of have to track a student as they might move from state to state or whatever might be so.

Just sort of just to put that out there,
and again, I apologize for those who might not be that familiar with the regulation, because it is outside the scope of this committee. But I just wanted, I wanted to mention that and actually to commend the Department for the way that they constructed the regulation.

MS. BUCK: So before we leave Laura's proposal or her memo, is there -- are there any other questions or comments about it, and then we can get into questions of the Department.

MS. MILLER: Tony.

MR. MIRANDO: Thank you. Tony Mirando. Laura, I like it, and I know that you asked me to look at this. One of the things that I would recommend that you might want to consider adding into here is the fact that you have down programmatic accreditation requirements.

Not all -- I do want to get back to gainful employment programs, have a requirement for programmatic accreditation. And so institutional accreditors, or at least a specialized institutional accreditor such as my agency, we do require that in order for us to approve
a program in a state that it does lead to licensure.

So just a little piece. There are some states that do require a school to have accreditation, which I really love those states, because not all states require accredited institutions to sit for licensure, which again as an accreditor I find that a little bit shameful to students. But there are states that say you must be accredited.

So even institutional accreditation is a requirement for them to sit for licensure, which is nice. But at least in the states that don't have that as a requirement, institutional accreditation for at least in the specialized area ones, we do look at do they meet the requirements to sit for licensure and students must be notified of and given a copy of the law, so they can look at things like do you have a history of being arrested, you know, was it a felony, was it a misdemeanor and what the ramifications of all those things are, prior to enrollment, so that students have a better understanding.

MS. MILLER: Okay. So I have Johnson,
Bob. John, did you have a -- on both, okay? So Johnson, Bob and then John.

MR. TYLER: Hi, Johnson Tyler. I just want to agree with Laura's proposal here. I think there's a human element here, the burden imposed on the student who doesn't spend time studying, arranging their life so they can go to school, and then learn that they can't sit for the test. I've had two clients that this has happened to, and it really, it really kills their souls. They really have put themselves out there.

And to the extent that distance learning is involved here, there's a huge economies of scale that's involved with distance learning. You know, that's part of why it's attractive. I think that the institutions need to address this issue, especially when it's pertaining to the skill levels, the certificate type of programs that are designed to get you quickly into a better-paying job. It's -- I think they really have that obligation.

MS. MILLER: Bob.

MR. ROBERT JONES: I too want to thank
Laura and we've discussed this, but going back to
my point yesterday and the point that was just made
a few moments ago, I think it's not only should
we do this, but we need to ultimately move this
on. The Department needs to move this on to
industry recognized formal certifications. We
find more abuse where there's generic technical
training going on, but not resulting in
accreditation and a certification that is in fact
recognized by business.

So that issue is going to become more
and more important, and this structure is useful
for that purpose, and we need to get this
fundamental piece in place before we start making
judgments on our protocol.

MS. MILLER: Thank you, John.

MR. KAMIN: Thank you, this is John.

Laura, I actually have a question, a clarification
question on this. In terms of the requirements
to meet professional licensure and certification,
would that include unaccredited certification as
well? So for instance if I was in digital media,
I would need to prove how it leads to an Adobe
certificate or a Microsoft certificate or something like that?

MS. METUNE: I tried to write this in a way where I thought it could be complied with. I do think institutions should have a responsibility to know what the expected industry standards are. But this wouldn't go that far, because I think it's a harder thing to clearly certify that you're complying with. It would only apply in the cases where the state requires that licensure standard, educational component or programmatic accreditation.

MR. ROBERT JONES: Great. Appreciate the foresight.

MS. BUCK: So now let's shift to include questions to the Department, as well as any continued comments on the proposal, both.

MS. MILLER: Okay. So I have Tony. Then I have Jen B., then I have Jeff.

MR. MIRANDO: Thank you again. Tony Mirando. This is again to Laura. I just want to follow up, just probably 30 seconds or less. One of the things that you might want to include in
your paper is a requirement, because I actually like it, again I want to show my support for this, is institutions that do have institutional accreditation, where they absolutely do recognize the fact that a programmatic accreditation is also necessary.

That would be important, because I know that, you know, for the longest time we've heard of schools in New York who only need to have institutional accreditation, but yet students who because they're right on the line may want to go to New Jersey, and New Jersey requires not only institutional accreditation but there may be a programmatic accreditation.

But because the state in which the school is in doesn't have that requirement, the student maybe doesn't have that disclosure. So it may be important to, however you frame this, that that issue is being addressed, because I hear about it and I hear about it and I just said well, you know, this is more of a disclosure issue. So we should just make sure that's pretty clear.

We're looking at that method, that
cosmetology and barbering and massage have that yet. We're looking at requiring our institutions, that if indeed that day happens, where there is programmatic accreditation and we don't get into that, that we're going to require our institutions to notify their students that that is a requirement.

MS. MILLER: Jennifer Blum.

MS. BLUM: So actually Tony, just to piggyback off that, I mean I just want everybody to understand. This is a certification for Title IV for the institution. So this is actually a much bigger deal than the disclosure piece. So that's why I'm emphasizing like let's get it right, because this actually -- this is -- this is a big Title IV issue as it relates to the PPA.

So this is actually not small potatoes here. So that's why I'm emphasizing let's get it right. I just want to be on record. We're supportive conceptually of understanding the licensure issue and just, I mean we go above and beyond what's required. Right now what we do is we disclose -- we don't just disclose to students, but we actually do and we talk about the burdens
of acknowledgments.

But we do make sure in writing by state, by student to the extent that we, you know, that they understand in the state that they reside at time of enrollment. So I do want to point something out. One of the reasons why students do attend online is that they are mobile, and they do move state to state.

So we also beg them to let us know when they're moving, so that we can then revisit this. Throughout the course of a program, we will notify the student individually with their academic advisor. We will notify them, remind them, have you talked to your licensure board lately. When you're midway through, like are you sure you understand your field requirements? Do you get what your, you know, do you get where you are, on track for licensure?

Oh, you moved? Okay. Well now we need to have a different conversation. So we do that. Literally, we try to do it to the extent that online students are actually hard to capture. We do our best to try to capture them. But it is -- this
is a lot of work, and so I'm very focused on the certification piece, because that puts it into a whole different realm of responsibility.

So I just, I did have one other question before I ask the Department my other question. Whitney, just to be clear, I totally understand the difference between online and on ground of course. But you're not saying that on ground institutions shouldn't have to certify in the same manner? You're just saying -- you're just acknowledging that there's a difference? Okay, got it. Okay.

I just wanted to make sure that we understood that this was applying -- yeah. So I just wanted to clarify, this would apply to on ground as well.

(Off-microphone comments.)

MS. BLUM: Okay, good.

MS. BARKLEY-DENNEY: Let me just say, since I didn't say it clearly. What I'm saying is, you know, of course if a school in North Carolina that only has a campus in North Carolina, they would have to certify in North Carolina. I just think
it's a different consideration if they have --

MS. BLUM: No, no, this isn't a certification about North Carolina. That's why I'm emphasizing. That's why I'm spending so much time on it. We would have not just certify the way, I think the way Laura's proposing, we would not just have to certify in North Carolina if we were in North Carolina.

We'd have to be certifying about every single program that leads to some form of licensure in every single state from which we have students.

MS. METUNE: Yes, you would be responsible for ensuring that the student where they reside, right? They might move and change their residency to another state, in which case you'd be fine. But if they're maintaining their --

MS. BLUM: Well only if I knew.

MS. METUNE: --- if they're residing in a state that your program doesn't meet the certification for licensure requirements, then yes, my proposal is that the student should have
to sign that they know that and that they're enrolling anyway.

MS. BARKLEY-DENNEY: So let me just make a clarification.

MS. BUCK: Wait.

MS. BARKLEY-DENNEY: Let me make it clear from what I understand, and I think Laura this is correct. A student who leaves Ohio to go to Michigan is a resident of Michigan.

(Off-microphone comments.)

MS. MILLER: Sandy, can you use the microphone?

MS. SARGE: I'm sorry. Like I move to Texas --

MS. MILLER: It's not on.

MS. SARGE: I moved to Texas to go to school. I was -- you had to be out of school and working full time for X number of years to be considered a resident. Otherwise, they wouldn't get the out of state tuition at the state school I went to. So people are not considered residents of that state while they're in school. They're residents of their home state and they vote in their
home state. Well, a lot of -- well maybe it's state by state.

PARTICIPANT: Okay. So there's a difference in opinion about fact here. I'm not sure we're going to be able to settle that. I'm wondering if we could go back and have you ask the questions of the Department that you have.

MS. BLUM: Well yeah. Now I have two questions of the Department. So just to clarify, and this is sort of blending Laura and the Department, Laura, the certification that you're -- the certification in Issue 8 is a certification around the PPA. It's not a student certification. It's a certification that the institution is making to the Department in order to re-up its PPA; is that correct Steve?

So the certification Laura that you're talking about is part of the certification to the Department? We're obligated -- we're saying what?

MS. METUNE: No. I'm -- yes. The requirement here is the certification to the Department, but the language that I was referring to in terms of the student choices written into
the memo, that is just intended to recognize that there might be students who choose to enroll in a program, regardless of the fact that it may not meet the licensure requirement.

So the certification is essentially that the school has made -- I mean in my mind, the idea here is that the school's made a declaration that they've informed the student, and the student is making an informed choice to enroll anyway.

MS. BLUM: Very helpful, thank you.

MS. BARKLEY-DENNEY: So let me just ask a clarifying question, because I'm still confused. In the way that you understand this to work, and everybody please just let me get this out before you jump in, if a borrower moves from Ohio to Michigan and is in residence at the University of Michigan, does the state have to say we may not be licensed in Ohio, but we are licensed in Michigan?

MS. METUNE: That is not the problem I'm trying to solve.

MS. MILLER: Okay. So let's -- did you have a question?
MS. BLUM: Yeah, for the Department. So this is switching gears. I hope people are okay with that, switching gears. It was pointed out to me that in the certification, and I can provide language. We don't have to belabor this. But on the language that you have in the regulations, it says "satisfies any applicable prerequisites."

This goes back to the example that I gave, where even in your home state. So let's say, and this happens a lot. So let's say your home state has a requirement of 20 courses, but like 48 of the other states require 18 courses, okay.

So you're going to build your curriculum around the country, around what the majority of the country is, and then what you're going to do or what most schools do is they add on the two course requirements, and they say to the students that live in your home state you need to take these two extra courses to be, you know, to be --

The way your language is written, I just
have a tweak, which I can provide separately to clarify that it's really -- it's not because a curriculum can be constructed that doesn't actually technically satisfy the requirements in that home state. But you've built an extra curriculum for that home state.

So I just want to make sure that we tweak the language to be clear about it, because it is a certification and there is a lot of liability around the certification. So I just have a tweak on that.

MS. BUCK: Does the Department want to respond to that or not?

(Pause.)

MR. MARTIN: A question for you. So you're talking about this idea that you have the program length, right, whatever the program length is, right, set program length?

MS. BLUM: Not necessarily a length issue.

MR. MARTIN: Well, I'm just curious as how you account for the fact that if you're saying the program length is X and that's what's recognized
on your ECAR, that the program is a certain amount of length. So I'm a student in your state and your state has the additional -- the additional so many credits above what the rest of the country's is.

So you deal with that by just requiring the student to take additional, an elective that would give them that particular credit? Or how do you deal with that with respect to not having two, I guess what I'm trying to say is how do you avoid having two different program lengths for a program that has one published length?

MS. BLUM: This usually doesn't affect program length, because it might be that, and again it might be -- and sometimes it's constructed in a way where you can drop two other course requirements from another state. This is really, and I do urge the Department to be careful here.

You're in the curricular weeds here. I mean you really are because -- and I'll give you an example. This goes down into specializations. So if you take some form of a counseling field, they'll be three different types of licensure. Like if you get just your basic
masters in counseling you -- in some states you might just be eligible for that counseling license.

But you also might be eligible -- if you took three more courses, you might be eligible for marriage-family teaching, I mean marriage and family counseling, sorry. And so, you know, if you want to do that, then you take X number more courses. This is why it gets hard to, and we do our best. I mean honestly, this is just in terms of student notification.

It is extremely important to notify the student, and so you know, I completely support this. But you do get in the weeds in terms of curriculum. It doesn't necessarily impact program length, because you're flipping out things that aren't needed in one state and are needed in another state, and that's literally how it works.

Some states have different types of field experience, so that's another one than other states do. So the field experience is different state to state as well, so that's another good example. Where yes, I mean Greg, I mean that could change, you know. The type of field experience
could change the dynamic of the program for that student in that state.

MS. BUCK: So let's get some other people's comments and questions.

MS. MILLER: Okay. So I have Jeff, Daniel and then Laura.

MR. ARTHUR: Yeah Laura. Is the intent of your proposal to include all programs, or was it just GE or online?

MS. METUNE: I wrote this at a time when we were still talking about gainful employment. So you know, that's really the -- I mean you heard the story I highlighted. You heard the problem I identified. My goal was to address very specifically career education programs, where licensure is required by a state, and to address it in an online format.

MS. MILLER: Okay. Greg or Cynthia, did you want to chime in? Cynthia.

MS. HAMMOND: Yeah, I don't have a name tag, so I'm just using his. So this is Cynthia. I want to point out the way we wrote the certification requirements for this, it's for all
programs where there is a certification or licensure requirement in the state.

So that would include a bachelor's in Nursing presumably at any school, but it wouldn't necessarily be Art History at any school. So it would only focus on the ones that -- where there is a state licensure requirement. Those are the ones that we would need to have certified. So it kind of crosses the line, whether it's not really GE but it's not really non-GE either. It's kind of whichever ones would fit.

MS. METUNE: And I don't mean that to say that I don't want to make sure that a non-profit nursing program meets the requirement of the state in which the student's located as well.

PARTICIPANT: And one other thought occurred to me, and I think only gainful employment degree programs are reported on the ECAR. I mean are we talking about all institutions, including all programs on the ECAR going forward, or would we then be able to stop dealing with the reporting of degrees period, for all institutions? Would it be the same for all?
MS. HAMMOND: As it's currently conceived, only gainful employment programs are reported on the ECAR. This certification you would have to do at the time of certification or recertification for all programs.

So it's not that University of Michigan would list every single one of their degree programs; but they would provide a certification on all their programs that fit this requirement, where there is state or federal licensure requirements at the time of certification, whether or not those are already listed on their ECAR.

PARTICIPANT: And I know I kind of went to a different area, but I think it's, you know, it's been quite a burden. So I guess I'm just curious. Does this whole process mean that we would no longer need to include gainful employment programs or include employment programs on ECAR and be this consistent?

