UNITED STATES DEPARTMENT OF EDUCATION

+ + + + +

GAINFUL EMPLOYMENT
NEGOTIATED RULEMAKING COMMITTEE 2017-2018

+ + + + +

SESSION 3

+ + + + +

Thursday,
March 15, 2018

+ + + + +

The Negotiated Rulemaking Committee met in the Potomac Center Plaza Auditorium, U.S. Department of Education, 550 12th Street, S.W., Washington, D.C., at 9:00 a.m., Ramona Buck, Rozymn 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

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C.  20005-3701

(202) 234-4433
www.nealrgross.com
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
MS. BUCK: Welcome back, everyone. I really appreciate this group, and all your thoughts and ideas. Very impressive. Before we get into the meeting itself, are there any remarks from any of the negotiators? Then, if not, is there any public comment? Okay. I don't see any public comment. Then, where we left off was Issue Paper 6, and I know that Jennifer has a proposal with regard to consumer testing, which would be part of Issue Paper 6. Do you want to present that proposal, Jennifer?

PARTICIPANT: Yes, except for that I need the language, but I'll try to -- Scott, do you have the, up on the -- is that what's on the screen?

MR. FILTER: No.

PARTICIPANT: Well, okay. Hold on. I can talk through it, but I need -- because on my phone, I just realized that it's not coming up as red lined.
MR. FILTER: I just --

MS. BUCK: Is that it?

PARTICIPANT: Yes.

MS. BUCK: Okay. Why don't you read it for us as well?

PARTICIPANT: Well, I don't know if, okay. No, it's not red lined. That's why it's beneficial to -- sorry. Thanks.

So, all I did, you know, I can read it too, but I think everybody can read it, but I moved the federal notice piece up, so that's not, I'm not striking out the federal notice. You know, at the bottom, it's literally just moving up, because then, in terms of the consumer testing, I basically added back in the sentence that had been deleted, so the Department will conduct consumer testing to determine -- that's the original, that's in current, that's what the Department had struck.

And then, I added a sentence that said, this will include but not be limited to a specific request for consumer input on this topic.
in the Federal Register notice.

And so, that is to recognize that they do every year, I think it's every year, the Department puts out the template for public notice, and that does, you know, I did hear the Department loud and clear on sort of the practicalities of consumer testing.

I think most of us still believe that there should be consumer testing outside of the Federal Register notice, but at a minimum, they do have this period of time when they're revisiting the template every year, and part of that should not just be hearing from folks like us, which we do sometimes, you know, I think schools do provide input on space on the template, and things like the completion pieces that need, you know, adjusting and all of that. But that a component part of the Federal Register notice should be about what the consumer, usefulness, and sort of response is from a consumer perspective.

And so, just requiring the Department
to inquire about that piece of it should be part
of the Federal Register notice. But you know, as
you can see, the Board added back in the, you
know, added back in the consumer testing that the
Department had deleted.

MS. BUCK: Does anyone have any
questions for Jennifer about her proposal? Chris
(phonetic)?

MR. MADAIO: Just a comment. Jennifer
and I had discussed it, so I'm in full agreement
with this language. The only two issues I heard
from the Department yesterday were that they
don't want to require themselves to do anything,
and that they're worried about potential costs.

And I think that those aren't really
conscerns for us. I mean, we should express, as
negotiators, the policy that we want the
Department to do with this vote.

So, you know, I think we should
express that we want them to do consumer testing,
not that we want them to decide whether they want
to do consumer testing, and we want it to be done
in, you know, specifically, and the Department should find the money. I mean, they have a lot of money. They decide where to use it based on their policy determinations.

So, I think we should express that with this vote, and not be concerned about the practical concerns on how it's done.

MS. BUCK: So, you're proposing people express their opinion on it based on the essence of the proposal, and not as to whether there's money to do it or not? Okay.

MR. MADAIO: Correct.

MS. BUCK: Any other comments? So, do you want to have a temperature check on this proposal? Jennifer, do you have a comment?

PARTICIPANT: Sure. No. I mean, yes.

MS. BUCK: Okay.

(Spontaneous speaking)

MS. BUCK: I was just, I was just --

PARTICIPANT: I didn't know that was directed just to me, but yes, sure, let's --

MS. BUCK: No.
PARTICIPANT: -- do a temperature check.

MS. BUCK: Okay. I was just looking at your face and trying to make sure --

PARTICIPANT: Yes.

MS. BUCK: -- that's what you were asking for.

PARTICIPANT: Yes.

MS. BUCK: So, let's see how your response is to Jennifer's proposal. So, we don't see thumbs down, so that will be a -- or sideways.

PARTICIPANT: Or sideways.

MS. BUCK: Wow. So, that's an item of information for the Department of Education to take back. So, are there any other comments about Issue Paper 6, which is where we had left off yesterday? And I think Greg had said all he needed to say about it in terms of what they were proposing. Kirsten?

MS. KEEFE: This is Kirsten. This just occurred to me last night, and I didn't see
it. So there was language put in, I think with
the notification that it had to be provided in
different languages if a course was going to be
taught in Spanish, it had to be included in
Spanish.

Has there been any consideration for
the disclosures also to be provided in the
language of the student?

MR. MARTIN: No, that was just, that
was just notifications.

MS. KEEFE: Then, can I make the
suggestion that that piece also be added to the
disclosures as well?

MR. MARTIN: Yes, I'll take that back.
You'd like the disclosure to be, to mirror the
language in notifications?

MS. KEEFE: Yes. I think it's
important because there are courses that are
taught to students, in Spanish in particular,
I've seen on some websites. Haven't seen other
languages, but I'm sure -- so if the school is
providing courses in that language, the
disclosure should be provided in that language as well.

MS. BUCK: Greg can't hear when he's being talked to, so --

MR. MARTIN: Should I wait?

MS. BUCK: Yes, I think it's important for the Department of Ed to hear, so I was just waiting. So I think, is Jennifer next?

PARTICIPANT: Sure, yes.

MS. BUCK: They're listening. They're ready now.

MR. MARTIN: Oh, go ahead.

MS. BUCK: No, I was just, I was waiting for Jennifer to speak until you were able to hear her.

PARTICIPANT: I'm moving onto a different subject, so I mean, I think the Department had a, wanted to respond to --

MR. MARTIN: No.

PARTICIPANT: -- Kirsten, so --

MR. MARTIN: I just, no. I, we have that. I'll take that back.
MS. BUCK: Thank you. Okay, Jennifer?

MR. MADAIO: It's okay.

MS. BUCK: So, Chris, were you --

MR. MADAIO: All right.

MS. BUCK: -- on the other topic, and you want to go ahead?

MR. MADAIO: Yes.

MS. BUCK: Okay.

MR. MADAIO: This is on disclosures.

MS. BUCK: All right.

MR. MADAIO: So, this was something that was lightly discussed yesterday. I just wanted to emphasize, on Number 16, the URL linking to a web page containing the mandatory qualifications, I just don't remember the Department's answer.

When it says, the state, does that mean the state where the school is based, the state where the student lives? Is there any clarification on that?

MR. MARTIN: That's the state where the school is.
MR. MADAIO: Okay. So, I can't remember how clear this was articulated yesterday, so I definitely want to emphasize that, you know, for online programs, or for schools where students do not live in that state, and live, especially where they live very far from that state, and are pretty clearly not articulating a desire to move to that state, listing that state's qualifications for a license is going to be even more deceptive for a student than not listing anything.

So, I think, again, to go back to certifications, that we'll get to later, I think that's more important. And just listing qualifications for a state that the student, or a web page for a state that, or Board, or whatever it may be, that the student doesn't live in is not a helpful disclosure at all.

MS. BUCK: I think, all right. Jennifer, and then Sandy.

PARTICIPANT: Yes. Now, it actually segues well, because I'm on the same point as
Chris, which was not scripted. But this does go back to the language that, and I don't know if Laura's coming today or not, but this is, so this is all built around, Chris and I are sort of piggybacking off of each other.

It's not any surprise, and if Laura were here, she'd be in the same place just because this is an area where we discussed it in the last session, and where we did think that we would be able to build some form of a, you know, some form of a consensus around the fact that the state isn't even the right term.

So, this Section 16 sort of fails on its face. And we did now, I know we had, Cynthia had been on, and in fairness to the Department, just to be clear, because I want to clarify, and Laura and I talked about this last night, I want to clarify, the language that we drafted really wasn't into a good, you know, into a place where we sort of had, were all together, worked on it until last Friday.

So, in fairness to the Department,
they didn't get it until last Friday, and it was Cynthia who got it. We had not sent it to Scott. But we now have sent it to Scott, and so I just want to understand from the Department whether there's any sensitivity, in the positive, of adapting its, it really would be adapting both 16 and 13, because actually, Chris, in our proposal, we deleted 16 and moved it, in effect, into 13 to clarify that it was going to be, you know, the disclosures would relate to licensure boards, including the use of the licensure board URLs.

MR. MARTIN: I think it's like to, before saying how we would revise that language, I'd like to see what happens, because it's inexorably linked to the next, to 8 --

PARTICIPANT: 8.