MS. HAMMOND: Not necessarily. That's a different part of the reg.

MS. MILLER: Daniel.

MR. ELKINS: Can we take a temperature
check or vote on both Issue Paper 8 as it's currently written, and the proposal we've been discussing for the last hour?

MS. BUCK: Are you saying Issue Paper 8 plus Laura's memo, or what are you saying specifically?

MR. ELKINS: Laura's memo.

MS. BUCK: Laura's memo. You'd like to take a temperature check on Laura's memo. So that's what he's requesting.

MS. MILLER: What about Laura's memo, that -- what about her memo?

MR. ELKINS: That we accept the proposal.

MS. BUCK: As written.

MS. MILLER: As written by Laura.

MS. BUCK: Okay. So let's have a temperature check of Laura's memo as written.

(Show of hands.)

MS. MILLER: So at least four thumbs down on that.

MS. BUCK: More than that actually.

MS. MILLER: Five.
MS. BUCK: So let's ask some of the people with their thumbs down maybe, as to why you had thumbs down.

MS. MILLER: Well Sandy had her thumb down. She also has her tent up so --

MS. SARGE: Please.

MS. BARRY: Yeah, Jessica Barry. Because it just for GE programs.

MS. BUCK: Is there any way the proposal could be modified, that you could approve it? So for anyone who had your thumb down, is there any way you would modify the proposal such that you could approve it? Jeff?

MR. ARTHUR: Yeah. I think we've already discussed and kind of agreed that it was -- should or could apply to all programs. So I think that's the modification, and then we could flip our thumbs up.

MS. BUCK: So let's try that.

(Simultaneous speaking.)

PARTICIPANT: I apologize. That's what I was insinuating. I don't think I -- yes, I do apologize.
MS. BUCK: So do you want to go with Jeff's modification and see how you respond to that? I see your thumbs.

(Show of hands.)

MS. BUCK: So I still see some thumbs down. So you want to tell us, Kelly, why you had your thumb down?

MS. MORRISSEY: Well, I think the applicability of this changes significantly if we're talking about all programs and not just programs preparing students for gainful employment. For example, I'm thinking my state teacher preparation programs, I can't even begin to fathom how that would work, when we're enrolling students from all 50 states with wildly different certification requirements for teachers in each of those. I just can't even begin to fathom that.

MS. MILLER: Tim.

MR. POWERS: You know, obviously authorization is different than licensure, and that's something that we try to make, you know, very clear when we talk about how it affects our sector in particular. But again, I'll just go back
to the notion that the distance ed state
authorization requirements, I think, get at a lot
of these problems, and you know, I just kind of
echo what Kelly said in terms of the applicability
as you change the definitions.

MS. BUCK: So having heard the
objections, is there anyone who could propose, make
a proposal that you think people would be more able
to accept?

MS. METUNE: I do want to say that I
actually was really interested in what Jennifer
described that they do for their students. I'm
happy to continue to have this conversation to
identify -- I mean I think you heard what I was
trying to get at and I -- it sounds to me like what
you do for your students prevents that.

So I'm happy to try and make sure that
language is crafted in a way that really addresses
the concern that we're trying to address, and then
I also just think, you know, just to encourage the
Department to continue to look at this question
of what it is to be industry recognized or what
the states require.
I think as an institutional representation, it would be wonderful if I could look to the federal government to tell me what each of the states require.

Ms. Blum: I would love that. I would love that, and I was going to propose, it's not a propose to language, but this is directly related to the subcommittee. So things like, and I said this earlier, things like changing the language of if accreditation is required to -- because there are almost always pathways other than if accreditation is required.

So I think there's just language changes that need to be made. I also think that certifying that every single state and every single program for licensure is a little stiff. But if you went to certifying that the institution is informing their students individually, that would be something that we would -- because we do it. I know it's a burden for others, but we do it.

So that's -- and we encourage -- the Department knows, as I've said in many meetings, that we've encouraged that that be something that
all schools do. So I think there's a lot to work with.

    MS. BUCK: So it sounds like that you are saying the subcommittee could work on this further, rather than reaching general agreement right now.

    MS. BLUM: Yes.

    MS. BUCK: Are there other comments that should be made before we leave this topic?

    MS. MILLER: Neal and then Daniel.

    MR. HELLER: I guess clarification. In the Department's language, you speak of the state or federal requirement. Are you referring to the state that we operate in? So for instance for us, the state of Florida?

    MR. MARTIN: Yes. The way we proposed it, yes.

    MR. HELLER: Okay so --

    MR. MARTIN: In our rule, our proposed rule doesn't differ that much from the previous, from the existing rule, except that we're now taking into -- it's not just limited to gainful employment programs.
MR. HELLER: So I think that that is pretty clear, and I guess for those that serve students from 50 states, you would at least have to disclose to them that that program may or may not meet their particular state requirement. But I think if you combined those two in the language, I think that would be fair to everybody.

PARTICIPANT: I will note that it does connect back those regs that -- I think it's Tim keeps referring to. So when those regs go into effect, there is a link in here that connects back to those regs as well.

MS. MILLER: Okay. So outside of Laura's memo, which sounds like it's going to get some more work done in the subcommittee, and you can talk to Laura and Jen if you'd like to be a part of that, are there other questions for the Department on Issue Paper 8? Sandy.

MS. SARGE: I wish that subcommittee great luck, and I look forward to hearing what you guys come up with, because I think it's really important too. I just can't come up with a way to resolve it. But in this proposal, I just have
some questions about understanding timing on things.

So I absolutely think it's important that if a program is intended to lead to licensure, that the school should have to say our program meets the requirements, so that you have the opportunity to sit for licensure. I couldn't agree with that more. My concern is just a timing issue or how do you resolve or how were you guys thinking about or how do we do it today, what happens when those requirements change for a state and a student's midway through a program, and potentially there's more than just a minimal amount of change that has to be done to the curriculum.

So it's a substantive change in curriculum in order to now meet the new regulations. What happens now, and/or what's the thought process, because unfortunately it's the two do not always happen on the same day, right? Today, our program meets the state regulatory requirements for licensure. Tomorrow, maybe not.

MS. HAMMOND: So how this would work or does work is that school -- if there is a change
that would change the ability to certify this, like
the program does or doesn't, no longer meets it.

So like let's say the state changes something
fundamental and the program no longer meets it,
then you have to do a new certification that says
Okay, these 20 programs meet this requirement, but
this one no longer does.

So you'd do a new certification any time
there was a major change like that. It is unusual,
but it absolutely has happened, where a state has
put in a requirement and made it effective
immediately, and in that case we did work with the
schools to see how quickly they could get their
programs into compliance.

And yes, that does propose issues for
students. But they would have to change their
certification requirements if that were the case.

MS. SARGE: Just to make sure I
understand. So Okay. So what would happen is that
particular certification period or within ten days
or something like that happens.

MS. HAMMOND: Within ten days.

MS. SARGE: Yes. So they go out and
they say this no longer meets the state requirements. They're certifying that between the institution and to the Department, and is there also a now -- does that trigger notification to students, which I would think most schools would want to do anyway, to let them know hey, there's a big change?

And then what -- I can see where this would be a real concern. But I'm -- but I don't know how to control it, or how to even minimize the impact. So I'm loving some discussion if anybody has seen this.

PARTICIPANT: So for purposes of this conversation, right, there's what happens to the program that no longer meets the certification requirement. What I would imagine would happen is the institution is obviously going to know that's happened, because they've been tracking the state requirements and the change.

They're going to notify the Department the program you were offering doesn't -- no longer meets the certification requirement, and presumably that you've stopped enrolling students
in that program because it doesn't meet the requirements anymore, and that you're going to I guess update it when -- presumably you're going to change the program to meet the requirements, whatever they are.

There's going to be a separate conversation about the students in that program, and that's all going to be on how the state provided -- usually there's a grandfather provision that lets you teach out the students when they do that.

But that will be a separate conversation unrelated to this, to make sure that the students are still able to qualify for Title IV, as long as the states envision that they could keep taking that program.

MS. BUCK: Does that satisfy the needs of the consumers and students do you think?

MS. MILLER: Well Jennifer Diamond is next in the queue, so did you want to answer or did you want to take a minute to answer to that and then go to your question or comment?

MS. DIAMOND: I'm not sure I have answer right now to that.

MS. MILLER: Okay.
MS. DIAMOND: But do you want to -- does anyone else have something they want to chime in on or should I move on?

MS. MILLER: Go ahead, Jennifer Diamond.

MS. DIAMOND: Okay. I just wanted to bring up something that we haven't talked about yet, which is now that we've been discussing the idea of bringing sanctions that could lead to loss of Title IV, I think there's some concern around this substantially similar program issue, in that we have stricken the idea that, you know, a school could lose their Title IV eligibility and then immediately come back with a very similar program, and I would like to look at bringing that back into the regulation.

MS. MILLER: Jennifer Blum. Does the Department want to respond first?

MR. MARTIN: Yeah, I'll respond to that. That's a very good point Jennifer, that yeah, we put that in there obviously with the presumption that there would be no -- there would be no program sanction that would be lost, could
have a result in loss of eligibility.

Therefore, the whole idea of adding similar programs would have been redundant. But if we're moving back, if we're moving to thinking about, again and I'm not going to use the C word, but if the general sense that we might want to reintroduce possible administrative sanctions based on certain measures, then I think that's an issue again, right.

If it were the case that as a result of these sanctions, the program were to lose eligibility, we would take some action to limit. Would we put into place something that would prohibit from standing up a program that was the same program or one that was very similar?

So I think that's something which is definitely out there for consideration. That does, I will agree that that does change the playing field somewhat.

MS. MILLER: Okay. Jennifer Blum, then John and then Jessica Barry.

MS. BLUM: So actually Jen, I had thought about this too, and actually I sort of
alluded to it yesterday in the caucus on the -- and I think we'll get to it in the conversation about sanctions. But I would put that into the category of growth restrictions, and so no new, you know, you could limit enrollments in other similar zip code programs and also not have a new zip code.

Although one caution, and I say this from an institution that has direct assessment programs, which might share a zip code but they are very different in cost, because they're much -- they're a lower cost. And so just in the interest of being able to offer for lots of programs in CBE or direct assessment, there needs to be some thought around that piece of it.

But thought of it too and agree that -- and I was thinking that it could be in the context of the sanctions section when we get there again.

MS. MILLER: John.

MR. KAMIN: Yeah. It has just been brought to our attention, in the case of for instance, a Marine gets honorably discharged out
of Camp Pendleton and is intent on moving back to Texas. But he's been at Pendleton for eight years, so he's got the license. He goes to a California community college, but has every intent of going to Texas and he wants to do something in the medical field.

Is there any -- would there be any capacity to inform him of this, because it seems like there may be students who are intending to move elsewhere, that would be -- that would definitely benefit from learning this information, but it doesn't seem like they would be able to be initially identified.

MS. MILLER: Does the Department want to answer or --

(Pause.)

MR. MARTIN: Could we hear some comments from those schools, to see how they deal with this issue? Any -- I mean I see it as a possible disclosure.

MS. BLUM: Is it in the disclosures about the state licensing, and would it specify it there? Or at least say something -- somebody
made a comment about, oh Neal did, that it meets the requirements of this state if you, you know, and language around but may not require.

MR. MARTIN: Yes, that's currently in disclosure, in the disclosure templates, yes, in the template.

MS. BUCK: I'm going to propose that in five minutes we take a break, and that we then come back and focus on proposals. So let's just focus on this for five more minutes.

MS. MILLER: Jessica.

MS. BLUM: I just want to comment on the substantially similar programs. I think I brought this up in the first week. You know, say I have an associate degree program that, for a better word fails, and I go back to the industry and I say hey, we're teaching some really great technical skills here, but the length and the cost of this program is great for the students compared to their earnings, you know.

Would it make sense to take this technical curriculum and put this into a certificate program without the gen ed requirement?
So it would be -- would take less time to complete. It would be of lower cost. Would you consider that certificate program a substantially similar program?

MR. MARTIN: Well I mean first of all, under these proposed rules we took out program sanctions. So that all that language, and Cynthia made a good point to me earlier, that what's in certifications here is sort of ancillary. So what you're doing is schools to explain how a new program is not substantially similar.

But that stems from the fact that having lost -- the program having lost eligibility, the school could not stand up a similar program. If we're going to re-think introducing those again, we have to think about whether we would want, whether we as a group would want the current, the existing limitations on standing up a similar program, which is one --

(Off-microphone comments.)

MR. MARTIN: Yeah, one within the same four-digit CIP. Whether we want to go back to looking at that, how many years we want to put that
up for? So I think that's on the table. But not so -- so it's not really a certification issue. It goes back to wherever we added -- if we were to add language about, you know, these administrative actions that could proceed from having unsatisfactory or failing rates, what would be the --

If there were a loss of program eligibility, what would -- what would the limitations be on when a school could stand that back up? I think that would be essentially in that portion of the regulations. So I think we should deal with it mostly from there, because this is just -- this is just certifying that they haven't done so.

MS. BUCK: So I think there have been some very helpful comments, and thanks to Laura for bringing forward her memo which helped to focus things, and we do have a subcommittee now that's going to go forward with that it sounds like. Why don't we take a ten minute break and then come back to focus on proposals?

You've now gotten through the issue
papers. Congratulations.

(Whereupon, the above-entitled matter went off the record and resumed following a brief recess.)

MS. BUCK: Okay, welcome back. As I heard several people say, we're on the home stretch, so that's great. So we've gone through the issues and what we have up on the screen is number four sanctions, because we had kind of been working there for a while, particularly in the caucus meeting.

We went a little bit through application, a little bit through metrics. We had gotten to corrective options, which Crystal can pull up. You don't necessarily have to start there. You may have proposals about other areas. I'm just putting -- we're just putting this up in case that's helpful to you, since that's kind of where we had stopped. But I see Greg has his card up, so let's hear from him.

MR. MARTIN: Yeah. I think I promised you guys I would tell you how to get to the template.

So I just want to maybe write this down. I know for those of you in aid, you're well familiar with
the use of IFAP. But if you want to go on to the website, I-F-A-P.ed.gov, we refer to as IFAP. When you go on to IFAP, in the right upper-hand corner you'll see some links to certain things.

One of them says "Gainful Employment."

Click on the Gainful Employment link. Once you go there, it will give you the option to pull up Dear Colleague letters and electronic announcements, all right.

And when you see -- you click on electronic announcements and Dear Colleague letters, you want Electronic Announcement 110. Yes, there have been 110 electronic announcements related to gainful employment. Yeah, is that it really?

Cynthia and I once argued over who got to have 100. We were putting conflicting things out at the same time. I said I want 100. She said no, we get 100. So it's 110 and when you go on there, you'll see how you can link to the template.

MS. MILLER: Greg, I'm sorry. Can you repeat the website again?

MR. MARTIN: Sure. You start with
I-F-A-P.ed.gov, I-F-A-P. Then once you get to IFAP, you get on there, on the right-hand corner you'll see a link. You'll see various links we have to like hurricane relief and then you'll see gainful employment. Click on gainful employment, and then once you get to gainful employment you'll see an option to choose Dear Colleague letters and electronic announcements.

You go on to -- you click on that, onto electronic announcements and you want Electronic Announcement No. 110, release of the 2018 DE disclosure template. It will give you a link in that particular electronic announcement, right to the template. Once you have the template, you can -- I probably shouldn't use the word -- you can play around with it, because you're not sending it, doing anything with it.

So all you have to do is put in a valid OP, I was going to say zip, do you believe that? OP ID number, and then you can -- you could just put dummy information to get to where you want to get to, just to see how it flows.

PARTICIPANT: If you Google Electronic
Announcement No. 110 it's the only agency with 110 announcements on anything. It's the first hit.

(Laughter.)

MR. MARTIN: Okay, you could do it that way, but that's no fun. You should do it the way I told you.

(Pause.)

MS. BUCK: Excellent. So we're in the time when people can make proposals, and as I always tell people when I'm mediating with them, understanding the other parties' perspectives as you do, what can you propose that you think they might accept that you could also accept? That's just kind of one way of thinking about it. So John, do you have a proposal?

MR. KAMIN: Actually I have -- perhaps is a good time to ask, just in recapping where we are now, I'm curious based off of the proposals. If we could get a little bit of a walk-through from the Department on a phased time line of what happens when --

I think I'm especially interested with no reporting requirements how that influences the
time line between the Department collecting the information to synthesizing it and disclosing it or how the time line for disclosures as well. So if we can just talk through how the rule would work under the new proposal?

MR. MARTIN: Yeah. I'm going to have Cynthia come up and sit here, because she's the one that -- she does this work. So if we're talking about -- so what you want to know is as opposed to the way it works now, how would the time -- how would the time line work if we're using administrative calculation of the rates, correct?

MR. KAMIN: Yes.

MR. MARTIN: Okay.

MS. HAMMOND: So assuming we don't add any -- there is no additional reporting. We don't add in anything we don't already have. The rule goes into effect July 1st, 2019, and sometime during 2019 we would be able to -- we're obviously going to start.

I mean as soon as in November of 2018 when we publish this final rule, we are going to start working on the contracts and the other things
that we would need to do in order to do the calculations. So sometime, maybe as early as in 2019, we would be able to have a draft completer's list out. I don't know about the repayment rate, because I don't know if you guys are doing that.

MR. KAMIN: I'm sorry, it's the draft completer. What is that?

MS. HAMMOND: So how the debt to earnings rates work right now is we create a draft completer's list, which is the students who we think have completed the program minus the exclusions.

We provide that to the schools. The schools then tell us yes, you're right. No, you're wrong, provide any additional information to get those corrected, to make sure we have the right students in the right programs that graduated in the right years.

We then take the results of that and give it to the Social Security Administration, who comes back with the mean and median earnings. Once we have those mean and median earnings, we're able to do a draft debt to earning calculations. At that point, the schools can no longer challenge
the earnings information. But they do look at the
debt, to see whether or not we have the debt
information correct.

There's a 45 day challenge process for
that, and then we run it based on those corrections,
if any. We call them challenges, based on those
challenges, if any, and then we put out -- we make
sure -- we validate it, make sure everything's good
and put out final debt to earnings rates.

This year that you're in, the last time
we did this, the final debt to earnings rates came
out in January of '17. But depending on how we
do the new challenge system, that time line may
not -- may not be the same. On the last time we
did this, we put some things into NSLDS to make
corrections and challenges easier for schools.

I would suspect that a lot of that could
be reused, although it's going off different tables
instead of doing it just for the gainful employment
tables. We'd be looking at enrollment reporting.

But even with that, I would suspect that a lot
of that coding could be reused, and therefore the
time lines might be shortened a bit.
But any way you look at it, it would sometime in 2019 at best, maybe early 2020 when we would have another round of rates out based on these new rules.

MS. MILLER: Tim.

MR. POWERS: It's been a long few days, so I apologize if this has already been determined and I just zoned out for a few minutes or something. But I just want to make sure it's completely clear to me. So any debt to earnings reporting is only going to be for borrowers who have completed; correct, as in how we sort of currently do it under DE now.

MR. MARTIN: Currently yes, and that doesn't change with these proposed rules.

MR. POWERS: Just wanted to make sure that that's what it was, okay.

(Off-microphone comment.)

MS. MILLER: Marc Jerome.

MR. JEROME: My apologies. He said for only borrowers, right? Now debt to earnings --

(Simultaneous speaking.)
MR. MARTIN: No, I'm sorry. I didn't catch that. That's a good catch. No, it's not for only borrowers. It's Title IV recipients. I'm sorry.

MR. POWERS: Yes.

MR. MARTIN: Sorry, thanks. Thank you, Marc.

MS. HAMMOND: And the way we clarified it in these rules, is that it's only Pell and borrowers, because we don't actually have in our systems the campus-based. We don't have work study only students, and so in order to make it easier for you all as well as for us, we just took them out. There are very few work study only students anyway.

MR. JEROME: And no Perkins then either?

MS. HAMMOND: And I think -- I think we did include Perkins.

MR. JEROME: It's a relatively small group.

MS. HAMMOND: Yeah actually we do have Perkins, because Perkins is reported to NSLDS.
MR. JEROME: Okay.

MS. HAMMOND: So that one we do have.

I will mention that if there are any additions, for instance, I know we've had a lot of discussion about tuition and fees, about private debt, I would like to note that if we have schools -- what we're talking about doing right now is something in 2020 based on the fact that we have 2014 data, because that's when schools started reporting enrollment reporting by program. So we have some data for that.

If we started reporting, we couldn't start any earlier than 2019 and depending on how we do it, it might even be later, depending on if we included it in enrollment reporting, or if we just had schools report based on the current DE reporting scheme. So if you had schools start reporting those things in 2019, then it is 2027 before we have rates again.

And my 12 year-old will be in college by then, but I just want to get you guys to understand. There's a significant gap in time if we add in new reporting requirements, and that is
due to the fact that you have completers in a particular year, but then you need to advance several years.

Then you have the Social Security earnings year, and that data doesn't become available until a year and a month later than that, and then we need time to get it and to calculate it.

So that expands the process significantly. So I was just doing a back of the envelope calculation. I might be off by a year, but I think it is 2027 if we decided to add in additional reporting.

MS. MILLER: Chris Madaio.

MR. MADAIO: Yeah, just a quick question, Cynthia, on what you were saying there. Thank you. On the draft completer's list, aren't they relatively kind of an easy thing to do, and that couldn't they also be done, I guess, after November and the publication of the final rule, at the same time you're seeking agreements to -- would be necessary to complete the debt to earnings?

I guess my question is kind of isn't
the -- what is involved in doing draft completer's lists beyond just sending the list to the school?

MS. HAMMOND: So currently the draft completers list is a program that we run off of what Sarah Hay described as an antiquated system. I'm not a fan of those words, but she -- she does have a point. So this isn't done by query. It's done by an actual program that we run off of that.

In order to do it for all schools, we no longer are going off of that part of NSLDS.

We now are doing it on completely different tables, the ones that have to do with enrollment reporting. So there's going to be some significant coding changes that are going to need to be made to that. It's hard to make those until the rule is final. But as soon as the rule is final, we can start working towards that. You know, we don't have to actually wait until it goes into effect in July, July 1st of the following year.

So we can start ahead of time, but it's hard to make any coding changes and commit the agency to funding contracts and stuff when the rule itself isn't finalized yet.
MR. MADAIO: Sure.

MS. HAMMOND: There will be some significant changes, not just because it's a different table, but there's different information there, and then we also have the issue that we will need to deal with if not here than in a subsequent Federal Register notice of how we do attribution of loans.

Because we will have the issue where in 2014 they told me that you graduated with your bachelor's degree in Art History, but you had four different majors before you decided on that, and how we attribute the debt related to that.

MR. MADAIO: So then as far as the current rule that's on the books, when does the Department plan to do the draft completer's list now if the coding is able to be done at this point, if they're still going to do it?

MS. HAMMOND: I do not have a time line. We are currently working on it.

MS. MILLER: Jennifer Blum.

MS. BLUM: So Cynthia, I just wanted to double-double clarify something. So we did to,
and I'm just asking the question. I'm actually now thinking about like all debt and how that changes the metric and all that good stuff. So don't everybody -- like I'm definitely on the all debt.

But I do want to just understand. If it were tuition and fees, if we were going back to tuition and fees, it would still be 2027 because you haven't done that for non-profits or right, okay.

MS. HAMMOND: That's correct.

MS. BLUM: Got it, got it.

MS. MILLER: John.

MR. KAMIN: Yeah. Just a final clarification before I ask -- we can move on to actual proposals. To be clear, what you're -- this is being worked out towards an eventual solution for what would inevitably be DMYR, Debt Measurement Year 2017. But before that, we're looking to -- right now we only have 2015 and we're waiting on 2016 and we'll be patient with that.

But there's still the intent to do that before this new math gets worked out for the new
rules?

MS. HAMMOND: That is our current plan, yes.

MR. KAMIN: Okay.

MS. HAMMOND: I will also say that -- so let's say we go as we proposed and we're looking at a 2020 release of the things, based on what I've heard from you all earlier on in the sanctions, so in 2020, early 2020 or late 2019, at some point we would have rates put out, and then we would go to the two requirements and figure out the sanctions and that sort of stuff would be after that point.

MS. BUCK: Any other questions about the phased time line?

(No response.)

MS. BUCK: Okay. So I think we're ready now for a continuation of proposals. I was going to say --

PARTICIPANT: Can we go to metrics?

MS. BUCK: You want to see metrics up on the screen?

PARTICIPANT: Yeah, that is --

MS. BUCK: Okay. We can go back to
metrics.

PARTICIPANT: This is technically part of 4 and 5, right?

MS. MILLER: Yes.

PARTICIPANT: Okay.

MS. BUCK: Yes, 4 and 5.

MS. BLUM: Can I propose that we just focus on debt to earnings and loan repayment first though, because I mean those are the two that are the primaries --

PARTICIPANT: Tier 1, right.

MS. BLUM: Right.

MS. MILLER: Marc Jerome.

MR. JEROME: So given that it's the last day, I thought it would help, because that we got, I guess, a more general consensus that the negotiating committee is asking the Department and feels comfortable that we're going with these two metrics, a repayment rate and a debt to earnings rate, because I proposed that when we were in caucus, and I'm not sure it came out in the public segment.

So because that would then give the
Department, to get some data and come to our next session with a more formal proposal that would be more constructive for us to work off.

MS. BUCK: So are you asking the group Marc?

MR. JEROME: Yes.

MS. BUCK: Okay, Jennifer Blum.

MS. BLUM: Marc, you're asking that we not discuss -- like just give it to the Department to figure out?

MR. JEROME: No, no. I'm asking is it this negotiating committee's general consensus that the Department should go forward for next time, preparing the metrics to have the alternate repayment rate and debt to earnings? It seemed like we were there, but it's been some time lapse.

MS. BUCK: So do you want to ask for people to indicate thumbs on that?

MS. MILLER: Whitney, do you have a response?

MS. BARKLEY-DENNEY: Yeah. So I think I would maybe categorize it a little differently, and I don't know to what extent this matters. But
I think it's our general -- I'm not going to even say consensus. I think we all gave a positive temperature check to the idea that there needs to be something more than what is contained in this rule, particularly some way to get to sanctions with teeth.

The way that we have discussed doing that is via debt to earnings rates and repayment, along with another appeals process, and that that had a positive temperature check, rather than saying it's general consensus. Does that make sense to everyone?

MR. JEROME: I'm totally comfortable with that. I'm really only saying it, so that the Department and others can start getting how the heck the thing would work, what's the impact on the colleges and all the sectors, because that is very, very important to figure out if the metrics are appropriate.

So it just focuses them. It doesn't mean it's definite. It just lets us have a general direction that we're moving forward, and if the data shows it's not right, then we'll revisit it.
MS. MILLER: Thelma.

MS. ROSS: So Thelma Ross. I am -- I don't have a proposal to this, but I do have a concern that I think that I want to state publicly for the institutions that I serve. So for minority-serving institutions, and they're not just HBCUs, but for minority-serving institutions, we've talked about the first session and this week, about the student population that these regulations are trying to protect.

We keep coming back to low income, under -- I'm going to use -- I'm going to stick with low income, and I would suggest that we get a significant number of those students at our institutions for whatever reason and for however long that has occurred.

But they come to us with a whole lot of other limitations other than low income. We could talk about philosophically the societal issues that come with those students, and by no means for anyone that's listening to this publicly do I mean that all of our students are in that category, because we have a diverse population of
students at minority-serving institutions.

We have some that are at this part of the spectrum, that any college sitting around this table would want to have on their campus, and we have those that come that at whatever level, secondary, just did not do well by them. But when they come, we offer them an array of services, and I am -- I'm at a loss to try to understand how, when we get to the other side of this, where we are going to try to roll up programs into this regulation, all programs in this regulation, and then apply debt to earning ratios to those programs or repayment, that those students are going to fare well in that.

Because if I look at any statistics with the group of students that we serve, and I start talking about income levels and debt, they're going to come out on the short end every time, every time, and it does not mean that the program was not a good program.

It's just that when they go out the door from a very well-designed and constructed program that they did exceptionally well in, when they go
out their earning potential is already different than another group of students' earning potentials. Then we're going to apply the same measuring stick to those students or those institutions, and I have a problem reconciling that in my mind.

MS. BUCK: Do you have any alternative that you think would be workable?

MS. ROSS: I'm going to -- say that again Whitney?

(Off-microphone comments.)

MS. ROSS: So and Whitney said -- Whitney said tongue in cheek and yeah, so that would be my recommendation to be honest with you. But I don't think the Department is going to do that. I said we could do what the regulations was intended, what they were intended to do when they were formed, and some of our schools are still -- they're in that boat.

They offer certificate programs that lead to gainful employment, and they've had to rise or fall based on the regulations that were presented to us, right? So and the metrics that were presented to us at the time. So that my -- but
I've been -- but we were almost told emphatically from Day 1 that that's not an option. It's not an option just for it to do what the regulations were intended to do.