MR. MARTIN: -- to 8, I'd like to have that discussion, and I don't think anything precludes us from saying, if whatever happens in 8, that we would, that would necessarily link back to this and require a change if something's
agreed to there.

PARTICIPANT: Okay. So, I agree with,
I agree, principally, with that, although you had
made an interesting change in 8, so we'll talk, I
mean, so we'll tie the two together when we talk.

MS. BUCK: Okay. Johnson?

MR. TYLER: I had a question about the
loss leader. Hi.

MR. MARTIN: Go ahead. I'm sorry.

MR. TYLER: Oh, sorry. Sorry.

MR. MARTIN: I was looking somewhere,
you know, I didn't --


MR. MARTIN: I can't see without my
glasses on. The distance thing really bothers, I
know I need, what do you call those things?
Progressives. But I'm too, I won't do it.

So that way, I hear the voice, and I
thought there was, for some reason, I thought it
was Jordan asking me a question. I'm looking at
him, and he's not speaking. So I'll tell you
what I'll do, put my glasses on and look at you directly.

    MR. TYLER: Hi, Greg. How are you? This is Johnson. My question had to do with the loss leader statement you made yesterday.

    So can you, can you just describe that, what the, what the purpose of it is, and what, how the Department of Education's going to -- I kind of feel like these popup things I talked about yesterday were lost leader type --

    MR. MARTIN: Yes. I say lead generators. And yes, loss leaders, I think that's what's in the grocery store. Like they point to something cheap like three for a buck, so you'll spend, you know, spend the money.

    MR. TYLER: Right. Sorry. Lead generators.

    MR. MARTIN: Yes. That's all right.

    MR. TYLER: Thank you.

    MR. MARTIN: That's, I do that kind of stuff all the time. Yes, the lead generators, we're concerned with, you know, students seeing
the disclosure in any way that the school, that a
school would reach out to advertise to students.

And so, we're, so you know, the way
the rules are currently written, it's if the, you
know, and anything referencing the program itself
would have to have this on the, this is, this is,
this would be an expansion, I think, to, so that
any lead generator the student, that the school
uses to get, you know, to generate interest in
the programs, that it would, it would also have
to have the disclosure attached to it, or link
attached to it, just to make it more, to make it
more broad.

So I mean, that was, that's something
which is a very, it's important point for senior
leadership. They really wanted to get that in
there, and so, that's why I wanted to make that
point that we intend to include something along
those lines.

MR. TYLER: Just a followup on that.
I'm not a technology person, but you can't
advance on the page on some of these websites
without filling out the popup, which generates a call, a personal touch.

So if there's a way that someone who knows about technology would make sure that, you know, the regulation reflected that there should be a way to get some information without being --

MR. MARTIN: I wholeheartedly --

MR. TYLER: -- stymied with that.

MR. MARTIN: -- agree. We agree.

There should be a way for a student to get the disclosure before giving a number, before giving the, his or her information to generate a call. We agree with that, and we will look at that in the language.

MS. BUCK: I know there was quite a bit of comment on Issue Paper 6 yesterday, and there have been several now.

I'm wondering, all of you did vote a thumbs up on the proposal for consumer testing, and so the Department of Ed has that information.

I'm wondering, if that were to be included, what would be a temperature check on Issue Paper 6 at
this point, just to, just to kind of get a feeling?

    MR. MARTIN: I do what to say, before we take the temperature check, that I did check with leadership, and we are, that if the, if the, if we have consensus or agreement on that, that we're inclined to change the rules to reflect the opinion of the negotiators.

    MS. BUCK: You mean the consumer testing?

    MR. MARTIN: The consumer testing risk. Yes.

    MS. BUCK: Well, that's good news for everybody. So if that were to be included, I just wanted to get a general temperature check on where you are with Issue Paper 6 before we move on, and we're going to come back and take a temperature check of the whole thing, but I was just trying to figure out where you were at this point. Seems like there are two comments. Whitney?

    MS. BARKLEY-DENNEY: Just to ask, just
to ask a clarifying question. And Jennifer, you might be the one to answer this. So the language that you and Laura worked on would go on, into 13 on 6? Okay.

I mean, that's my only concern about an issue, or a temperature check, is I, you know, that language has been negotiated between a group of negotiators offline. And so, I'm just a little uncomfortable doing a temperature check until we've discussed that language, because I think it's important in this issue paper.

MS. BUCK: What did you want to say about the language? You wanted to look at it again?

PARTICIPANT: That's not, that's not --

MS. BARKLEY-DENNEY: No, that's not Jennifer's language.

MS. BUCK: That's --

PARTICIPANT: Well, that was my language on consumer testing, but there's a whole other subcommittee that had language on Friday
that I think, and it's, we can circulate it, but to Greg's point, which I think he said a minute ago, 6 and 8 are really tied together.

And so, until we get an answer to Whitney's point on paragraph 13, which the Department says they want to hold on, which I understand, until we have a conversation about certification, you know, the 8, you know, the Issue 8, I feel like it's premature to ask for a temperature check on 6 because I would probably, I mean, I'll just tell you right now, I would probably vote against it, but only because we don't have an answer on paragraph 13.

So, and we're not going to get one until we talk about Issue 8. So I feel like it, I feel like it needs to hold. I mean, that's just my view.

MS. BUCK: Okay. So is everybody ready then to move onto Issue Paper 8?

PARTICIPANT: Sure.

PARTICIPANT: Yes.

MS. BUCK: Okay. Over to you, Greg.
MR. MARTIN: Okay. Cynthia Hammond of, from FSA, will be coming up to assist with Issue Paper 8. Okay.

So we are looking at Issue Paper 8, Certification Requirements. And I'll just give you a summary of the changes since Session 2.

Since the second negotiating session, our only proposed change is our conforming changes that limit the certifications to undergraduate programs. So other than that, what you see here is what was proposed previously, except for, oh, I'm sorry. Yes. Right. I'm sorry. Yes. Page 3.

So there is an exception here, page 3. This is the change we made relatively a short time ago. So note the change there at the bottom of page 3.

The GE program, so these are part of the certifications that the GE program is programmatically accredited, or has submitted an application for pre-accreditation or accreditation.
So that is, that is an addition from the previous, over the previous, the paper that was given to you in the previous session. Okay. We would entertain questions.

PARTICIPANT: Well, didn't you strike a whole bunch of page 4 that's relevant? You struck the certification on licensure.

MR. MARTIN: Yes, I'm sorry. This is not a paper, these later changes are, yes. Okay. You're right.

On the back, we should look at page 4. So on the back of page 4, you can see here that we have, we struck the portion that says for the state in which the institution is located or in which the institution's otherwise required to have obtained state approval, each eligible program satisfies the educational prerequisites for professional licensure in that state. So we struck that.

And also, for the program in which the institution seeks to establish eligibility for Title IV funds is not substantially similar to a
program offered by the institution that, in prior years, became ineligible.

MS. BUCK: Questions or comments?

PARTICIPANT: Well, now that Laura's here, I'm sure she'll do some speaking too, but I'll cover the base for her until she settles in, and I'm sure Chris will pick up.

But I am curious, I'm just going to do it in the form of a question. I suspect I know the answer, but I am, I am curious, and it's sort of an interesting place for me to be raising this, but I am curious as to why the Department would strike the certification on licensure.

I'm not sure I have a position myself, but I do want to understand the reasoning behind the striking of it.

MS. HAMMOND: So senior leadership was concerned about the conflict between, when accredditor is accredit, and when state licensure boards require licensure.

There are numerous cases where an accredditor will require them to graduate a few
classes before they have a chance to accredit them, and then, the state, it, rules are in conflict, and so we, that's the reason why we struck this paragraph.

PARTICIPANT: Okay. So, and I, believe me, we deal with that all the time, so I am very sympathetic to that. That is a huge catch 22 in general from a licensure standpoint, that the accreditor requires you to be in existence, but not just in existence, but a lot of specialized accreditors require that you graduate students before they will accredit you.

And then, the states on the license boards, will say that you have to have specialized accreditation, and you can't. You literally can't because your program is new and you don't have completers. So I am very sympathetic to that reasoning behind the striking.

MS. BUCK: Whitney, then Laura.

MS. BARKLEY-DENNEY: So I understand that concern, but I guess my concern is what
happens to the borrowers and students who graduate under that regime?

I mean, presumably, you know, they can't sit for the certification and licensing exams? Is that correct?

PARTICIPANT: Not necessarily. It sort of depends on how the state handles it, but you're completely correct, and this is one of the reasons why, and so, I do appreciate the Department's recognizing that 6 and 8 are tied together.

It's one of the reasons why my position on this is that we get the disclosure piece right, and it's incumbent on, in the disclosure section, in my view, that the institution that's in that catch 22 make sure, so you can still complete.

So, one thing they really keep in mind with licensure programs is you can often have good professions without the licensure piece.

So, and I'm not trying to make that sound like a sugar coating or anything, but the
fact of the matter is that, you know, there, you can go into some school counseling without being licensed as a counselor. Like, the schools will hire, and then you can get, there are sort of avenues, and I've talked about pathways and things like that. And so, there are ways.

But on the disclosure piece, I feel like it's very incumbent on the institution to explain what the avenue, you know, what it looks like so that there's a full picture.