So that would be my proposal, but I'm not sure the Department's going to go for it.

MS. MILLER: So Ahmad I see your card up, so I'm wondering if Tim or Jessica Barry or Mark McKenzie have a response for Thelma. Okay, so Tim and then Jessica.

MR. POWERS: Well just to thank Thelma, because I think it's a really important perspective and one that I think is essential for all of us to consider. So you know, we all have certain differences of opinion on statutory limitations here, but at a very, very, very minimum, maybe suggesting to the Department that when you sort of dig deeper beyond these metrics, at least taking some very serious considerations for Title III and Title V schools, and the challenges that they face.

At a very minimum, just throwing that out there is something that I think we should all consider, given the I mean absolutely essential
role that MSRs play in our higher ed landscape in this country.

MS. MILLER: Jessica and then Mark McKenzie.

MS. BLUM: Yeah Thelma, I'm glad you brought that up. The way you describe your student population though is very similar to our student populations on the proprietary side, and that's why the gainful employment regulations have been so hard for us to comply with. It's very similar populations.

MS. MILLER: Mark.

MR. McKENZIE: Yeah, Mark McKenzie. Thelma, well said and you know, the thought that I had about this is that the first two indicators, the debt to earnings and the repayment, are global thresholds that apply to all institutions, and they're kind of the first, the first pass-through.

If you don't, you know, if you fail both -- if an institution fails both of those, then no longer is it a global issue. It becomes an institutional discussion with the Department, you know. We had talked, I believe, about you called
it administrative capabilities through the -- so
now, the institutions have the opportunity to
present the additional information in whatever
metrics that are applicable.

I mean we went through a whole bunch
of metrics. I actually think the burden then
shifts from the Department to actually the
institution that has been red-flagged on the first
two, and but they can use whatever metrics they
-- that makes sense in their institution. In your
case, you know, bringing that piece forward would
actually be a very legitimate defense, I think,
or at least explanation. Let's say an explanation.

I don't actually think we should use
the term "appeal" in that second tier. I think
it's really a review. It's an institutional review
process, and then if the Department finds that there
are significant issues here beyond, you know, an
easy explanation, then it gets elevated and
whatever your process is, whether it's program
review and then you go much deeper.

But it's no longer part of the global
regulation, and maybe the regulation that we're
dealing with can be simplified to accommodate that.

MS. MILLER: John.

MR. KAMIN: Yeah. I think that there is a dissonance that will eventually be reconciled in one way or another over these fundamental differences in structure between state schools, non-profits and for-profits related to gainful employment. I think Daniel said it best, but when it came to compelling need and interest, and where that factors into things.

To put a finer point on that, I don't think that if New Hampshire, a New Hampshire community college has a drug counselor program, behavioral sciences at the associate's degree, I don't think the state would appreciate the Department of Education coming in saying oh, that's a poor program that you're running because they're not making enough money.

I say that they would probably tell you there's an opioid crisis and it's in the state's best interest to incentivize the program. And you know what? It's their business on how to do that.

There is an accountability and structure in place
that facilitates that, and empowers them to make those decisions.

Now non-profits have their own accountability structures as well. The issue when this originally came up back 50 years ago was about trying to build or cultivate an accountability structure for for-profits, for specific metrics that could be defined because of the absence of these accountability measures in the other sectors.

So it seems like applying those across all sectors to my point is going to inevitably lead to some clash, where the schools say this is -- we do not see the utility in this type of disclosure for us. I think that one of the regrets I have about this session is we haven't really honed in or drilled down on what precisely that utility is, for why we're doing that outside of equity across all sectors.

Which you know, that's a great point to debate on a fairness level. But in terms of practical effect and practical impact, I think that it hasn't really been mentioned, and that's -- I don't know what the answer is, but I certainly
have sympathy for the schools who have those issues.

MS. MILLER: Johnson.

MR. TYLER: Yeah. I think Thelma's point is a great point. People do leave jobs and they're perceived the same way they were perceived before they went into the school, I mean leave school. It does impact on their ability to earn money. That applies to both sectors. But there is a difference here, and the big difference I see has to do with mission, and when you look at the mission of the proprietary schools, they have -- a lot of them have investors.

Mark's not included. Mark's business is a family business. His has its own mission, which I think is a good mission. But when you get investors involved, it changes everything. If you look at some of the schools, they've been well-documented. You can see the enrollment increasing. You can see the debt increasing. You can see salaries increasing massively.

The person whose story was told about going to automotive school. The structure there was I mean really bloated. The five chief
executives made between them $8 million annually, and the investors, the whole school changed when investment got in it.

So I guess I go to what is the consequence, and that would seem to be the only way to get the schools with a mission who are part of the public non-profit sector out of the consequences.

Maybe they can identify it, because there seems to want to be this, you know, transparency about return on investment, that sort of stuff.

But it doesn't seem appropriate to have a school that has a different mission, that isn't related to satisfying investors, to have to go through this second look process that's very time-consuming and that's going to take away more from their students to the quality of the education they're doing, their bottom line, the number of people they can serve.

So I guess I would suggest maybe there's a way to revisit this, because otherwise it really does seem like a universal system here is really
going to have some unintended consequences.

MS. MILLER: Okay. Johnson, when you say revisit, does that mean in Session 3?

MR. TYLER: I'm not sure which session.

I think my revisiting has to do with the question of if you were to fail the debt to income and the repayment rate, do you go through -- do you suffer the same consequences at the end that I think people have envisioned for the schools with a different mission, for proprietary schools?

MS. BUCK: And I think that would be under Corrective Options that we were brainstorming earlier. So maybe we should bring that up, just so people can see that as well.

MS. MILLER: Okay. So Ahmad.

MR. SHAWWAL: Ahmad. What guarantees, if any, do we have that the proposed regulations during the third session won't be shamelessly different than from the course of discussion during this session, as was the case with the proposed regulations that we were given on Monday, compared to the discussion in the first session?
MS. MILLER: Greg.

MR. MARTIN: Is that directed to me?

So first of all, this -- we did. I would remind everybody that we did in the initial -- with the initial papers that we did, issue papers for Round 1, we did bring up -- those papers were for everybody's consideration. We did not propose rules at those times, at that time.

We did introduce the idea of, to throw out there, to contemplate what if the rules were -- the sanctions were no longer there. So I think we did introduce that option. We didn't have any -- there were no -- at that time it was the first meeting. We didn't have any -- we hadn't had any discussion about, you know, we hadn't had any discussions yet.

We had discussions at the table about what might occur. These proposed rules represent the Department's starting point as far as where the proposals go. I can ensure you that the, you know, when we go back and take this back, that the next round will reflect, you know, what was discussed here today.
And again, we have a whole 'nother week
to discuss whatever is proposed. We're not coming
back. We're not going to come back
with -- obviously, we'll have positions, as all
of you do, but we're not going to come back with
something that we lay in front of you and say it's
hard and fast, you know. This is it. We'll have
another week of discussion around that.

So we do -- we have every intention of
crafting the rules, not rules proposals for the
next, the next session based on what we've heard
here. You know, we've heard that everybody wants
to look at an environment where we reintroduce some
type of measure of sanction, and we will go back
and look at a proposal to do that.

I understand everybody's on different
pages with all of this. I don't -- I don't know
that I would characterize our references as
shameless.

MR. SHAWWAL: Thank you, Greg. The
reason I asked that is because I know there's a
lot of differences of opinion at this table. But
I feel like we've made some progress, and I'd like
to see that continued.

I feel like if during the third session there's proposed regulations that are drastically different from the progress that we've made here, then it just derails the entire conversation and it really negates our entire purpose, and it's a big waste of time for all of us. Thank you.

MS. MILLER: Steve Chema, then Whitney.

MR. CHEMA: Thank you, Steve Chema. Just wanted to reflect on the point that Thelma and Jessica made about the socioeconomic and demographic backgrounds of the students that predominate their institutions, and what impact that has on their labor market outcomes.

This is -- it's not unprecedented for the Department to take that into consideration. If you look in the cohort default rate regulations, there's something known as the economically disadvantaged appeal, which allows institutions to tell the Department about their characteristics, and if they have a proportional amount of low income students coupled with another metric, sometimes
it's placement rate, sometimes it's completion and
graduation, but it varies depending on the degree
program.

This is something that, you know, the
Department weighs and allows them to consider
whether or not that institution ought to be
sanctioned. I think that would be appropriate to
be considered at the Tier 2 phase.

MS. MILLER: Whitney.

MS. BARKLEY-DENNEY: Yeah. I just
wanted to reiterate a request that I made last time
that I don't think was addressed, which was to have
someone to talk about the statutory and legislative
intent of this language, because I think Thelma
is getting to something really important, and I
have to be honest.

There have been times this week when
I've been like are we actually legislating instead
of writing a regulation? And it does feel like
that to some extent, when we seem to be going so
outside the parameters of what this original
legislation contemplated.

So I would just like to reiterate that
request for either something buried in the annals of history or someone who actually knows the history of this, to come and talk to us about whether it's even appropriate to consider applying this rule all institutions.

MS. BUCK: Greg, can you respond to that at all?

MR. MARTIN: I'm going to let counsel respond to it.

MS. MILLER: Steve.

MR. FINLEY: So we hear a question, and we've identified for people that we think there's adequate authority to support these disclosure requirements. We're not here to talk about whether this is a reimaging of GE; this is developing these regulations to serve a purpose that we think is valid, which is to promote disclosure of the debt to earnings calculations, and to do so where we think there's authority to do this for all programs.

These actually respond to complaints the Department heard about some aspects of the DE regulations saying to the extent it's good to have this information; it would be better if it were
available for everyone, and this does address that. It does it in a way that we think is meaningful. And that's the reason we're here, and that's the foundation for why we're here. It may not exactly respond to the questions you're asking, but I don't think they're on point for why we're here. We can differ on that in our opinions.

MS. BARKLEY-DENNEY: Sure, and obviously I think we're going to have to. I mean we're talking about even removing, you know, references to the term "GE" when we're creating a gainful employment regulation. So you know, in my opinion we're pretty far afield from the Congressional intent, even by removing the name that Congress gave the statute when they named it.

MS. MILLER: Kelly.

MS. MORRISSEY: So a couple of days ago I made the comment that it was very difficult for me to be asked to make decisions about this, without seeing any of the data that would inform those decisions. So now we do have some data in front of us, and after reviewing it quite thoroughly,
I feel further convinced that we are not accomplishing what we are trying to do by casting a wider net here.

I'm really wondering why instead we're not trying to narrow our focus to identify those programs and those institutions that are really harming students. You know, hearing Thelma and others in terms of serving economically disadvantaged students, many of our institutions do that. So we're all dealing with the same inputs, if you will.

It's what happens after those students arrive, and we really -- I feel, you know, it's difficult for me to say this, but we cannot have this conversation without examining the effects of the profit motive here, and that's what differs. So I really don't think that by throwing every institution in the country into this mix we're solving the problem at hand.

MS. MILLER: So we have Daniel, Jeff, Neal and Jennifer B. Daniel.

MR. ELKINS: Thank you for that comment. I appreciate that. That's a good segue
into my point, which is that under the current regulation, both profit and non-profit schools are affected. So I want to keep in mind that even if we kept things as they were, it still does apply to both for-profit and non-profit programs, and those issues would still be there with low income students.

MS. MILLER: Jeff.

MR. ARTHUR: Yeah. I'd just point out that these sector lines of demarcation have blurred significantly. Many of the institutions you're talking about, the Wall Street schools, have -- some have been converted to non-profits. Some don't exist anymore.

I mean it has changed significantly, and you know, if we want to address the issues that a sector-targeted rule, the institutions will just change the sector that they're in. I mean we've seen that happen significantly.

But I think I've got an idea on how we can deal with this. I've been pretty, you know, convicted that I think we've got to score any data we look at, norm it for all programs. But being
sensitive to Thelma's concern, which is also the concern of my institution. We serve the same demographic, the same socioeconomic diversity.

But the Scorecard itself has a socioeconomic diversity score. If you look at IPEDs, they do peer. It's called peer evaluation review reports. There are systems and processes there and ways to analyze data to account for the socioeconomic diversity of the student body served.

So I would suggest that maybe that should be taken another step, to where we do this norming and we look for the -- I think it's somewhere in the two standard deviations, but don't need to get into that now, but to identify outliers. But that that should also be done at these -- at the level of some kind of a way to analyze the student body served.

I think that may help us get to where we need to go. Every measurement in the scorecard, you would see -- in every ranking in U.S. News and everything, a lot of that is the population served more than the institution's quality per se. And so we've got to find a way to identify the truly
outlying programs that we want to target, and try
to improve.

MS. MILLER: Neal.

MR. HELLER: So you know, I think Thelma stated it very eloquently, and I thank you, and Johnson I couldn't agree more that some of the people that came into our industry, starting in the late 1990's when they saw an opportunity with government money quite frankly, we became an industry that opened up to publicly traded companies, private equity groups and their only motivation, their only incentive was profit.

I 100 percent agree with it. They destroyed this industry, and they made it bad for everybody. Fortunately, and maybe it took too long than it should have, most of them are gone. It's not to say that there aren't outliers amongst family-owned businesses as well, but the majority of the wrongdoing was done by these private equity held and for-profit institutions.

Not for-profit, sorry, publicly traded institutions that only looked at how much profit every quarter was being earned, and what were their
stocks worth at that time and their stock options.

Anyway, fortunately most of them are gone and yet this rule that came into play has only affected the ones like the schools that are represented here today that were left behind, and quite frankly most of us do it right.

We're not perfect, but we do serve difficult student bodies, and I think we get it right most of the time. So with that being said, you know, I think it's very hard to distinguish between a for-profit institution and a not-for-profit institution and I'm sorry, but you know, we are all in this one way or another, to make a profit.

Just because your tax status says not for profit doesn't mean you're not profitable. I've gone around this country and I've seen some wonderful private and public institutions in the traditional sector that have some of the most amazing facilities I've ever seen in my life.

I can point to one of Whitney's favorite schools, which I actually love, the University of North Carolina, and you've never seen a place like
Chapel Hill, and you know, forget about the Dean Dome, which is a 19,000 seat gorgeous basketball arena. Right next door is the swimming facility, which I've never seen anything like that in my life.

So and you know, public money. So I also point to of all places, a New York Times article a few years ago, New York Times, that has castigated the for-profit industry, and I feel has done it in a very unfair way many times, actually wrote an article about Princeton University. They picked on Princeton. There are many others in the same boat.