And so that's why I'm very focused on the disclosure section in particular in terms of getting it right and making sure that the institutions are, you know, fairly obligated to disclose in a way that's sort of fully transparent about the situation that a school might be in in the states.

And Whitney, I mean, you're raising a, it's, this is a quandary for every school that decides to open a new program and licensure. It's a definite issue.

But some states handle it. So some
states allow the, if you're in pre-accreditation, which is why the Department, I think, added the language on page 3, which I also appreciate that it's recognizing pre-accreditation.

So if you get yourself into pre-accreditation, a lot of the states will then sort of allow some --

PARTICIPANT: Candidacy.

PARTICIPANT: -- you know, right, candidacy status. Right. And then, they'll allow the licensure. That's state to state, which is why I'm really intent on the state to state piece on the disclosure.

MS. BARKLEY-DENNEY: So help me just understand, Cynthia, so I make sure I'm getting this right. So 2, at the bottom of page 3, would require pre-accreditation?

MS. HAMMOND: The program would either have to be programmatically accredited, or pre-accredited, if required by the state.

MS. BARKLEY-DENNEY: Some states have a programmatic accreditation requirements, and a
lot don't.

MS. HAMMOND: Right.

MS. BARKLEY-DENNEY: And some of them have them for one program and not for others. So it kind of depends on what the state rules are regarding that.

And this is a problem that I know we went back and forth about in the last GE, but I do just want to raise that what the state requires, and to some extent, I understand that this is a state issue, but what the state requires, and often, what employers require is different.

And my concern is borrowers who are going onto a site and seeing countless numbers of accreditations and licensures that actually don't mean anything to employers in their field.

And so, it sort of makes the, you know, for example, in certified nursing, you know, you might go on and have, like, we have this little accreditation, and this little accreditation, and this little accreditation, but
none of it leads to an actual CNA. And that's the concern that I have when it comes to this.

And I don't know that we, like I said, can fix that at this table, but I appreciate that at least we're not requiring some showing of accreditation and pre-accreditation.

MS. BUCK: Laura, and then Mark.

MS. METUNE: I understand the concern that's been raised about the way in which states require institutions to be, meet licensure standards, and the way in which accreditors operate, in terms of requiring students to enter and sometimes graduate from the program before they'll provide accreditation.

And I think that's why the conversation that Jennifer and I had with Chris and others was around ensuring that this, retaining the language regarding licensure status, but also ensuring that there were exceptions to that.

Exceptions where a student would have to self-identify that they understand the
limitations that, around whether or not they'll be eligible to sit for licensure in their state, and then, essentially, affirming that they want to enroll in the program anyway, which is a way beyond disclosure, which I think we talked about yesterday. Most students are not going to click on those links to determine what their state level licensure requirements are.

So how do we ensure that a student has a much better way of understanding the limitations of the program they're entering with regard to whether or not it can assure them a spot in licensure for that career field?

So I want to propose, I mean, I also propose language that would ensure that that's true for the state in which the students resides, not just the state in which the institution is operated.

I'd like to propose that language. It came out by, Scott emailed it out yesterday. I'm not sure if I, anybody printed copies. Oh, thank you.
MS. BUCK: So the proposal is coming around the table.

MS. METUNE: And I also want to say that Jennifer and I knew, going into the conversation we had about this language, that we were too late for the issue paper.

And so, it's not the fault of the Department. Okay, great. Great. Sorry. I apologize for being late. I had a meeting this morning.

So I'll, this is coming around. I'd encourage folks to look at it. I think, at the very least, we need to continue to require licensure that the, a program meets licensure, and which the state in which it's located, I'd like to see it extended to the state where the student is located, and I also think ensuring a student signs and acknowledges any limitations of licensure is a way to avoid the problem that was raised by the Department.

PARTICIPANT: We were, I got the paper at the same time you were recommending. Is it
somewhere specifically in here that, what you just stated?

MS. METUNE: The bottom part, the red at the bottom.

PARTICIPANT: Page 1?

MS. METUNE: Yes.

PARTICIPANT: Got it.

MR. MADAIO: Right. So page 1, the first front page of what was just passed around would go in page 4 of the issue paper, what the Department, the yellow highlighted that the Department struck out.

MS. METUNE: Yes.

MR. MADAIO: So that would go in there with the additions that were suggested. That was Chris, by the way.

PARTICIPANT: People probably need a minute to absorb the proposal, so we'll give people a minute to review it.

MR. MADAIO: Yes, so this is Chris. I don't know if it needs, if everybody's reading, if I'll, if I would interrupt by going,
explaining it a little more.

I guess there's three right tenants to it. The first, of course, includes where the program's enrolled students reside, or any other state for which the institution has made a determination.

That was language, I think, that was previously in the rules. So we didn't come up with that last clause about institution making a determination. And again, I support that, obviously, I think the reasons that we discussed before, that students should know that the place that they're living, at least, is somewhere they'd be able to obtain licensure.

And then, this addresses that the middle addition, with possible specific curricular adjustments offered by the institution as needed.

I think, and Jennifer, you can add, that's attempting to correct the point that, maybe could, you probably say it better. If they need to make adjustments based on changing
licensure standards.

PARTICIPANT: Yes, it's the, it's to recognize, and I've discussed this before in previous sessions. It's to recognize that different licensure boards and different states actually have different curricular requirements.

And so, it's quite possible then, in order to satisfy, your home state might, and which is, your home state is where you're going to care the most, initially, right? So your home state is going to say, here's what we require for licensure.

But as you get students from additional states, you need to go, the license, view the institution, you need a licensure board, look and see what their requirements are, and it might be that, you know, while one state says you need to take X course, you don't need to take that X course in state Y. And so, you add whatever course is needed in state Y to accommodate the student who's in that state so that they can get licensure.
MR. MADAIO: Right. Sorry. So that, right, says it a lot better, that just the specific program a student's about to get into might, maybe a few more credits, perhaps, for that state.

And then, the last part is what, I think Laura was discussing, which is that the idea being that, if a student is going to go into a program that does not have the licensure, could be for various reasons, then the idea is that the student should understand that, and provide kind of their written acknowledgments, affirming that they know why that is, and then writing, in their own words, the reason.

So we thought it was important not just for the student to check a box or to see a disclaimer that says, you know, this may not meet the requirements of your state, but to actually, to have to think about it for a minute, a moment of pause, and the student would have to write something in that would articulate their reason.

Maybe it's because they don't intend
to get licensure. Maybe it's because they intend
to move to Florida, or they move, intend to move
far away from their home state to a state that is
licensed. Or any other reason that it may be.

So I think we're not trying to limit
it so much as to what the intent is to ensure
that the student understands.

MS. BUCK: Mark, did you have a
comment about this proposal, or was your name up
for a previous piece?

MR. MCKENZIE: Yes, it is about the
language around the accreditation piece. This is
Mark McKenzie, for the record.

On page 3, the paragraph under Number
2, I don't, I'm not sure that the language that
you currently have in there is going to
accomplish what you're trying to get. And even
the language that, I think, is proposed is also
not going to capture everything.

And the reason I'm saying that is you
could, an institution can submit an application
for pre-accreditation or accreditation, and not
even be eligible.

PARTICIPANT: Right.

MR. MCKENZIE: So they could still, you know, well, status is, or pre-accreditation is an actual status. There's a, there's an eligibility phase.

And so, like in the state of California, for example, if you submit an application for pre-accreditation or accreditation, and demonstrate that you're eligible for that, then the process unfolds, and it still may take another year to two years for that program to actually achieve pre-accreditation status, that grant.

So we just have to clarify that piece, for sure. So you don't want somebody just, well, yes, I submitted an application, but I'm not even eligible.

MS. BUCK: Todd, and then Jennifer.

PARTICIPANT: And I have a question for Mark too. So, Mark, on that, on that point, thank you for clarifying that. That helps. I am
involved in a situation where, for a pharmacy program, you submit the application, do everything, but they cannot start enrolling students until they have received that pre-accreditation.

And in fact, it is a situation like Jennifer was describing. They, where you get pre-accreditation, you submit, you have to actually graduate students out of that program before they are then eligible to basically prove they know how to teach, I guess, pharmacy, and they would then receive full accreditation, all the bells and whistles lining up, assuming.

So are you, I think that, for me, would the designation be that, based on the accradiator, based on when the accradiator allows the school to begin teaching, whatever the status is, it's, that's when it needs to matter, right? I mean --

MR. MCKENZIE: Well --

PARTICIPANT: -- help me.

MR. MCKENZIE: -- yes. It's a little
bit complicated, because it changes at each state. So not all states require pre-accreditation, or even allow it.

PARTICIPANT: Well, you guys do, but accreditors don't.

MR. MCKENZIE: Not all accreditors are even granted the authority to give pre-accreditation status. So that's, it's, you know, it's by accreditation.

So your status, the first thing, the status needs to match the state requirements. That's first and foremost. And if there is a pre-accreditation, then it's like, how do you do it?

So in California, one of the driving factors is the accreditor actually requires schools to be up and running and having enrolled students in order for us to be able to evaluate them.

Therefore, they're enrolled in a time when they're non, they're not accreditor, and they're not pre-accredited. They're, they've
been granted state authorization, but they are in that in between land. And so they're not eligible for Title IV at that point.

PARTICIPANT: Right.

MR. MCKENZIE: So during that phase, the challenge becomes, state law in California mandates, if it leads, especially in health professions, if it leads to licensure, they have to be able to, that student has to be able to have a pathway to licensure, so if they graduate before the accreditation status is achieved, then they would not actually be eligible for state licensure.

So what ends up happening is it gets pushed back to the individual review board. So, like, in acupuncture, it would go to the California Acupuncture Board. They would have to evaluate that student individually.

And so, what we negotiated with the State of California is that we will, we'll get you a letter that says they have actually applied to, and been given the status, eligibility
status, so they've met our 21 eligibility requirements.

So, you know, theoretically, they can, they could be eligible to achieve accreditation, but they're not accredited yet. Does that help?

PARTICIPANT: Yes, it does.

MS. BUCK: So Todd, I think, is next.

Or, I'm sorry.

MS. HAMMOND: No, go ahead and let Todd go.

MR. JONES: One of the problems that is encountered by expanding this kind of system to more kinds of degree programs is you run into problems like I'm going to describe.

Baccalaureate programs that lead to licensure at colleges, independent colleges, include institutions that don't fit the mold we're talking about here in a couple of ways.

First of all, not everyone declares what program they're going into when they enroll, and more specifically, there is a significant number of colleges that do not permit students to
select what their major is.

So if you're going into teaching, you may know the day you walk in that you intend to be a teacher, but you're not really a teacher, teaching major at that institution until, in some cases, your fourth semester on campus, or junior year.

And then, you get into difficulties, the next difficulty that leads from this is what is your home state?

Grow up in Colorado, you move to Ohio to attend one of my institutions that has a later declaration of major, and you decide that you no longer want the clear skies and sun of Colorado, you want gray, depressing, industrial towns to go teach kids who have greater need. And so, you decide, I'm either going to live in Cleveland or Detroit.

And now, so which teaching regulations are important? I mean, what notice are you doing? The fact that the college doesn't work on a focus on Colorado is really not relevant.
That's important for the teacher education institution and what we're talking about. You have to disclose here, and you have to receive a written acknowledgment.

So let's even assume you're now doing the written acknowledgment in the middle of the kid's sophomore year to, kid, the 20-year-old's sophomore year. What, at what point, or what value are you providing the nature of this notice?

The other thing I want to point out is even for institutions that have students who are attending their institution, you can have such degrees of variability as to where students are coming from for particular programs year over year, that handling this becomes exceedingly difficult when you are a national institution.

And there are, there are literally, say dozens there, there are literally a few hundred institutions in our country where students are not attracted from the state of the institution. They're coming from elsewhere.
I'm not saying it's not possible to do this. I'm saying it's hopelessly bureaucratic, and really not providing anything of value because, here's the other thing about these institutions.

If you are a national baccalaureate institution, you are, and facing this dilemma, the students who you are attracting are going to be of higher academic quality, and not the ones that you're really, I would think, conceptually concerned about issues of notice and risk of debt.

These are institutions that have zero, one, and two percent default rates. They have 70 and 80 percent four-year graduation rates.

So the problem here doesn't fit those institutions, and yet, it's setting up, unless I'm missing something, another bureaucratic hurdle in a nation where we spend a lot of time wringing our hands about the cost of education, but thinking, well, the, you know, the Department can just add this one little piece, and that's
okay.

MS. BUCK: Cynthia, you had wanted to respond earlier, and I had interrupted you, so please go ahead.

MS. HAMMOND: It's fine. I just wanted to respond to something in Mark's comment. First of all, I want to clarify that all schools are required to get accreditation.

This is if the state or federal government requires programmatic accreditation for a specific occupation. Everybody absolutely has to be accredited in order to get Title IV money.

The other one is, I had a proposal that we could change in order to address some of the issues that have been raised at the table.

So Number 2 could read, the program is programmatically accredited, or has pre-accreditation status, when available, if such accreditation is required by a federal government entity, or a governmental entity in the state in which the institution is located, or in which the
institution is otherwise required to obtain state approval under 34 CFR 600.9.

So instead of saying, the big change here is, instead of saying, or has submitted an application for pre-accreditation or accreditation, it'll say, or has pre-accreditation status, when available.

MS. BUCK: So Cynthia, help me understand. Is this with regard to Laura's proposal, or separate from it?

MS. HAMMOND: This is more on Number 2, so it doesn't touch into all of the issues that are in Laura's proposal.

MS. BUCK: Because I think she had made the proposal, and people were responding. I'm just trying to keep track of what's going on here.

MS. HAMMOND: I think we've been floating back and forth --

MS. BUCK: Yes.

MS. HAMMOND: -- between the Department's proposal --
MS. BUCK: Yes. Yes.

MS. HAMMOND: -- and Laura's.

MS. BUCK: I think so too.

MS. HAMMOND: So --

MS. BUCK: So I wonder if we could take them separately. I wonder, Laura, would you rather, would you rather us respond to what Cynthia has just said first?

MS. METUNE: Sure.

MS. BUCK: Okay.

MS. METUNE: I also have different language, if we want to hear that as well. So I've just been over here scribbling.

MS. BUCK: So can people respond to what Cynthia just proposed? So Cynthia, could you read it again?

MS. HAMMOND: Sure.

MS. BUCK: Please?

MS. HAMMOND: The program is programmatically accredited, or has pre-accreditation status, when available, if such accreditation is required by a federal entity, or
by a government entity in the state in which the institution is located, duh, duh, duh, to the end of the, that paragraph.

PARTICIPANT: So could you say it again, so that way Aaron (phonetic) could catch it up on there, so people could look at it, so if you turn around, you could see where he's editing on there?

MS. HAMMOND: So where it currently says, or has, keep that, delete the submitted an application for, after the word pre-accreditation, add status, when available, and then, delete or accreditation, also in the highlighted.

MS. BUCK: So why don't you look, make sure that it's happening, and if not, repeat segments of it until it is what your proposal is.

MS. HAMMOND: Yes. After the word pre-accreditation, delete or accreditation. And the only reason I'm deleting that is it's duplicated from what it says in the, in the line above. Yes, there's a, also a comma at the end
of the highlighting that can be deleted. Thank you.

MS. BUCK: So, does that cover it? I mean, is that, is that --

MS. HAMMOND: That is the Department's proposal, currently.

MS. BUCK: That is the Department's proposal? Okay.

MS. HAMMOND: And like I said, it was to respond to the very good points Mark said about what's, you know, its pre-accreditation status, not application form.

MS. BUCK: So are there any questions about what the proposal is or what it means, that you want to direct to Cynthia? Let me ask that first.

The, so the people who have their cards up now all have questions for Cynthia. Is that right? Okay. So Tony?

MR. MIRANDO: So this is for Cynthia, and my organization is institutional accreditation, but I was with a programmatic
accreditor prior.

So I guess my question here is for you is that, is it the intention that where programmatic accreditation is required by the state for sit for licensure, that this is saying that they must have pre-accreditation status prior to offering the program?

MS. HAMMOND: It doesn't say --

MR. MIRANDO: It says the program is programmatically accredited --

MS. HAMMOND: The program has to be either accredited by the programmatic accreditor, or has pre-accreditation status, when available, before the program is offered if the state or federal government requires it. And an example of when the federal government would require it is aviation.

MR. MIRANDO: Yes. So that might be a little difficult, because again, and I don't know how it is for your agency, but some programmatic accreditors, and I'll say some, programmatic accreditors will require that the program be up
and running prior to doing that.

MS. HAMMOND: Let me clarify. It's Title IV. It's not actually offered. You guys can offer whatever you want. It's for Title IV.

MR. MIRANDO: Well, then that would be institutional accreditation, and that's Number 1, not Number 2. Because programmatic accreditation is, maybe I'm mistaken, is not tied to Title IV. That's institutional accreditation is. So --

MS. HAMMOND: So the program either has to be institutionally accredited, or included in the institutional accredditor, accreditation, but this is an additional requirement, that --

MR. MIRANDO: Right.

MS. HAMMOND: -- we're proposing in this, right.

MR. MIRANDO: And I don't, and I don't mean to be, I don't mean to be difficult, but I just want to make sure we get it right.

So the one story that I think everybody remembers is a school being opened in New York, and I think it was for ultrasound, and
I think that's where this is kind of coming from, I think.

This school there was required to be, obviously, institutionally accredited in New York, in order to have the program. Student came in, took the program, but wanted to go back to New Jersey.

When they got to New Jersey, New Jersey said, you needed to have other requirements, which included programmatic accreditation, I believe, and New York didn't require that. So the student wasn't eligible. So I think that's what this is supposed to get to, no?

MS. HAMMOND: No. This is, so after we did gainful employment the first time round, back in, what was it, 2010? Back when we did it the first time round, we found several cases of programs that the states they were located in required a certain accreditation they did not have. So for an example, maybe it was a nursing program --
MR. MIRANDO: Right.

MS. HAMMOND: -- that had the --

MR. MIRANDO: Okay.