Princeton has $20 billion sitting in a bank under investment. They actually went on to say that Princeton paid more money in fees to their financial advisors than they gave out in scholarships that year, which was 2015. Now I don't know about you, but I think that's as immoral and unethical as it gets, as they continue to raise their tuition to levels --

PARTICIPANT: This is -- sorry, this is about one of the schools in our sector, and I'd just point out that Princeton, they're not a
scholarship-granting institution because they give need-based aid. They say we're going to charge you based on what you can contribute.

MR. HELLER: Okay. Well I appreciate that.

PARTICIPANT: I just wanted to correct the record.

MS. MILLER: So Neal, do you have a proposal for what you're saying about that?

MR. HELLER: I don't have a proposal, but I do think, and I'll stop. You know, the words "gainfully employed" were put into the Higher Education Act in 1965. I was five years old. I'm pretty sure that it was not Congressional intent to somehow define it 50 years later as a debt to earnings ratio. So I hear everybody around this table and everyone has a problem with it.

So I think the Department has headed in the right direction, and I do think there are other metrics that obviously do a much better job of identifying bad schools, no matter what their for-profit, not-for-profit, public or private.

MS. MILLER: Jennifer Blum.
MS. BLUM: So yeah. I just want to try to get back on track. I will say that I agreed with the last things that Neal said. Of course, you know, I wouldn't throw all types of for-profits and whatever size or type under the bus because of bad actors.

I certainly think that this country has things like distance ed, where of course there have been some non-profits, but the private investment that was made, for example, into distance ed very early, I'm not sure we would have distance ed the way we have it today if it weren't for the private investment of for-profits.

So I just want to -- let's not lose sight of the value of private money, and certainly as Neal very eloquently said, the non-profits certainly invest in often actually for-profit education in myriads of ways.

As Senator Alexander eloquently inquired of Tony Carnaval last week at a hearing, he said I'm sure you wouldn't let Georgetown operate at a deficit. So let's like all keep on track here.

So with that, I'd like to propose that we get to
debt to earnings, and discuss actual metrics.

MS. BUCK: Is that -- would the metrics chart be focused on that, the one that we were looking at before?

MS. BLUM: I don't think we need -- I mean with all due respect to the slides, I don't think we need the slides, because I think we have the proposed metric of the Department that we're going to go back to and discuss whether, what that one should look like in the context of the conversations we've had the last few days.

So it's debt to earnings, which is the one that was proposed in issues -- it's sort of Issues 2, 3, whatever. But it's really about the metric of, you know, and I think it's a combined conversation of, you know, are we sticking with the N size of ten?

What is, you know, is eight percent appropriate -- 8 and 20 percents appropriate when you are now including all debt, and what is the amortization period going to be for the bachelor and below programs?

I mean those to me are the questions
on the table, and I would just encourage. We've
got less, you know, like a little bit more than
an hour. So I just don't want to leave the
Department -- with all due respect to the
Department, I just would like to give the Department
some insights, given the information which has been
very helpful and education to us the last few days.

I'd just like to give the Department
a bit more information on what it, and then if we
can get to loan repayment, those two, and then we
still haven't even talked about the alternative
Tier 2 metric. So I just want to get to that.

MS. MILLER: So Jennifer, Sandy might
have a suggestion for that. Sandy.

MS. SARGE: Just the -- the only thing
that I would suggest is maybe we go to a blank sheet
as we keep notes, so that we're seeing where the
differences are going to be from that perspective.

MS. MILLER: Okay. So with Jennifer's
suggestion that we move to talking about the debt
to earnings repayment there's -- some cards went
down but then some are still up. Tim?

MR. POWERS: Yeah. I mean just before
we move on, I just want to put it on the record that I just fundamentally disagree with this sort of notion that non-profit and mission-based organizations and for-profit corporations have the same goals in mind when it comes to governance structure, right?

This is Milton Friedman stuff, right?

I mean the point of a for-profit corporation or an entity is to maximize profit. That's not the mission of a non-profit so -- and I respect that there are some wonderful institutions around this table, and I am a firm supporter of the notion that proprietary schools do play a really important role in this country.

But I just needed to put it on record that this notion that there's sort of this blurred line, I don't think that that's something that I can just accept and move on from, and I just felt a need to point that out. So thank you for that.

MS. MILLER: Okay, Whitney.

MS. BARKLEY-DENNEY: Yes. I wanted to make a similar though different point to Tim, just
sort of a philosophical reorientation, which is
I think -- I've spent most of my career working
with people who are under-served, and working with
people in really dire economic conditions,
particularly in the Mississippi delta.

What those people deserve and what they
need when they go into higher education is more
protection, not less. So that would include more
understanding of how much money they're going to
have to take out and what that means, more
understanding.

Like Sandy pointed out, a lot of these
kids think financial aid means free, because
Medicaid means free. Other things that they accept
means free.

They need more career services, because
they don't have mom or dad to put them into an
internship like a privileged kid does. And so I
just wanted to say I understand where everybody
is coming from, and from my perspective, that means
that we have to do actually more for those kids,
not less.

MS. MILLER: So in doing more for them,
can we move on to discuss the metrics that are up here? Does anybody else need to make an impassioned response or speech about their particular community of interest? Kelly you do?

MS. MORRISSEY: Everyone.

MS. MILLER: Everyone does?

MS. MORRISSEY: Well no. I'm just wondering before I feel comfortable moving on, is it even appropriate to take a temperature check on the basic tenet of whether or not we are comfortable with the expansion of this to all colleges and all programs. I just don't know if we're there. I feel like the rest of this hinges upon that.

MS. BUCK: Let's ask that question. Are you comfortable with including all college programs?

(Show of hands.)

MS. MILLER: Daniel has a question.

MS. BUCK: Except for graduate, which you already knocked out yesterday.

MS. MILLER: Daniel has a question.

MR. ELKINS: Is the Department willing
to not expand it? If the Department's not willing
to do that, then it's not -- why are we even going
to take the vote? I thought it was established
already.

(Off-microphone comments.)

PARTICIPANT: I thought that's what we
were told yesterday, that's our new mandate. So
I felt we worked through this yesterday.

MR. ELKINS: Yeah, that's what I'm
tracking.

PARTICIPANT: There's no harm in
telling the Department what we think. I mean if
they're not going to do it, they're not going to
do it but --

MR. MARTIN: This is Greg. I agree
with that. No, there's nothing wrong with giving
us your opinion. You see our position, which it
is a basic tenet of where we started from in these
negotiations, and where we remain right now, that
the -- that the rule be expanded to include all
programs at all institutions, right?

I mean if -- I would hope that the
proposals coming forth -- if the proposal is just,
you know, we want to go back to the old rule, that's it, we're not moving off of that. That's going to be a very different -- I'm going to say this.

We're open to anything, hearing anything. That's going to be a very difficult position for us, me, to negotiate from the perspective of the Department, if that's going to be your implied or tacit position.

Just like I would say to people on the other side, if someone's position were to be that I absolutely will tolerate no measurement of what we do or any implications of what we do, that's another position I think would be rather untenable.

So I think we all have to be willing to get to some place based on the reason I'll reiterate, saying everything's on the table. But why did we come here to begin with?

If the intent of the Department was to keep the rule that we had in place with no changes, none of us would be here, right? That's just -- that's not Greg Martin's opinion or anything; that's just reality. So let's keep that in mind.
as we move forward.

MS. BUCK: And yesterday you did take a temperature check on graduate programs. Whether or not they're going to listen to that, you don't know. But you did take a temperature check on it.

So why would it not be Okay to ask similar kinds of questions, even though you don't know for sure what their response would be? So with that in mind, do you want to ask that question again about colleges? No.

MS. MILLER: I'm hearing no.

(Off-microphone comments.)

MS. MILLER: Thelma.

MS. ROSS: So Thelma. Kelly, then your question or your ask was for a temperature check, because you said that it was not clear, in your mind at least, and as a negotiator at the table you have a request on the table. Can we ask -- she's asked for a temperature check. We've had 50 temperature checks. Can we not do this one?

MS. BUCK: Please ask it again.

MS. MORRISSEY: I'm just asking for a
temperature check on the basic tenet here, as to whether this will no longer be specifically DE programs, but an expansion of these disclosures to all educational programs at all institutions, and if that's something, a direction that we're comfortable heading into?

MS. BUCK: Okay. Is that clear? Can people indicate their response?

MS. MILLER: Or thumbs.

(Show of hands.)

MS. BUCK: Okay. There are quite a few thumbs down.

MS. MILLER: Quite a few thumbs down.

MS. BUCK: 1-2-3-4-5-6-7-8.

MS. MILLER: Eight thumbs down.

MS. BUCK: I see eight thumbs down. And by the way, we usually don't count the alternate unless the person is not --

MS. MILLER: The primary is not here, yeah. Jennifer.

MS. BLUM: So I just want to go back to something that Whitney said, I think it was the last time she spoke, about giving the students more.
One thing that, you know, we can talk a long time about the Congressional intent from 1965 and then again in '92, where they actually did a lot on gainful employment.

We can talk about what the intent was then, but the realities, as I've said before, are different today than they were then. So one of the big struggles here is for universities and colleges too, that are at the degree level, that have exposure from the disclosures, that where the students who are making decisions don't have the counterpoint of comparable programs at non-profit institutions.

I mean that's just -- and so if part of this is about consumer protection and consumer information, you're only giving students, you know, a third of the loaf. You're not giving them the full picture and let's see how it looks. I mean if I think it's important for students to see everything.

I don't know how it's going to look, by the way. I mean I'm just saying -- but it's important for the students to see it, and that we
just -- I mean the fact of the matter is is that higher ed moved beyond the term "gainful employment."

The Department has created a statutory -- not created, but has used -- is using a statutory framework within their broad disclosure authority for a rational, sound solution here, and I think from a consumer -- you know, it just strikes me that we would want these students to see all of the data, not part of the data.

MS. MILLER: Sandy.

MS. SARGE: So I'm -- I very much agree with the table, I think Johnson and Tim and Chris Gannon, with regard to the intent of for-profit, particularly and to Neal's point exactly, to PE, to private equity and to publicly held universities. They have a mandate to their shareholders first and foremost, even though their mission statement as far as what they're doing, just like Ford says I want to make a good car. But at the end of the day, they really want to make a profit, insurance companies, name them. You're exactly right.
So I would be more than willing, and in fact would emphatically wish we could bring together a group of people who could talk about how do we bifurcate this group that's been deemed in the regs maybe, and maybe I'm overstepping because it's sanctions and I'm not an expert -- or not sanctions but statutory -- what a for-profit is.

Because I think, exactly to Neal's point, people that start off small family-owned schools that group and just pay their taxes had no idea 20 years ago what the ramifications were to be labeled in this group, and they don't have the same mission statement. I would love to move the Department into a way to separate out the sophisticated --

Todd said it yesterday, the sophisticated investor or the sophisticated person who's investing in those schools, and then when the school goes bad, those investors walk away. They lose their initial investment, but they don't repay our taxpayers, and they leave the student burdened and the Department burdened and us as
taxpayers.

I'm in full agreement. Is there a way -- where would it be appropriate for us to start those discussions with the Department? How do we do that, and please don't tell me go to my Congressman, because we only get one or two and the state senators and a handful. I tried to do that, by the way.

(Pause.)

MR. MARTIN: First of all, we're prohibited by law from telling you to go to your -- to contact your Congressman, yes. So we never do that. Yeah, I don't.

Whenever anybody brings this up with me, I always say -- I just always say to people about anything statutory, just remember your civics lesson. Some people make the law, some people interpret the law, some people enforce it, right.

That's by the way all I remember from my 8th grade civics class. But no, to the point of not for profit, I think that -- that question is somewhat rhetorical. I mean we're not in a position here to -- I mean, you know, for-profit,
not for profit is a tax status, and I don't know that it's probably way beyond what we can do here to look at, you know, bifurcating within for-profit, different types of for-profit and different rules we would apply to that.

I don't -- I think that's well beyond the scope of -- what we'd like you to get to what's within our scope, let alone to go there. So I mean I think it's an interesting thing to think about and it certainly is, but -- and I fully understand the distinctions you're making there.

But for purposes of where we are now, I think we, you know, we have to look at those distinctions which currently exist.

MS. MILLER: So Jennifer has requested to answer Sandy's question.

MS. BLUM: So and Steve can certainly help me out here. But the fact of the matter is is that, and we can have a long conversation about its effectiveness or not. But the fact of the matter is is that in the financial responsibility standards, there is a bifurcation between non-profit and for-profit as it relates to the
financial composite score first of all, and then
secondly just by sheer structure of a for-profit
organization, that all gets meted out in the
financial responsibility standards.

I mean, you know, it's not explicit per
se, but the holdings and the assets and all that
get meted out when they're looking at financial
responsibility. So there is a place in the statute
and in the regs where this does get meted out, and
it does get enforced. Is that fair Steve?

MS. MILLER: Chad.

MR. FINLEY: I actually understood
Sandy was making a slightly different point of
there's for-profits and there's for-profits, that
you'd like some help putting initial caps on there
or something but --

(Simultaneous speaking.)

MS. BLUM: Yes, but my point -- yes,
but my point is that even that gets meted out in
a financial composite score.

MR. FINLEY: You know I think the goal
here is to have a discussion about trying to
identify programs that have high debt and low
earnings, because the suspicion is they're in many places, right.

The conversation this week has broadened substantially to talk about other kinds of ways to look at them, to see if they're bad program or if there's -- if that's only one aspect of a good program, and that's felt like a very constructive part of our time this week.

MS. MILLER: Chad.

MR. MUNTZ: Chad Muntz. All right.

I agree that perhaps maybe it doesn't apply to the public sector. I'm going to set that world aside for a second, and move this conversation forward I hope with some debt to earning metrics ideas, okay.

VOICES: Yea!!

MR. MUNTZ: All right. So if this has to be a one-size-fits-all in this new universe, I will reiterate my position that I don't think we need to do -- I want to make it simple. Let's just do total earnings, total debt, the consumer, the advocates, whoever out there can then make any ratios they want.
A student can then determine if they can pay $10,000 over 10 years, over 15 years, over 20 years, over the rest of their life and their grandchildren's life. I don't know.

But that could be a value statement. My value statement could be that we could make this ratio that one year's worth of earnings is equal to one year's worth of debt. Let's just say that that's the benchmark. You have 30 years' worth of working. Is it worth spending one out of 30 years to get this credential?

That's the point. That's the benchmark to maybe start with. Now if this has to apply to all of us, that would be one simple way, because once we go into an amortization schedule, once we get into a payment interest rate, it's going to be confusing because by the time you're finished with all of your undergraduate degree, now you're in a new interest rate with a new company.