MS. HAMMOND: It was part of the school with other programs, and so it had the overall institutional accreditation, but that one program, in order to sit the licensures --

MR. MIRANDO: Sit the licensure.

MS. HAMMOND: -- and in the state they were located, didn't have it. The other issue about crossing borders --

MR. MIRANDO: And that's fine. Again, some accreditors won't do programmatic accreditation until the program is up and running, so they can go in and evaluate it. So you can't require it prior to being up and running.

Now, the students may have to be notified that the school is not programmatically accredited yet, but that we're working towards getting it, but it doesn't ensure that it meets that requirement. Yes.
MS. BUCK: Are there any other questions of Cynthia, as to what, as to the proposal? Questions about it? Jennifer?

PARTICIPANT: So sort of along the lines of what Tony is saying, I'm really worried that this provision is mixing apples and oranges a little bit in terms of what the Department's trying to accomplish. And so, I'm now, admittedly, confused, myself.

But when you referenced the 34 600.9, that's a state authorization, that's the state authorization requirements.

I know that there's a provision in there that references a 668 provision that pertains to disclosure on licensure, but I think, and I don't have it in front of me, but 600.9 is a state, institutional state authorization section. First of all, let me just ask, that's correct, right? That's not programmatic?

PARTICIPANT: It's under state requirements. Yes, the state authorization regulations also include that the institution
meets other state requirements for the programs it's offering. So it's like, other state requirements, if applicable.

PARTICIPANT: Okay. Because I just feel like, when you add in or in which the institution is otherwise required to attain state approval, muddies the water on what we're talking about here, because it's not the institute, it's the program, we're talking about licensure for the student, and I feel like we're mixing thoughts in too.

I'm not saying it's not a legitimate thought, in terms of as it relates to the institution, but that piece seems to me more covered in other places.

And so, this, to me, relates to the programmatic accreditation, or whether or not an institution is required, whether or not a program, sorry, is required to have accreditation, and if it does or doesn't, in order for a student to be licensed.

Now, a lot of states don't require
accreditation, so that's a whole different ball of wax. But that last phrase of, or in which the institution is otherwise, to me, muddies the water with the rest of the paragraph.

MS. BUCK: Do you want to respond to that, Cynthia?

MS. HAMMOND: I'd like to hear, I'd like to hear Mark's question before we respond.

MR. MCKENZIE: Sure. I, the way you presented it, you're absolutely right. So you're already assuming that, at this point, the institution that's offering the program has to be an accredited institution, excuse me, which changes the dynamic a little bit as, but still, accreditors will handle program approvals differently.

In some cases, there still may be the, let's call it an eligibility phase, so it's actually before pre-accreditation, and students may be enrolled in that program when it's in eligibility.

And your language corrects the pre-
accreditation candidacy, but it doesn't accommodate the students that are enrolled in a program that is deemed to be eligible, but has not yet been granted pre-accreditation status.

And in certain states, that has to be included, especially where it leads to licensure.

So I don't know if that, if, I'll leave it at that and let you respond.

MS. BUCK: Steve (phonetic), did you want to respond? I noticed you put up your name.

MR. CHEMA: So, in prior discussions with the GE regulations, this issue comes down to how the program is marketed to the students. All right?

Because I understand a lot of programs that can have programmatic accreditation can lead to a faster path to licensure for some of the graduates, and then, there's usually an alternate track where they can, they can take the program if it doesn't have programmatic accreditation, and then work for a couple of years before they can sit for the, for a licensure exam in that
area.

And the discussions we had before, it's all about how it's marketed. If that program is being marketed to students as if completing that qualifies them to sit for that license exam, that's the way it, that's the approval the program needs to have for those, to be eligible for Title IV. Right?

It's, so it's not just that it, the institution itself has Title IV eligibility. The program, the way it's marketed, also needs to have that additional requirement.

So let me just go on there for a second, and I'm sorry, I forgot. This is Steve, for the record.

But that also means if they're marketing inappropriately to say, you can take this program and go out and work two years, and then sit for this exam, or here's the earnings you're going to get if you take this program and start working, without then having the additional step to be able to get this other licensing
thing, that would be okay. But this is, this is the context for the prior discussions we had on this issue.

MR. MARTIN: We'd like to call for a 10 minute break, please. Thank you.

MS. BUCK: We'll take a 10 minute break.

(Whereupon, the above-entitled matter went off the record and resumed at an undisclosed time.)

MS. BUCK: Okay. So I see that the Department of Ed is back, their representatives, and Greg, tell us what you'd like to say.

MR. MARTIN: So we would, first of all, before, does anybody want, was Laura done? Want to say anything else?

MS. BUCK: Was Laura done, do you mean with her proposal?

MR. MARTIN: Yes, right.

MS. BUCK: No, I think we were focused on the wording that had been brought by Cynthia.

That's what we're focused on right at this
point.

MS. HAMMOND: Okay. We don't have any changes to what I said, but I believe that Anthony had a proposal. Tony?

MR. MIRANDO: Yes, thank you. Actually, Whitney wrote it up, so I'm going to --

MS. HAMMOND: Oh, dear.

MR. MIRANDO: -- refer to her so that she can, but we all kind of talked about it.

MS. BARKLEY-DENNEY: Okay. So my proposal is, so the program is programmatically accredited, comma, meets state or accredible eligibility requirements for accreditation --

PARTICIPANT: Accredible?

MS. BARKLEY-DENNEY: Meets state or accreditor, sorry, I can't read my own handwriting. I was scribbling fast, guys.

State eligibility requirements for accreditation, and has submitted an application for pre-accreditation or accreditation.

So I think that gets us a little bit closer, at least as a starting point to what we
need with including the schools that are eligible for accreditation, but you know, we, it kind of addresses the issue of, well, they've submitted the paperwork, but they know that they're not accredited, they're not going to be eligible for it.

MS. BUCK: Does anyone have any question, not a comment, but a question to better understand the proposal? Jennifer, do you have a question?

PARTICIPANT: I don't understand the phrase accreditor state eligibility requirement.

MS. BARKLEY-DENNEY: So that's meant to address the issue that came up earlier that Mark brought up, which is that you can, pre-accreditation is paperwork, right? You can submit it at any point, knowing that you're not actually eligible for the accreditation.

So that's what this is trying to address and ensuring that it's not just a paperwork exercise that the school or the program, rather, has actually, knows that they
can or should meet the eligibility requirements.

    MS. BUCK:  Okay. Does anyone else have a question? A question? Okay, go head, Jessica.

    MS. BARRY:  And I might not just understand this, but who's determining if they meet those eligibility requirements for the pre-accreditation?

    PARTICIPANT:  The schools.

    MS. BARKLEY-DENNEY:  So I'd be happy to add an enforcement provision, however, I think it's worth thinking about it, it would be, you know, the school requiring that they, basically they're acting in good faith that they know that they meet the state eligibility requirements, or accredits eligibility requirements.

    MS. BUCK:  Any other questions? Sandy, do you have a question?

    MS. SARGE:  I thought, I have to start with a, one sentence. I thought, Steve, thank you so much, because I thought your comment about the marketing just shined a bright light for me
on that.

So the question is, are we really trying to get to the fact that when we are marketing or trying to bring in, enroll potential students, that we are doing our best efforts to be in alignment with that, I'm sorry, that we're trying to give them a program that would, could lead to licensure in that state?

I mean, I think that's what you're, I think to Whitney's point, that's, you're acting in good faith, so how do we get to that? Because there's so many various options in 50 different states.

I mean, you probably could have 1,000 different combinations of this, and I think what we want to do is maybe try to get to, you can't be lying, and if you, there's complications, you need to disclose, or you need to certify that you're doing everything to make sure the student understands that.

MS. BUCK: So Cynthia, you want to respond to her question?
MS. HAMMOND: Yes, let me give you an example. So there was a program in California that was a law program that were very clear that it did not lead to a law degree, and they marketed it as not a law degree program. You couldn't sit for the bar, and that's how they marketed that program.

It was for people who wanted to know more, like, a lobbyist or somebody, who wanted to know more about the law. There was also a number of advocates for different things that would take this course.

But they were very clear in their marketing that it did not lead to being able to take the bar exam in that state.

And that was one where, as Steve said, they were able to meet these certification requirements because they were very clear in what it did and didn't do.

MS. BUCK: Tony, or Steve, did you have a question? Steve Chema?

MR. CHEMA: Yes. I was actually kind
of holding my place in the line in case we meandered back to the other proposal, so --

MS. BUCK: Okay. Any other questions about this proposal?

MS. METUNE: I've got a question.

MS. BUCK: Okay, go head, Laura.

MS. METUNE: In the example that you cited, the institution was able to meet the existing certification requirements around state licensure and around program accreditation?

MS. HAMMOND: Yes, they were, because they were licensed in the state. They were, they were, I guess not programmatically accredited, but they also were not trying to be a program that led to a law degree.

MS. METUNE: Okay. So the existing provisions provided no problem for that institution to continue to be able to do what it wanted to do?

MS. HAMMOND: Correct.

MS. BUCK: Mark, did you have a question?
MR. MCKENZIE: It's actually, I think, a friendly amendment to the language that I think might make it a little clearer, if you will engage me.