Your loans got consolidated somewhere else. Who knows what that is? But I just think earnings to debt, does that make sense to you?
Maybe I'll look at the consumers. What do you guys think? The students, would you like that kind of information? The Department can produce that kind of information. That's one point.

Now from -- it's on the College Scorecard, that's right, and we start at the institutional level. If the institution has a problem, then we can get to the program level. That's kind of the way I look at it. The Department can produce that.

The second piece of it is the disclosure. So the Department's disclosing this. We've got hundreds of thousands, millions of students in the beginning. I would have to say for this to apply, we can't then keep pieces of paper that everybody read this that were prospective students to make it work, at least in the public and maybe the non-profit sector.

So from that point of view, I reflect back onto the data that we got yesterday. The current rule identified three million low income people who tended to be single mothers, Pell grant recipients and after the end of their program they
were making at best 20 to 28 thousand dollars no matter what.

So the current rule did get at a very high risk population. I would say that disclosure might have to have a two-tiered approach. Maybe for the public and non-profit, bachelor degree. I'd be welcome to open that up, and a master's that maybe it's just an email notification like what we currently do.

But for certificate programs to be gainful, there has to be a second step because there are the lowest income students, and they need to -- we need to verify that they understand that they're going to take on $20,000 of debt or whatever it is to only make $20,000.

I think that that's the key that we're trying to protect is to consumers at that point. So that's just my putting this out there. Two tier approach on the disclosures, depending on your sector. But an overall one metric approach for the department to produce or maybe two if we had the repayment rate, for all of our programs.

MS. BUCK: Okay, thank you for that.
MS. MILLER: Thank you. So thoughts?

PARTICIPANT: Chad, can I ask one question of you please? So you're talking about the -- this would be under a disclosure environment. Did you give any thought to how, given those disclosures, the Department would make a measure?

MR. MUNTZ: Well so I think the measure would be the ratio of debt to earnings.

PARTICIPANT: Okay. You're still on that measure, okay.

MR. MUNTZ: And we can discuss the earnings. Is it ten years later, five years after you graduate? I don't know. Is the debt the beginning debt or is it the debt five years later? I don't know. But that's the point, is that this could apply to everybody.

MS. MILLER: So thoughts, comments, to what Chad has proposed? Jeff.

MR. MUNTZ: Yeah, I agree.

(Off-microphone comments.)

MR. MUNTZ: So the two tiered disclosure approach would be for the current gainful kinds of programs, because of what their
customer base might be, would have to be an email sign-off. But for disclosures for everybody, maybe we could do just a notification like what we already do and our typical work that Pam had referred to.

I'd be willing to open this up, that it would be degree programs could fit within the first tier notification and the signing off by the student could fit in the second tier, for the volume of students involved in higher ed. Just an idea. I'd be willing to have pushback on this but --

(Off-microphone comment.)

MR. MUNTZ: Yeah. No sector differentiation for the degree level. Sector differentiation for maybe the certificate level.

MS. BUCK: Responses to this idea.

Jeff.

MR. ARTHUR: Yeah. So I mostly agree with Chad. I mean the first step, absolutely. We have an opportunity here to finally disclose debt data by program to students for everybody. That's never happened. We've got 1.3 trillion of debt or whatever it is. We have no idea how to
manage it without getting it down to a program level.

And so the data, this really is a first step. To try to talk about sanctions and tiers for anybody is a little premature until that data's there. We've got to analyze it. We've got to figure out, okay, what kind of sanctions are appropriate? You can't determine an appropriate sanction, I think, without starting with the data and identifying the outliers.

MS. MILLER: Other thoughts on this idea? Marc Jerome and then Whitney.

MR. JEROME: So, Chad, I do really appreciate the proposal, and I'm trying to understand it. Did I hear you propose something that I had proposed yesterday, with starting out first at an institutional debt and earnings? So, I actually believe that remains one of the best ways for the Department to focus its energies on programs that may need their energies focused on.

So I would second that.

I'm open to the discussion about, you know, different approaches to different sectors.
I guess what I would say is I still view the rule from a student perspective, and so if there is a program or an institution in any sector that the data shows as clearly having very, very low outcomes, I'd like the Department to protect them. I always view the Department as having an obligation to protect students wherever they come from.

And then when you were proposing, how does your debt to earnings proposal differ from what we've been discussing?

MR. MUNTZ: I think it's just total debt, total earnings at the end of your credential, making a ratio of that. I don't know yet what the benchmark is.

MR. ARTHUR: But that's what the -- how does that differ from the current rule?

MR. MUNTZ: It's not the amortization, yeah.

(Off-microphone comments.)

MR. MUNTZ: We're not going to try and do payment and discretionary income and all that --
MR. ARTHUR: Okay. So basically they're the Mark Kantrowitz, which is if they were about equal, okay.

MR. MUNTZ: Maybe. I don't know. I mean, I'm just trying to throw something out there, because otherwise my next argument will be, well, if you use a six percent we pass; if you use a seven percent, we don't. And I --

MR. ARTHUR: So you're just really proposing a gross -- like, I would call it a gross or more simplistic formula that avoids all the variables.

MR. ARTHUR: Yeah, that's right.

MS. MILLER: Whitney.

MR. MUNTZ: Easy for people to understand.

MS. MILLER: Hang on. Whitney has more ideas about this. Whitney.

MS. BARKLEY-DENNEY: Okay. So I'm not going to comment on what it would look like to do the gross and the gross, just because I would appreciate it actually if the Department could take that back and possibly run some of those numbers
so we could see what the difference would look like. Because I'm not a good enough mathematician to think that through in my head.

The other thing, though, I was going to say is I am concerned about the institutional level view, because of all of the reasons why that Jordan outlined this morning with his data, the potential of it really masking problems. And I think if we want to get to the program issue, we have to understand what's happening at the program level.

It may be that at some point if a certain institution had several failing programs, or a certain percentage of failing programs, then we look at their institutional rates to see, to diagnose the problem. But, as a first look, I think we have to look at program rates.

MR. MUNTZ: The reason why I was thinking that way -- I agree, that if your institution is bad, all of the programs are going to be bad, it's going to come to the top. But from the disclosure standpoint, as it stands, most of our institutions, you get admitted to the
university even in a general education program.

But if you have 100 programs and we've got to disclose every single rate -- I mean every single earning and debt for every single program to every prospective student, it's going to be all this paper combined that we're sending on an ongoing basis. And I don't know if that's the intent of protecting the consumer that you would hope to have, versus right now your institution's bachelor degree programs tend to have this debt, this outcome, like the Scorecard. And if you want more data, then maybe you could dig down deeper.

If the institution has a problem in the disclosure piece or in the sanction piece or whatever we're calling that, the Department can dig down deeper to that level.

Like I said, it's just a proposal.

MS. MILLER: Okay. So, Jordan, Chris Gannon, and Daniel. I see your tent's up. Is it related to this idea that Chad has presented? Okay. Johnson, is your idea?

MR. TYLER: Yeah, only that -- and there are other social -- I'm not a social
scientist, but I did read something that Jordan sent to me. I mean, I think there's a very high correlation with outcomes and institutions. I think there's a lot of science behind that, a lot of studies.

So this whole issue that Chad's trying to avoid, the disclosure per program, which really becomes a huge drain on resources, but if we're talking about institutions that are consistently failing students, you know, I think there's some studies out there that would back that up.

MS. MILLER: Daniel and Chris Gannon, were yours directed towards Chad's? Daniel's? Okay. Well, let's have Chris Gannon go first, then Daniel.

MR. GANNON: Yeah, I just also had some concerns with the institutional level view, because I think that's just going to mask bad-acting programs and not necessarily help students by masking those programs. So I just have -- I still have issues with that.

MS. MILLER: Do you have a proposal or any thoughts on how to correct that at this time?
MR. GANNON: I just don't agree with the institutional level view.

MS. MILLER: So back to the program?

MR. GANNON: Yeah, back to the program. I think it needs to be viewed at the program level, or else you're just going to mask bad programs that are scamming students.

MS. MILLER: Okay, thank you. Chad.

MR. MUNTZ: Sure. I'll respond to that. I think our data that we've been given might be able to highlight some programs that we could amend to that, the institutions who offer programs where a lot of the enrollment is from, you know, it looks like communication technologies. It looks like basic skills and developmental and remedial education.

I mean, just looking at the table, Page 6, Table 5, wherever the bulk of the enrollment is. Maybe we could limit some of our programs to that level for the disclosure, to help in that regard.

MR. JEROME: So, just one question on that. My apologies, Marc Jerome. The data from
University of Texas, which is not included in the GE data set, I think that data, which is publicly available and easy to look at, shows that in the liberal arts and those areas, that's where the problems with debt to earnings are. So just be aware of the implication.

MR. MUNTZ: Yeah, I agree. But I'm trying to start us somewhere, right?

MS. BARKLEY-DENNEY: So, just a follow-up, one other thing I wanted to clarify. So are we considering, because we were talking about using Scorecard data versus GE data. So were you considering including non-completers and completers, or just completers?

MR. MUNTZ: Well, it depends, right? I mean, you're right. The devil's in the detail. We can do completers, but, I mean, I could go either way on this. But if we did the entire student body that's ever had contact with that institution, then I would also want to include all the students who never had to take out a loan, and add them in as a zero for your averages.

But if we're only doing, you know, the
other, then we would have to look at that. But, yeah, I mean, it's a good question.

MS. BARKLEY-DENNEY: Yeah, and I don't have an opinion on it necessarily at the moment. I just wanted to point out, if we're moving over to Scorecard data, that's something we have to consider.

MS. MILLER: Daniel.

MR. ELKINS: To what Marc said a few minutes ago, this is very reminiscent of Mark Kantrowitz's paper. Like this is almost identical to what he proposes if you've spent any length of time talking to him.

MS. MILLER: Okay. Any other thoughts on Chad's proposal before we go to Jordan? Tim.

MR. POWERS: I just wanted to thank Chad for moving the ball forward. So, thank you.

MS. BUCK: So, go ahead, Sandy. What were you going to propose?

MS. SARGE: Would you guys be interested in doing a thumb check on whether this feels like it could be something we move forward with and we continue moving on this?
MS. BUCK: Or you could do a thumb check on whether you would like the Department of Ed to explore this approach.

MS. SARGE: There you go. That sounds better, okay.

MS. BUCK: Okay. Could we have a check then on whether you would like the Department of Ed to explore this approach as it has been described. And give the data.

(Show of hands.)

MS. BUCK: I don't see any down thumbs. I see a few sideways and I see some up thumbs. Am I right about that? Okay.

MS. MILLER: Thank you for that. Okay, Jordan.

MR. MATSUDAIRA: Yeah, thanks. So, I'm going to be the jerk who I guess goes backwards or moves us backwards. I hope it's not that, but I had kind of an alternative way of just thinking about kind of a path to consensus about a broad way of constructing a rule that I feel like, you know, maybe splits the difference between a lot of kind of concerns or kind of criticisms of the
old rule and the new rule, and maybe splits some of these differences.

So I just wanted to throw out the kind of general idea. So, you know, for me I think maintaining some of the current structure of the original GE rule is really critical for protecting students, and in particular having a path that's kind of close to automatic with appeals around data and so on for Title IV eligibility loss is important.

But, you know, I think a lot of what we talked about is, you know, a desire to really improve the metrics that are actually used to do that and kind of revisit whether we're really isolating programs that are poor performing. So we've talked about adding in a repayment rate, thinking about, you know, like changing time horizons for different metrics and so on.

So I think, you know, that's something that makes good sense. The other criticism that I've heard is just a feeling like only having to focus on the GE structure puts a lot of for-profit programs at a competitive disadvantage to poor
performing non-GE programs, and so, you know, folding in this idea of expanding the disclosure, so, compute the debt to earnings rate, compute repayment rates at a program level for every institution, and have a disclosure and notification regime that does, you know, pop up with a warning on whatever space we decide is appropriate.

But it says, you know, simply people who go to this program struggle to repay their debt or, you know, have high debt relative to earnings or have low repayment rates. So you kind of add that in, and then outside of the DE accountability structure, which again I still advocate for having an automatic path for Title IV eligibility loss, outside of that perhaps building in the kind of thing that we've been talking about where, for the non-GE programs, there is a trigger that triggers some kind of compliance review or administrative action with the sanctions that Ed has available to it in the way that we've kind of been describing as a Tier 2 process.

So I imagine that makes everybody a little bit unhappy, but it feels like it addresses
a lot of the different kinds of concerns that have been raised. So I wonder whether there might be some room for pursuing consensus along that path.

(Off-microphone comments.)

PARTICIPANT: Can we get a new page and you can write them up so we can see?

MR. MATSUDAIRA: Okay. So --

MS. BUCK: As you say them, Crystal will write them up. So, say them, see them go up, make sure it's what you're saying and then go to the next point. How about that?

MR. MATSUDAIRA: Okay. So, GE accountability structure with improved metrics, including the repayment rate.

(Off-microphone comments.)

PARTICIPANT: Are you saying DE? Debt to earnings?

MR. MATSUDAIRA: Yeah, I'm sorry, including a repayment rate in addition to DE.

PARTICIPANT: Just a minute. DE accountability structure with what?

MR. MATSUDAIRA: So, automatic Title IV loss and sanctions for GE programs. Part 2 would
be --

(Off-microphone comments.)

MR. MATSUDAIRA: What I mean is similar to the structure of the 2011 GE rule, there's still some structure where based on DE and repayment rates, there's still some -- for programs that persistently do not pass those kinds of rates, there still is a path to automatic Title IV loss.

In the non-GE sector, debt to earnings and repayment rates are still measured, and according to the same process there's a notification and warning structure. So, in other words, the students get the same information based on the performance of GE versus non-GE programs. It's just the sanctions side of the regime that would be different.

On the non-GE side, the non-performance on the metrics would lead to some sort of compliance review, programmatic reviews or administrative sanctions.

PARTICIPANT: Would you be open to -- because the Department had open stated they would not have a structure where there were sanctions
with one identical degree program without the other, especially total loss of Title IV. Are you open to some other path that would encourage improved programs?

MR. MATSUDAIRA: Yeah. What I'm worried about is just on the -- if the path to improving these programs is through some sort of programmatic oversight, I just don't feel like we've gotten information that makes me confident that the Department would really have the capacity to do that at the kind of scale that's being contemplated now.

So that's why I feel like, you know, to protect students, we really need some kind of automatic process that's metric-based. It has an appeals process but can do this in some sort of efficient way in order to keep students protected.

MS. MILLER: Greg, did you want to weigh in?