So the first line, the program is programmatically accredited, or pre-accredited, comma, or meets state or accreditsor eligibility requirements for accreditation.

And you can put, I guess, and then, and has submitted an application for, I, yes, I think you can either take that, I mean, it might be redundant.

Because what you're trying to find out is, are they actively pursuing the process, and have they been either reviewed, somebody asked the question, who approves this? Well, we ended up having to negotiate with the State of California in our case, now, and again, some of these things really are at the graduate level that lead to licensure, and a lot of this, as an undergrad, and may not lead to licensure.

So some of it may be irrelevant in
some ways, but I just want to make sure that we're catching the language correctly. So, what's that?

PARTICIPANT: Are you sure that they're going to submit --

MS. BUCK: Whitney?

MS. BARKLEY-DENNEY: I just wanted to say to Sandy's question, and I might be misunderstanding you, Sandy, but I think that this, I think that this specific language targeted the places where a certain programmatic accreditation is required.

So it's not, you know, like I said, in my ideal world, it would be, and employers require, you know, this accreditation, but that's hard to do here, and not, you know, if it's not required in the state, it's not required in the state. But I think that this gets to the specific programmatic accreditation that the state requires.

MS. BUCK: So could we have a temperature check on the language as it's
projected?

I'm not seeing any thumbs down, unless
I'm missing something. A lot of thumbs up, and a
few sideways.

PARTICIPANT: All right. So with
this, with that consensus, I guess this question
would be for the Department, because we're going
to be taking a consensus check when we get
through the papers here. Is this something that
would be a modification to the proposed document
from the, from the Department?

MS. HAMMOND: Yes, we can take this
back.

PARTICIPANT: Okay.

MS. BUCK: Very good. Thank you.
Let's now go back to Laura's proposal. And thank
you, Laura. Are there questions of, I know Steve
wanted to make a comment or ask a question.

MR. CHEMA: Well, you know, Steve
Chema, for the record. And this relates to the,
you know, the Jen (phonetic) and Laura and Chris
proposal, and I thought that Todd did a good job
of explaining, you know, in a practical way, you
know, some of the difficulties with implementing
this.

You know, I think that it's a sensible
approach to, you know, have the acknowledgment
that is included here. And I might just want to
try to tinker with the language there a little
bit, and I'm referring to that the, it's the
underscored sentence, with possible specific
curricular adjustments offered by the
institution, as needed.

MS. BUCK: Page 1 or page 2?

MR. CHEMA: This is page 1, almost
center of the page.

PARTICIPANT: Of the proposed --

MR. CHEMA: Yes.

PARTICIPANT: Steve, is that it up on
the board?

MR. CHEMA: Yes, it is. It's the
underscored sentence, right there. What I'm
thinking is, this is, I think when we contemplate
this, you know, being part of an agreement formed
on the front end, you can probably understand what you might need to do and, you know, saying doing anything possible or anything, as needed, wouldn't seem like that would be too difficult. But understanding that things aren't as static.

As Todd pointed out, there are institutions where, you know, you don't require a student to declare a major. Students can change their minds. Licensing boards change their minds.

So I would suggest, instead of saying, with possible specific curricular adjustments, that the language read, with appropriate curricular adjustments offered by the institution.

And you know, one more point to this idea that these things are not, you know, set in stone, that you don't just have, at the point a student matriculates, you know, a clear idea of where you need to be for licensure, when I try to deal with this issue, I have talked to schools about certainly, at the, as part of the
admissions process, explaining what the licensure requirements are in the state in which the school is located, getting input from the student as to what their career path and plans are, but also, and then, explaining, well, if it's in our state, great. If it's in some other state, this is what we think we need to do, or maybe we need to investigate this.

But also, telling the student at that time, if you change your mind, you've got to come back to us. Because the institutions can't anticipate that, and I don't want to create a certification that is influx that we can be in one moment in compliance with, and suddenly in violation because of a change, either at the state board level, or with the student.

MS. BUCK: Based on what you've just said, are you making any additional proposals for language changes?

MS. METUNE: What we said prior to enrollment, this is Laura, prior to enrollment in the program for, like, so, or at the point, we
could add something about at the point of declaring a major in that language there to make it clear that that's really what we're talking about is the point at which the institution has discovered the student has this pathway towards licensure.

MS. BUCK: Laura, where would that be, specifically in the document?

MS. METUNE: So the, at the bottom section in red, right now, after the pursuant to 668, 412, that, and prior to a student's enrollment or declaration of major, or program participation, of program enrollment --

MS. BUCK: Declaration of major, comma, what else?

MS. METUNE: Or program enrollment.

MS. BUCK: Major or program enrollment?

MS. METUNE: I mean, prior to student's enrollment, so that it's clear it's not just prior to enrolling in the institution, but prior to that specific program.
PARTICIPANT: Or change, it could be or change.

MS. METUNE: Oh, sure, yes. That's a great idea. Declaration or change in program enrollment.

MR. CHEMA: That's, I think that's, I do, I think that addresses it because you've got, you know, the moment at which, you know, the institution has the ball, when the student walks through the door, and then, if they're going to make a change in their enrollment, that's an affirmative act by them that's, I think it, I think that's going to be okay.

MS. BUCK: So, Laura, has that changed their -- my sight isn't that good. Can you tell me if the change is in? Good. Are we ready to take a temperature check on Laura's proposal? Okay, Todd.

MR. JONES: I'm sorry. I'm just not seeing this address the issue I'm raising. And let's go back to that said, or the section, and receives a written acknowledgment from the
student affirming the student knows that the program does not meet the state licensure requirements, and the institution requires the student to explain in writing, in his or her own words, the reason the student still seeks to enroll in the program.

We're going to create a bureaucratic obligation that a student write an essay to the university explaining why I'm going off to Peace Corps, but I want to be a teacher, for anyone who wants to enroll in their program.

In programs that are of the kind of high academic quality where we are not anywhere at risk of a student being misled.

It is the over-inclusion of programs in this that is the flaw from the beginning, and I'm not, I can't go along with that that we're adding, it's, to say it's, well, it's just another piece of paper, I'm sorry. This is the problem, that we're just, you know, from the federal level, including more and more obligations of processing paperwork on higher ed
institutions where the person collecting this may well be the head of the Department of Teaching at a small college, when the, this really is providing absolutely no benefit to the kind of student we are talking about. And then --

MS. BUCK: So you would prefer that that whole phrase was left out. Is that right?

MR. JONES: I understand where you're going with the obligation of written acknowledgment. But I'm sorry, I'm just, I don't want to go down that path.

You know, another piece of paper isn't going to solve the problem, any sort of problem, at the institutions that I represent. If you --

MS. BUCK: So, Todd, is it that wording, or is it the whole thing that --

MR. JONES: It --

MS. BUCK: -- in opposition to?

MR. JONES: For me, it, at this point, it is the entire process --

MS. BUCK: Okay. Okay.

MR. JONES: -- of that. There may be
a solution. I'm not going to foreclose that, but I simply can't see that as being something that's accepted.

MS. BUCK: Okay. So you're in opposition to it at this time.

MR. MADAIO: So maybe Laura and I could try and respond a little bit, you know, to some of those points. I guess, I would think, at least, that for a lot of the small schools, those students are probably living in that state, right?

I mean, this is really, okay. I mean, maybe not. Maybe not. But that's fine. The point is, it's not, I think, an essay, as it is just an affirmation, the idea is that the student understands what you just said.

I mean, if a student's going to Peace Corps, they would write, I'm going to Peace Corps, and I don't intend to teach.

But I think that if it's a program that is going to, you know, for most of the students, require a license for employments, you
know, I understand that there is going to be some bureaucratic hurdle. Of course.

But I mean, really, this is to address a really serious problem of students not being able to work in the fields to obtain the license, and thus, never work in the fields.

So you know, I think that in, the benefit to students is in truly understanding that they're able to work in the field, I mean, outweighs, you know, some administrative burden here.

And you know, again, for students who obviously live in the state the school is in, this really isn't a change. This is for students who don't live in the state and really just need to understand, and sure, I get that that student who lives there, he or she may not intend to live there again.

But I mean, I think we kind of have to start somewhere. So with the state the student lives, we, you know, essentially assume that they're going to want to work there. And that
may not be correct, and that's the point of the student being able to clarify.

MS. METUNE: And then, the only thing I would add to that is that one of the conversations we had in our work group was would it be okay for an institution to provide a student some of the most common reasons that they might choose to still enroll, despite the fact that they wouldn't be eligible to be licensed?

If the Peace Corps is a huge population of your students, you could add this to the list of reasons that a student might still want to enroll in the program so that it becomes a little bit easier for the student to understand why they might still want to enroll in the program. So I'd be open to language there as well.

MS. BUCK: I don't know that it's valuable to get into a discussion of whether to have this or not. I think there's a proposal on the table. I want to make sure everybody understands it, and then see what the temperature
check is for it.

But if there's a question about the proposal, then we want to make sure that gets addressed. Does anyone else have any questions? Jennifer?

PARTICIPANT: Well, I have two. One is on the proposal, which of course I helped draft. Given the edits, though, to paragraph 2, there would need, I think, to be some conforming edits to 3 with regard to the pre-accreditation, because I think, I think, and again, I'm just throwing that out there, but I'd need to think about it.

But then, also I have a question for the Department. Department has its card up anyway, which is, you know, we're sitting here discussing this proposal, but you guys deleted the section.

So I just, before we go down the, further on this rabbit hole, are you open to hearing, like, before we start editing it and trying to make, are you open to it, or are we
stuck with not having a provision in, you know, which, I just want to know before we start tackling --

M. MARTIN: I, we did take it back and discuss it. At this point, we, our position is that, relevant to the proposed, the proposal on the table here, that we would be disinclined to go with what's here.

We see, we see this primarily as a disclosure issue. We would be inclined to revise the disclosure requirements such that the school would disclose which states they, for whichever, which states they made the programmatic licensure requirements, and in any other state that they want to assert that they meet that requirement, they would do so in the disclosure.

And they would also have to include a statement that it's incumbent upon the student to be certain that the program meets the licensing requirements in the state he or she wishes to practice that profession in.

MS. BUCK: I think it's still useful
for the negotiators to indicate their views, and
the Department of Education can then decide what
they're going to do.

    MR. MARTIN: But we're fine with that.

    MS. BUCK: Yes. Okay. Pamela?

    MS. FOWLER: Well, I agree with Todd.

    And if I'd heard the Department correctly, now
it's just notifying the student. And we're
putting this on the student, which is where it
should be in the first place. Okay.

    And I don't have to collect this piece
of paper, because my question was going to be
what the heck do it with this piece of paper once
I collect it? Who's going to read it? No one.
And what do I do with it? Stuff it in a drawer?
Image it and stick it in a file somewhere?

    MS. BUCK: Okay, Todd. And then,
let's do a temperature check, even though there
may be other things that could be said.

    MR. JONES: I'm sorry. I'm just
waiting, you know, and I appreciate the sincerity
of the belief that this can't cause, you know,
this could only be beneficial for the students involved, and I'm always hesitant to point out the names of individual institutions, because I don't want it showing up inside higher ed that I'm saying this institution or that institution. So, I'm not. I'm not going to put them on the spot.

There are hundreds of elite liberal arts institutions around the country that do not need the additional intervention of a process dictated by the federal government for the good of their students because of somehow students being misled and defrauded.

I mean, trot these students out for me. Where are they? Because they're going to number, you can probably nationally find them on single hands, or people who are working for advocacy organizations saying, well, I was one and I really didn't know.

That is true. I'm sure there are people that don't know at some of these colleges I'm describing. But the reality is that is not
the issue.

The issue is not defined to establish a system where we think that this kind of notice is going to lead to prevent the kind of regret that someone has that I made the wrong choice, or that my program has misled me.

Getting the federal government involved at this level of minutia for these kinds of institutions is not the appropriate solution, and that's why I'm opposed.

If you could come up with a solution, I mean, you know, we had already carved off four very reasonable agreed reasons, graduate programs, I think, finding an institutional division here will help, because otherwise, I'm absolutely opposed to this, and I'm going to continue to say so loudly.

MS. BUCK: Thank you, Todd. Laura, did you want to say something before we do the temperature check?

MS. METUNE: Just maybe a closing comment.
MS. BUCK: Yes.

MS. METUNE: I understand your concern. Community colleges have long been put into the same box as the bad actor for profits for which these rules were initially designed, and I'm sympathetic.

I also am incredibly disappointed that my public and nonprofit colleagues wouldn't stand up for something that protects students, despite a small administrative burden that it causes.

I hope the Department will reconsider this as they move forward, and thank you for considering the proposal.

MS. BUCK: So let's have a temperature check now on Laura's proposal that was handed out.

PARTICIPANT: A show of thumbs?

MS. BUCK: A show of thumbs. Four down? Four thumbs down. Several up and several sideways.

So thank you for your work in putting together a proposal, and I always appreciate it.
when people can come forward with a specific proposal that people can look at. So thank you for that. Let -- yes, Sandy?

MS. SARGE: I was, I was neutral on, this is Sandy. I was neutral on this simply because I think that the Department's effort to keep this somewhere in front of students with the disclosures is very important, and from that perspective, I don't want this to go away.

I think that what Laura and the team and everybody that was involved with negotiating through this on their own time has exactly the heart of what we're trying to get at here.

So the reason I'm neutral is because I still think it's extremely important that it's somewhere.

MS. BUCK: Todd, is your -- so let's go back then to Issue Paper 8. Are there other things people want to say about Issue Paper 8? Yes, Cynthia? Or is it Greg?

MS. HAMMOND: Cynthia, yes. In looking at Whitney's language, I just want to ask
a clarifying question. So it says meets state or accreditor requirements for accreditation and has submitted an application, pre-accreditation, that's in the state in which the institution is located, correct?

MS. BARKLEY-DENNEY: Sorry about that. I'd be willing to hear from people better at this than I am as far as this piece goes, from Anthony and Laura, or Tony and Laura, rather.

I was just trying to get what I was hearing about the eligibility requirements incorporated into the language. So I'd be open to hearing ideas about that.

MS. METUNE: It seems like the intent was for it to be where the institution was located or required to obtain state approval under the state auth requirements.

PARTICIPANT: That's good.

MS. HAMMOND: Okay. I just wanted to get that clarification before seeing if we had any more comments on this paper, then voting on this entire paper.
MS. BUCK: Any other comments or questions? So do you want to take a temperature check on Issue Paper 8 with the modification that has been approved?

PARTICIPANT: Yes.

MS. BUCK: Okay. So thumbs up, thumbs down, thumbs sideways on Issue Paper 8. One down, two down, three down, four down. Four thumbs down. Four thumbs down.

PARTICIPANT: What issue papers are left?

MS. SARGE: I'd just like to understand where the problems are still on 8.

MS. BUCK: You want to know why the people, well, can somebody, can it be very briefly stated, the people who had thumbs down, Sandy's asking why. Just, like, in one sentence, per each.

MR. MADAIO: Sure, that the licensure certification that we discussed previously, for me, Chris.

MS. BUCK: Johnson?
MR. TYLER: I've had clients who have been affected by this. They can't sit for exams, they invested a huge amount of time in their educations, and money, and they're still on the hook for the education.

MS. BUCK: Jennifer?

PARTICIPANT: I just want to, on that point, Johnson, you know, you've heard me talk about this. I mean, I'm really sympathetic to that.

I would say that this, and I just want to remind everybody that this section is on the school's certification of a PPA. So it's a, yes, when I hear Todd, it's a, I mean, that piece of it is, it's very complex for the, for, you know, for each program to certify and then have it be, it's your PPA. So it's a big deal.

So the one piece that I would ask, and I'm not saying that we need to get to consensus on 8, but I, it's why I keep saying that I actually view Issue 6, Issue Paper 6 as being more important, because that's where the...
disclosure section is for this student piece.

And so, in terms of the student protections too, I know that 8 represents a very big hook, which is probably why you care about it so much in terms of the, you know, in terms of the PPA certification.

But I would say, you know, if it's helpful at all, or if it, I mean, I'm not expecting it will move the dial at all for you, but I did just want to point out that we still are discussing Issue Paper 6, and so there is a known, and hopefully we'll have a fruitful conversation there.

And so, I guess to remount, I would say, you know, let's see how Issue Paper 6 goes, and maybe there might be an argument for taking another vote on Issue Paper 8 later.

MS. BUCK: And for other people who had thumbs down, do you want to give a one sentence reason why?

MR. GANNON: This is Chris Gannon, for the record. Yes, just the licensure
certification, and also just that the group nixed the proposed changes.

MS. BUCK: Was there anyone else with thumb down who would like to give a one sentence reason why? Okay.

MR. MADAIO: Again, Chris. Just add that obviously, as we've said many times, I'm opposed to the inclusion of the nonprofits and the publics, I mean, for reasons like this, that it destroys, it seems, a legitimate thing that happens probably most often in the for-profit sector.

So you know, if we were able to include that requirement that we discussed for the for-profit schools, or the GE programs, if we want to do that, that could be something I would agree with.

But that's not in this issue paper, so I don't think it's necessary to discuss any further. But I would, it's what I would relate to the Department.

MS. BUCK: Sandy?
MS. SARGE: So I disagree with that. I think it's just a matter of time. When you have students out there at state schools where a state, states are losing their money to fund higher education, and students are getting double digit increases in tuition, and not getting allocated money, and it's just a matter of time.

I hate to say it. We're at just the beginning of, it speaks to a bigger issue, but just because it has, a student says, thinks they can't go up against the powerhouses of Harvard or University of Michigan or Colorado or whatever, doesn't mean that there aren't students being affected.

And I think, I agree completely with Laura in that, that issue of it, of it going back to being what was formally defined as GE is off the table. So let's keep it off the table, and stick to what's right for students, and not go back to that.

It's done with, and now let's figure out whether, in the future, you could possibly
perceive that a student might feel like they got screwed by a public or a private not for-profit. There's a possibility of that. So let's work towards that.

MS. BUCK: Greg?