MR. MARTIN: I was just looking for a clarification from Jordan. So, automatic loss. So automatic loss of some pathway to automatic loss of eligibility for programs that are currently
defined as -- it would still be in the law; the law still defines what a GE program is.

So, for those programs, then, there would be -- I don't want to pin you down, but would you see that being what is currently in a regulation, along those lines, or something modified from that?

MR. MATSUDAIRA: I guess what I'm suggesting is something like the current regulation, in the sense that there's still some kind of automatic Title IV eligibility loss that's triggered by continued failure, according to some set of metrics, but improving the set of metrics in a way that addresses some of the concerns that have been brought up with debt to earnings, the measurement of those things, and having the appeal process and so on.

But then also adding to that structure kind of a measurement and disclosure regime that covers the non-GE space in a way that kind of addresses some of the concerns that Marc has brought up, like, you know, I don't want to be here running a good program and having a kind of non-GE program
that's doing really poorly and not have a way to kind of communicate that to students.

    MS. MILLER:  Mark McKenzie.

    MR. McKENZIE: Actually, I'm going to have a different suggestion, so maybe you should finish and if you want to do temperature checks, whatever you were going to do. I'll come back.

    MS. MILLER:  Okay. Thank you, Mark McKenzie. Jordan, does this look right, what we've

    --

    MS. BUCK:  Can you see it? It's too small. Can you read it off, Crystal?

    PARTICIPANT:  So it looks kind of like a bifurcated system where it's I guess similar, but DE and loan repayments and automatic title loss. Is that for the traditional GE programs on one side? And then you have a different structure, slightly different structure for the non-GE program, which is still DE plus repayment. And there are a notification and warning structure, as well as sanctions, meaning non-performance rates, compliance, programmatic reviews, and administrative sanctions? Is that about right?
MR. MATSUDAIRA: I think so. I think the only difference, or the only thing that might not be reflected well, is just that I mean for the notification and warning structure to be symmetric across --

PARTICIPANT: Oh, for both sides, for both.

MS. BARKLEY-DENNEY: This leads to my question. And it's very pedantic, but I don't understand what automatic means in this context. Because if there's appeals, if you're contemplating an appeal, then it's not really an automatic loss, right? So can you just clarify that?

MR. MATSUDAIRA: I mean it in the same way that it exists in the current regulation.

MS. MILLER: Is it okay to use pathway to Title IV loss, rather than automatic, or you want the automatic?

MR. MATSUDAIRA: As long as we understand each other. I'm not sure. What I mean is in the same way that in the current rule, if you fail the metric two out of three years, there
exists an appeals process. But, in principle, if you fail the metric two out of three years, that triggers Title IV eligibility loss.

MS. BUCK: So is his proposal clear?

MS. MILLER: Daniel, did you want to say something or ask something?

MR. ELKINS: I wanted to ask a question.

MS. MILLER: Okay, Daniel.

MR. ELKINS: Jordan, help me understand the intent for the bifurcation, specifically with the loss of Title IV not being applied across the board. Is your intent more to do with you feel like that's a statutory overstep? Or is it because you feel like that's too harsh?

MR. MATSUDAIRA: I think the main -- I think one constraint, and Steve can correct me if I'm wrong, but I think one constraint is that, you know, because I think the loss of Title IV eligibility is basically implicit in defining GE, that I think it might not be statutorily possible to kind of have that automatic metric-based trigger to Title IV eligibility loss through there. But
Steve can correct me if I'm wrong about that.

But I'm also sympathetic to the idea that a more holistic review of non-GE programs might be appropriate to kind of build in some of the considerations about, you know, what the mission or kind of goal of a particular program, what constitutes good programs, not to say that's not an issue at all in GE sector programs, but that, you know, those programs in general are more vocationally oriented.

So the focus more on the financial side of things might be appropriate, but that's to me like a lesser of the argument than the statutory authority piece.

And I'll just say that I think the asymmetric treatment of the two sectors, again, is warranted by the fact that, based on the data that we have available, the problems that students are having with debt are much more concentrated in the for-profit sector.

MS. BUCK: Does that answer your question?

MS. MILLER: Okay, Jeff, do you have
a question, clarification point?

MR. ARTHUR: Yeah. Were we about to
take a temperature check on this?

MS. MILLER: We were, but if you have
more questions about it --

MR. ARTHUR: Okay. Then I just want
to point out, if I've got a program that's at 10
percent debt to earnings, and I get it down to 9.5
the next year, and I get it to 9 percent the next
year, maybe 8.5 the next year, I mean that's a very
significant improvement in that program, but it
fails.

Exact same program, and there will be
the exact same programs at institutions that aren't
subject to this, where their debt to earnings is
15 percent, 16 percent, 14 percent, each of those
three years. And for any scenario where mine fails
and is deemed a failure, and theirs has no
sanctions, that's an automatic thumbs down for me.

MS. MILLER: Jennifer, another point
or question?

MS. BLUM: Yes, for Steve Finley. So
I am sitting in, and Steve might help me out here,
too, a little bit. But I am sitting in the legal seat, so I am going to put on my legal hat here.

In terms of statutory authority, you now have a metric that's the same metric across all higher ed using the disclosure authorities of the Department, of the statute. And that's the basis because you can't use the gainful one and have the metric. You can't argue that you're somehow subjecting the non-profit bachelor's to this disclosure under gainful.

So now you're using the disclosure, which is what you've been doing all week, using the disclosure authorities that you have and the various different provisions of the statute, which we can list if we need to, and you're disclosing all of these metrics.

And then you're deciding that, from an enforcement standpoint, you're going to enforce only on one sector of higher ed. The problem is that there is absolutely no rational basis for -- and particularly I'm going to take the bachelor's level, where there are probably -- and I don't know
what the data is, but I'm going to guess that
two-thirds of bachelor programs in this country
are non-profit and one-third are for-profit. I'm
just going to guess. That's a round, and I could
be wrong, but, you know, but it's the majority of
the bachelor's degree in this country are probably
in the non-profit, or it's at least even.

Then you're going to get into a
discussion. So there's already that point, right?
So, somehow you're going to punish a bad
performance of a for-profit bachelor degree program
but not the non-profit.

Then I'll take it one step further.
That program has a demographic, a socioeconomic
demographic of, let's call it, low. And yet
there's going to be a whole bunch of non-profit
institutions that have the exact same demographic.
But somehow, even though it will be disclosed that
they have a low-performing program, too, somehow
they're not seeing the same punishment. So my
question is, can you really do that at the
Department?

MR. FINLEY: I think that's a great
rhetorical question, and I'm going to leave it on the table in just that way. It does seem like a proposal that calls for like keeping what's there and then adding on the new thing that's proposed and ignoring that you may have programs that look very similar having very different outcomes based on the sector in which they're being offered. But I think it's an interesting rhetorical question, certainly problematic in a lot of ways.

MS. BUCK: Are we ready to take a temperature check on Jordan's proposal? Okay. It's not showing. Oh there is it.

MS. MILLER: There it is, okay.

MS. BUCK: So, temperature check.

(Show of hands.)

MS. BUCK: Okay I see 1-2-3-4-5 at least thumbs down on this proposal. Does one person want to say why, just so Jordan understands? Not everybody, but one person? Go ahead. Yeah, you just did, okay.

MS. MILLER: Yeah, we did.

MR. MIRANDO: One reason, one reason alone, as I've been stating the whole day: my
understanding is that's not what our mandate here is, and I feel like we're just spinning the wheels again. So that's my rationale, like there's no point in continuing this conversation. It's just not what they want from us.

MS. MILLER: Okay. Thank you, Tony. Mark McKenzie, did you have another proposal for us to consider? Please say yes.

MR. McKENZIE: Yes, I think so. Yeah, I've spent a number of days listening to this, and great ideas, and there are lots of challenges. There are challenges with metrics, there are challenges with public versus private, for-profit, non-profit. There are capability and capacity issues at the Department. And there's a rule in place.

It seems to me that a reasonable way forward is to potentially partition this into the next four years, apply this new tiered process to the for-profits or the current GE-covered institutions, and give it a time to pilot all of these metrics that we're using. And then at a set date that there's a rollover into the rest of the
programs.

So the one thing we don't want to do is continue to propagate bad information and apply that to a bigger group of people. That's just -- that's crazy-making.

So, maybe stay focused on the institutions where you already have data, and apply that data over a period of time. And then expand it out into the public arena when you've actually demonstrated that the data is actually effective or accurate. And it gives the folks looking at that a good amount of time to demonstrate it.

MS. BUCK: Questions about that proposal? And thank you for proposing it.

MS. MILLER: Greg and then Daniel.

MR. MARTIN: Mark, during this piloted period of time that you have in mind, would there be any type of -- so you would pilot this and it would apply to GE institutions. And would there be -- what would happen to the sanction structure?

That would be set aside for that period of time?

MR. McKENZIE: No, actually, the two-tiered process that you were talking about,
that there seemed to be agreement on, is these two measures. Whether you go to Chad's measure for DE or the one that's already retained, it's like figure out those two metrics. What are reliable metrics in those two? And they're red flags. If a school, an institution fails both of those, then they need to go into a review process. We need to continue to protect students that are currently enrolled. And so, you know, it keeps the process going with changing a little bit of the focus.

So I'd use that structure instead of an automatic. It's not an appeal, but it's a review process. And it's not only a review process for the Department, but if you've got institutions that are failing those two metrics, accreditors are going to absolutely jump on that bandwagon, because that's going to be a reportable non-compliance event for us and we're going to be looking at that.

So it seems to accomplish a lot of what we're trying to do, keep the focus on the students and protecting students in this case without that drop.

And the other thing that I was concerned
about is the capacity issue. When you go from expanding, if I remember correctly, from the for-profit sector to including all of those, the potential for inaccurate readings was five to six percent. And it's a greater number of institutions that's going to blow up the number of potential appeals, because you haven't resolved that the metrics actually work.

MS. BUCK: Additional questions about the proposal?

MS. MILLER: Daniel.

MR. ELKINS: I had one question. The four-year rollout as currently exists with what's on statute right now or what we're talking about today?

MR. McKENZIE: Yeah, I'm not sure. I'd probably ask Cynthia or Greg how that can work in. That one, I haven't thought through the ramifications of that.

MS. MILLER: Sandy.

MS. SARGE: So, in your proposal, Mark, would o the discussion we had the other day where, the graduate programs, we all had at least a neutral
to a thumbs up on excluding the graduate programs.

Would we all be amenable to taking those out at least? Or are you saying keep the population of programs as it stands today, but pilot the new methodology of review?

MR. McKENZIE: Actually I think because most of the data that is based on the Scorecard, and a lot of that doesn't apply to graduate programs, I actually think that exempting the graduate programs actually makes sense.

MS. SARGE: Okay.

MR. McKENZIE: You know, just from that perspective. So that population would change at least.

MS. SARGE: At least those would be.

MR. McKENZIE: Yeah.

MS. SARGE: Oh, and I had one other question, and maybe this is -- if Sarah's still here.

MS. MILLER: Is this on Mark's proposal?

MS. SARGE: It rolls up to something that was asked earlier and it applies to every
suggestion, in essence, because it's the Scorecard.

MS. MILLER: Okay.

MS. SARGE: So there are some places on your chart, Exhibit 1 on that first paper, Sarah, where you show things like excludes non-completers, includes non-completers, things like that. These are questions that have come up. Would you be able to get them consistent?

(Off-microphone comments.)

MS. SARGE: I'm trying to find out, are there identifiers in those databases that would help to be able to exclude it so the data is consistent?

(Pause.)

MS. HAY: Hi. So, this is Sarah. The data are really different. So, I could probably spend a entire day explaining it, but I think the answer is no. They cannot be made consistent with each other.

MS. MILLER: The data is what it is.

Okay. So, John K., Marc Jerome, and then Johnson. And then let's see if we can do a temperature check.

MR. KAMIN: Okay. I just want to
backtrack for a moment on the idea of sanctions for non-profits and public schools. Would I be out of order to ask what potential authority or statutory authority that could be derived from, because that wasn't, I think, my reading of 1001 and 1002.

MR. MARTIN: Well, I mean, okay. So we started from the perspective of, you know, currently sanctions, automatic loss of eligibility for, you know, gainful employment programs. And as Steve indicated yesterday, any statutory authority to extend such a loss of program eligibility based on DE metrics would be dubious at best. So, probably not.

What we talked about yesterday was, in looking at programs that are not GE programs, and expanding this to all programs, would be something where we would look at a rates measure and then tie rates that were -- I don't want to characterize it -- less than satisfactory, whatever we determine that to be, tie that to an administrative evaluation of that program, right?

So it wouldn't be an automatic loss of
eligibility. So we would be looking at that program through the other tools the Department has at its disposal. Or if you keyed it back to a measure of administrative capability, the Department certainly has the statutory authority to look at an institution's administrative capability. And I don't know, Steve, do you want to add something there?

MR. FINLEY: I mean, the concept there, that is one indicator of a bad program, right? That would be one indicator. It could be offset by showing that a program has high repayment rates. Maybe it doesn't. A program with high DE and bad repayment rates and lots of drops. There are a lot of indicators that, when considered together, any institution is accountable for its administrative capabilities to the Department, and this could be one factor. Does that help?

MR. KAMIN: Yeah. I think from my head I was just looking at it like there were components of the 2011 GE that we seem to be amenable over providing some flexibility. And, again, going back to 2011, that statutory authority was defined
under those provisions for a program providing gainful employment.

Which leads me to think that it would be tough to have any type of remedial actions or corrective steps that schools would take if they were outside of that definition. So I just think that it's important to be thoughtful and considerate about how we could correct this difference between institution types.

So, I'm not saying that there shouldn't be any correction on the part of public schools or non-profits eventually after -- because I agree with the way this is kind of looking in terms of piloting and understanding the data. But it may conceivably be different than, and unique but still comparable to, what the for-profits are going through.

And I will just close in saying if this is the no-go zone in terms of us exploring the idea of these remedial actions, sanctions, corrective, whatever we want to call it, and we return to -- then it would appear that we're going back to the transparency model.
If that's the case, I would just highly advise that graduate schools, of course, be introduced back to the program, because there's nothing, no problems -- I think we could gather from just learning more about the program. I think it hinged on the idea that we were taking a more serious approach. But if it's just transparency, by all means we should capture as many schools as possible.

MS. BUCK: So let's continue to focus on this pilot program up here, see if there are any additional questions about it, and then take a temperature check before we go on to other issues.

MS. MILLER: Marc Jerome, did you have a question about Mark McKenzie?

MR. JEROME: Yes, Mark McKenzie. So, in my mind, I'm fairly surprised you're putting this out there, because the schools that you accredit I thought presented the exact reason why this proposal is problematic. You have two schools or three schools, I understand, that are GE that fail. You have a number of schools that are non-GE that we don't know but you suspect, all the evidence
indicates their debt and earnings is about the same. And so for another four years, the schools that fail are labeled failing. Their enrollments are declining. Students are attending the other schools without knowing the debt to earnings. So this is, you know, for me, I'm going to be consistent. This is exactly what I believe we should be avoiding, because you have to protect consumers, and to me that's -- and you have to give students the information to make an intelligent decision.

MR. McKENZIE: Right.

MR. JEROME: So I just wanted to reflect on that.

MR. McKENZIE: Sure. Actually, I think Greg might have asked. The concept would not be that the same negative things apply, that we'd switch to that two-tier review. So you'd have to have the two metrics. The two metrics, if they are both red, then it just leads to a higher level of review.

But, again, instead of being a global issue, now you're looking at an individual
institutional review, and the institution has the
opportunity to bring other metrics to the table
to have that discussion with the Department as to
whether these sanctions apply or not.

So one of the things that you can do
-- I mean, one of the concerns I think there would
be from students -- and this would be from a
regulator as well, as an accreditor -- any time
you have institutions that don't meet particular
thresholds, it's a red flag. It doesn't mean it's
a bad program. It could just lead to, okay, the
sanction is this program's under review, you know?

So that's a way to do it, rather than
hanging the penalty. Because you're right. I
don't think the penalty phase that's in the current
regulation should continue to be applied, because
I just don't think that's fair at all. And that
kind of leads back to the other issues with the
validity of the measures that we've all been talking
about for four days.

This is trying to kind of accomplish
a little bit of everything for everybody. But,
most importantly, trying to put students first,
because that's the thing that we need to continue
to make sure that they're protected in this current
environment.

    It allows the Department to ramp up.
    As we heard earlier, you know, their capacity to
do things is lower just because of the hiring freeze
and everything else. So to add a huge burden onto
the staff would be very difficult. So I think this
is a way to get there, but it's just going to take
some time.

    MS. BUCK: So I need to tell you that
    it is 4:30, and I wonder, are there questions that
must be asked before we take a temperature check
on this proposal?

    MS. MILLER: Chad.

    MR. MUNTZ: I think it's a question for
    maybe the Department. Can we do a roll-out like
this over four years, or does the Department need
to go back with something that covered everybody
from Day 1 on, what was it, 2019?

    MR. MARTIN: This is Greg, for the
    record. I don't think that we're in a position
to answer that right now. We certainly can take
you know, the proposal were to achieve a level of supportability -- I keep looking for a way to get around that word; I think it's interesting. I like the term now, level of supportability. I want that enshrined from now on.

But if that were the case, we would certainly take it back and look at it, if there's support there for it. I can't guarantee or make any assertions that we could do it or how fast that could be done. But it doesn't mean we'd be unwilling to consider it. But at this point, I can't give you that, I can't give you an estimate.

MS. BUCK: Are there other questions that have to be asked before we take a temperature check?

(No response.)

MS. BUCK: Then let's take a temperature check of this pilot program proposal.

MS. MILLER: Show of thumbs.

(Show of hands.)

MS. BUCK: Looks to me like there are three thumbs down.

MS. MILLER: Four thumbs down.
MS. BUCK: Four thumbs down, okay.

MS. MILLER: Thank you.

MS. BUCK: There was some support and some sideways thumbs as well.

So it is now 4:35, and I want to ask, does anything need to be said about the technical and conforming changes issue paper, or can people simply look at that without discussion?

That was something that wasn't covered before, and I don't know if it needs to be, but I just want to mention it. So, Greg, I was asking you that. The issue paper on technical and conforming changes.

MR. MARTIN: I personally don't feel I need to say anything more about it than was said at the outset. Certainly if someone has comments about it, questions, wants to bring something to our attention, we're glad to entertain that.

It basically is technical and conforming changes based on what we proposed. Now, obviously, if something changes based on what we talked about here, it could change what's in those technical and conforming changes, right, if we
proceed in a different direction. That was based on what was proposed to you here.

MS. BUCK: Okay. I just wanted to be sure, that's all. So it was mentioned and we can pass on that for now.

MS. MILLER: So, Ahmad, your tent is still up.

MR. SHAWWAL: I have more of a general question. So, say by the third session, we all reach some sort of consensus on our items. What is the legal obligation that the Department of Education has to incorporate our recommended changes, assuming that we all reach some sort of consensus on each of the issue items that we have?

MR. FINLEY: So, this is Steve, and I realize I've been forgetting to say that the whole time this week, so that I would say it now.

(Laughter.)

MR. FINLEY: So in the third session, we'll have proposed reg language, and some background information on it to present. We will try to work through those as we go and try to be in a position where if there's changes suggested,
we provide feedback on it and they get modified during the week.

And if at the end of that week we get consensus on the package, the Department would publish that regulatory language as the proposed regulation, except that the Secretary does have the right to deviate from that with an explanation in the NPRM. But the goal of the consensus is to create the proposed regulation.

MR. SHAWWAL: Thank you. And to that effect, before the third session, if everyone here is okay with it, is it okay if the Department prepares a summary of their take-aways from this session from what we have recommended to the Department, so that we can have something to reference during the third session?

It's just a way of -- it's a way of helping us keep track of what it is that we had discussed, and also finding a way to hold each other accountable in that sense, if that makes sense.

MR. MARTIN: This is Greg. I don't -- I can't commit to that on behalf of the Department. If you want to put that request in writing, we
will consider it. I can't say now, yes, we'll definitely do that. It will be committing the resources of a lot of people to that.

I don't know whether that's going to fit into our current protocol. But I don't think I need to tell you who to send that to, scott.filter. But no I'm serious, do. If you want that you can certainly request it. We can take it into consideration. But I can't promise we can do that.

MS. MILLER: Daniel.

MR. ELKINS: Yes. If I could put Mark on the spot just for a moment. Yesterday, in caucus, you brought up a point that was very innovative and we kind of were blown away by it, but it never got fully fleshed out. I was wondering if we could put that on the board. I don't know if that fits into Chad's option, but I think it had to do with institution versus programmatic level. So if you could explain that a little bit more as another metric? I think that that would be very valuable.

MS. BUCK: We can spend ten more minutes, and then we'd have to have time for public
MR. MCKENZIE: It's only one minute on this, because the group already discussed it. I just generally believe in order for the Department to be the most effective in being able to identify poorly performing institutions or programs, they may be better served by first running an institutional metric, whatever it may be, and then only after that go to a programmatic.

I think that the group should consider that this is proposed in the spirit. If the Department is going to straight programmatic metrics, they're going to be unable to be effective because of the huge, vast number of programs in different types of institutions. So that's the spirit it was given in, to be actually the most effective in protecting consumers.

MS. BUCK: Would you add anything to that chart in covering your proposal?

MS. MILLER: Okay. Sandy, then Whitney.

MS. SARGE: I just had one procedural question. Last time we had talked about getting
a transcript of the meeting and maybe I'm just forgetting. Has that been published of the last meeting? It was supposed to be three and a half weeks or something after the last meeting. I can't remember. I just can't remember.

(Simultaneous speaking.)

MS. MILLER: There's a question about the transcript for last session.

MS. BUCK: I think they're going to answer it in just a minute.

PARTICIPANT: It's online.

MS. SARGE: I'm just asking, okay. Thank you.

MR. MARTIN: I believe it's out there, but Scott's going to check and confirm for certain.

MS. BUCK: Check the GE site. That's where it should be.

MR. MARTIN: I have to confess that having lived it I wasn't keen to go right back and re-read everything right away but --

MS. MILLER: Okay.

MS. BUCK: Mark, in terms of this proposal, is it enough that people want to have
a temperature check or not? Help me understand where you'd like to have this go.

MR. MCKENZIE: No, I think enough has been said about it. I don't believe it needs a temperature check.

MS. BUCK: Okay. All right.

MS. MILLER: So we have one tent left. We have 20 minutes.

MS. BUCK: Whitney, did you want to close us out?

MS. BARKLEY-DENNEY: So take the whole 20 minutes?

MS. MILLER: No, no. We still have to do public comment and then talk about our next meeting and wrap this up.

MS. BARKLEY-DENNEY: So if we're not taking a temperature check on it, it's not that relevant. But I just wanted to say again that we think that this is actually should be the opposite. So we start with programmatic metric and then you can see if an institution has, you know.

I think if you look at the data, you're going to notice that a lot of institutions fail
programmatically. If you notice that, then perhaps you can do an institutional review, as well as -- you know, instead of having to programmatically review every single one of those programs.

But you start with a programmatic review and then see what the institution looks like as far as the number of programs that they've had that have passed or failed or met expectations or not met expectations, or been an angel or a devil or whatever we decide to call it.

MS. MILLER: Okay. I think with that, I'm going to see if there are any public comments. Any public comments? One, two. Any more than two? Okay. Could you come up to the microphone, state your name, and give your public comment?

MS. MERCHANT: Hi, everyone. My name is Senya. I'm with the group Higher Ed, Not Debt. We've been running this livestream throughout the hearing, and as a consequence of opening up this process to the wider public, we've been receiving hundreds of stories from borrowers themselves, often stories of less than gainful employment after
being lied to by many for-profit college programs.

So these are one of those comments that came in on our livestream video. This comment is from Andy Conrad Watson. "I went to ITT Tech for a B.S. in Criminal Justice and graduated in 2010, 'valedictorian and top of my class.' I was guaranteed employment, they said, because of my academic effort and my degree.

"It's 2018, and not one company or government body has accepted my degree. It's not from a lack of applying, either. I turned in multiple pages of denied job applications that I qualified for after receiving my degree, they said, with my defense to repayment. I have been ignored, overlooked, and laughed at by potential employers.

"Many of have told me that my degree is worthless and they do not consider ITT a legitimate school. There is no such thing as gainful employment when you're a victim of one of these dishonest for-profit schools such as ITT Technical Institute."

If I have time, I'm going to read one more comment. This comment is from Deborah Jean.
"The Art Institutes from 2013 to 2014 left me to $20,000 in debt and no job offers. I now work a job that pays $9 an hour. While I was in school, the culinary director was fired from embezzlement around the time that I finished. Another culinary instructor was fired during my culinary process for showing up to class drunk or high. I have a worthless degree, and ended up deciding on a different career path because I had no other choice.

But unfortunately this debt is one that I cannot get rid of." Thank you so much.

MS. MILLER: Thank you. Next?

MR. SCHRADE: My name is Jeff Schrade. I represent the Paul Mitchell Franchisee Association. I've spoken before. I do want to extend my thanks to Greg and all of you that are here. I know this is really hard work and it's hard to come to an agreement.

Contrary to the testimony, the comment that was made yesterday, I do support going into executive session. I've been in negotiations. I know what it's like. It's sometimes helpful to close the door.
For what it's worth, I used to work as a communications director in the U.S. Senate. As a communications person, I loved having reporters there. I loved having cameras. I wanted to get my boss on the news back home. But in my discussions with other congressional staff, I heard over and over again that in the old days they could close the doors and people could cut deals and not face the kind of public outcry. And the addition has unfortunately led to the situation we now see on Capitol Hill where nobody wants to bend.

All that said, I've got to say I'm extremely disappointed, particularly in some of the consumer advocates that are here, those of you who voted to take down or remove from consideration applying GE to all schools.

I'm a father. I have a daughter, two daughters. One's in school in Florida and the other one graduated with a master's degree in museum studies. The oldest daughter, I thought, being in Washington, D.C., lots of museums, Smithsonian, my kid's going to get a job right out of the block. She's working as an aide now to an attorney,
because, guess what? There are few jobs in museums. When I talked to some of the head people in the Smithsonian, they said if she was willing to work there for a year, 40 hours a week with no pay, she might be considered for a job.

So if the university that she went to was under a gainful employment metric, that would look very poor on that public institution that she went to. So, those of you, I understand the schools, you know, University of Michigan and others, you don't want to have any more rules and regulations than the rest of us.

You talk about how hard and difficult it is to comply with. Well, guess what? It's hard and difficult on our schools. We spent $500,000-plus complying with the regulations. The computer system was so poorly put together that our folks ended up providing advice to the Department on how to make it work.

So if you hear some frustration, I'm frustrated as a taxpayer, as a father, as someone who represents people who only schools -- they're usually husband and wife teams that have invested
a million dollars or so into the programs.

It's not easy for them. They're fortunate to have a corporate sponsor that's helped them through this process. A lot of mom and pop schools have gone out of business. Maybe they should have. But I don't think it's fair to stick it to some and not to all. So, anyway, those are my thoughts. Thanks.

MS. MILLER: Thank you. So, we're at 4:48. We didn't think we were going to make it, but we have like 11 minutes to spare. But before I release you, I do want to thank you for your hard work this week. We've had a lot of tough discussions. We've done a lot of things to make sure that we get to some general area of at least a tentative agreement and make sure we were heard.

Before I turn it over to Greg, I just want to remind you of our next session, March 12th through 15th, and it will be at the Potomac Center Plaza Auditorium at 550 12th Street, Southwest.

MS. BUCK: And just want to thank particularly the people who did come up with proposals. I know it's really hard to do that with
all the restrictions and things you're dealing with, and that made it possible for us to really consider some options. So, thank you for that. Is there anything anybody wanted to say before Greg says some final words?

(No response.)

MS. BUCK: Okay.

MS. MILLER: Greg?

MR. MARTIN: Yeah. Before we leave, on behalf of the Department, I want to thank everyone for being here and for their time and their patience. I know it was a difficult week, that we all have positions, and there's been some disagreement around here at this table and, you know, after a while nerves get to people and everybody, myself included.

But I think overwhelmingly everybody comported themselves in a professional way, and I applaud you all for that. And I have an immense amount of respect for each and every one of you. I especially want to thank our sound person, Bill, who I think did an excellent job this week.

(Applause.)
MR. MARTIN: And with that -- oh, I should add one more thing. People say, as a huge weather geek -- which my wife hates, by the way -- I will say that, for those of you who do not like winter, at least on the east coast, if you look at the weather records, February 8th is about the general day where the temperatures start to go back up.

So for those of you, like in New England, you're still in a pretty big hole and that's a slow rise. But it is going that way, so hopefully when we come back in March at least the weather might be a little warmer and you might see some crocuses coming up, and that will lighten everybody's spirits. So, y'all have a safe trip home.

MS. MILLER: Thank you.

(Whereupon, the meeting was adjourned at approximately 4:50 p.m.)