MR. MARTIN: Yes. I understand that there are serious philosophical disagreements at this table, and one of them is whether or not this rule should apply to all institutions or not.

We're obviously not going to resolve that, so I, and having already voted the paper down, I think we need to continue.

MS. BUCK: So given that, do we go then to Technical and Conforming Changes?

MR. MARTIN: Not quite. We have two more things to do. One would be to go back, I don't think we've done a temperature check on 6 yet, so I would want to do that.

MS. BUCK: Okay.

MR. MARTIN: Before we, before we do that, I'm going to bring up Sarah Hay. She has a
couple of comments about some data that we provided yesterday, so she'd like to make some clarifications there. Then we'll proceed to close out 6 and move on to Technical and Conforming Changes.

MS. HAY: This is Sarah Hay. I hope all of you had a piece of pie, as instructed. We had blueberry at my house.

So the Department would like me to talk you through, just for the record, the slides that we shared yesterday. So I will do that. There are four of them. Don't miss the back of each page. We, you know, in the Department, we print double sided to try and save our trees.

So the first is that, and I'm going to start with the one that says five-year repayment rate versus percentage of borrowers who receive Pell.

MS. BUCK: You want to hold on just a minute, because a number of people are --

MS. HAY: Sure. Okay. They are --

MR. MARTIN: So tell them around the
table, what, they're passing them around.

   MS. HAY: They are passing some around.

   PARTICIPANT: I think, I think some folks may have to share. They're printing more, but at least for now, if folks wouldn't mind sharing.

   MS. BUCK: Okay. I think people now have access to it. So I think we can go ahead.

   MS. HAY: Okay. Everyone have a copy? All right. Thanks. Okay. Yes. Okay. All right.

   So what Scorecard data shows is that as the percent receiving Pell increases, the repayment rate decreases. Now, that's at a high level.

   When you, and it has an R squared of about 0.7, which means it's correlated, but it, you know, it's moderately correlated.

   So if you flip the page over, there's more to the story, and this is something that I'm not sure everyone is attuned to.
The title of this one is five-year repayment rate for borrowers receiving Pell versus five-year repayment rate for borrowers who do not receive Pell.

And so, this is, you know, at any given school, what does the repayment rate look like for the borrowers who received Pell versus the borrowers who did not receive Pell. And the slope on this line is about 1.

So what that means is that at any given school, the repayment rate for both of those populations is essentially the same. So it appears that it is school dependent, not Pell dependent. Okay?

When you go to the other piece of paper, okay? There's an, there's an element there of things being school dependent, may be related to selectivity of the institution, or the, well, Scorecards at institution level, okay?

So as a proxy for selectivity, we did use SAT math scores. There are arguments to be made for other metrics. We used median SAT math
scores. It's on the Scorecard. It's the one we picked.

So if you look at five-year repayment rate versus SAT math scores, as the SAT math score goes up, so as a proxy for selectivity, as selectivity increases, the repayment rate increases.

If you flip the page over, and I'm sorry we switched our axis. That's because we did it quickly. But I'll say it the same way.

This one is SAT math scores versus percent of undergraduates receiving Pell. So as the SAT math score increases, the percent receiving Pell decreases.

So applying the proxy, so that is as the selectivity increases, the percent of borrowers at that institution receiving Pell decreases. Okay?

So I don't know, converting that into, what does that maybe mean, right? I'm not going to do a lot of interpretation. I'm going to let you guys think about that.
But to me, there's some evidence here, or some data here, that suggest that the difference may not be the student. It might be the institution and the selectivity of the institution affecting repayment rate.

And there are lots of ways to think about it, and probably a number of graduate theses associated with that very topic. But I'll answer questions to the best of the ability, but we wanted to make sure we talked you through it on the record so we had gave you guys a chance to ask questions about it.

MS. BUCK: Johnson, and then Chad?

MR. TYLER: Hi, Sarah. Thank you. This is Johnson. So pages 3 and 4, these are the ones that intrigue me the most.

I understood 3 saying that the higher the SAT score, the more, the higher the Pell students were repaying their loans. Is that right?

MS. HAY: No. So that was the last one we did, which is the higher the SAT score,
the lower the percent that are, of the borrowers at that institution that are receiving Pell.

PARTICIPANT: I think our pages were stapled differently.

MS. HAY: Oh, your pages were stapled differently. Okay.

PARTICIPANT: I just wanted to let you know.

MR. TYLER: Oh, thank you. Okay.

MS. HAY: Sorry about that.

MR. TYLER: Okay. I guess my, I guess what I'm trying to understand is why are the last two slides you showed inconsistent? I mean, aren't they reinforcing the same principle? Or -

MS. HAY: I think they are consistent.

MR. TYLER: They are consistent? Okay.

MS. HAY: Yes.

MR. TYLER: Okay. Thank you.

MS. BUCK: Chad?

MR. MUNTZ: To try and pull back one
of the conversations we had with you, I think, over this week about repayment rates and what would be a good rate, just curious if this helps provide that?

If it's an institutional driven thing, and we see a repayment rate of, I don't know, 20 percent, or even 40 percent, that looks like it would carve out a very small group. Do we know what kind of institutions are in that area?

MS. HAY: We did not look at that, but you're right. Looking at a scatter plot of data is one way of identifying a threshold.

I think the Department is considering computing repayment rate at the, at the program level, not at the institution level. And so, where that break in the data is might look different when we plotted programs.

MR. MUNTZ: Okay. And then, the second question is do you know what institutions tend to fall with the lowest repayment rates?

I mean, that's one of the key things is getting the loan money back to the federal
government. So any insights about that?

MS. HAY: We didn't look at it.

MR. MUNTZ: Okay.

MS. HAY: If you were to submit an email to Scott, we could pull that information for you. Okay. It's a publicly available data set, so, yes.

MS. BUCK: Jordan?

MR. MATSUDAIRA: So, first, thank you for the data. I just wanted to make a comment, which is just about the kind of aggregate relationship between repayment and Pell.

So in the same way that the aggregate relationship between repayment and Pell, which is to say that you see an aggregate schools with a higher fraction of Pell, students seem to have lower repayment rates.

But if you disaggregate the data and look at repayment rates for Pell students versus non-Pell students, as I'd suggested, you actually see that, you know, schools with higher shares of Pell, even the non-Pell students do worse.
So suggesting, you know, as you, as you were characterizing it, that school quality here really plays a role in differential access to better quality schools between richer and poorer students is partially explaining these patterns.

I just want to say that the same logic applies to looking at the disaggregate relationship between repayment rates and SAT scores, okay?

So you know, we know there are big correlations with socioeconomic status and how students score on the SAT. And so, if you have the microdata to be able to look at students with high SAT scores and low SAT scores, then you might also conclude that this is less of a kind of relationship between students SAT or that kind of academic background and repayment rates per se, but rather students with different academic preparation are attending different schools with different qualities, in the same way that we came to that conclusion with the Pell data.
So I realize those data are not available for the Department to be able to do that analysis, but just want to caution in the interpretation.

MS. BUCK: Thank you. Chris Gannon?

MR. GANNON: I'm just a little confused here. What exactly, like, is the purpose of looking at this data, and what are we, what are we trying to accomplish with this?

MS. HAY: So these data, really we're satisfying a data request we received two days ago. And so, we ran it for you, we put it on the back table, and the Department wanted me to come back and walk you through it for the record.

MS. BUCK: Sandy?

MS. SARGE: I think my, maybe I, Sarah, could you expand a little bit? What was the actual request, or your understanding of the request?

I just want to make sure I'm remembering which of the many that were talked about, and then I have a question. Oh, was it
yours, Jeff?

MR. ARTHUR: Yes. My request was to, the relationship of five-year repayment rate to the percent of students that received Pell.

MS. SARGE: Okay. So, my, I'm just going to throw this out there, especially when you look at the SAT scores.

So there are colleges out there that have a limited amount of ability to accept everybody that applies. I think the state schools probably get, I mean, Pamela, you gave us in the first week, a tremendous thing, right? Interest, couple hundred thousand, application, 50,000, and then, you went down the list until you get to about 5,000, and then 1,000 that actually attend, or something thereabouts, right? Roughly, that span.

So the fact that students that want to go to certain institutions, but can't get in because of limitations, let's just say it's limitations due to the capacity of the school, and not, you know, they're going to take the
cream of the crop, the ones with the highest eligibility requirements, or standards.

So then, you have all the students that are left that don't get into the, all of those prestigious schools. So what happens to them in this world?

They go to their second, third choices, or the school around the corner, or they rethink their life, and maybe they pick another school.

So now, the cream of the crop is off at the public schools and the private not for-profits, and some of the elite for-profits that we all know, and now you're left with the students that are, by this definition, have lower SAT scores.

So I'm, I feel like there's a lot of vilification happening, if that's even a word, for schools that have a more lenient enrollment for, enrollment policies, for students that don't get into these other schools.

What are we going to do with all those
students if we go harsh on everything we're
talking about here? Just a question of, we've
got to figure that out.

    MS. BUCK: Marc Jerome?

    MR. JEROME: So I think this is an
area, the institutions are really looking for
some guidance from the Department, because in
some ways, we're getting very mixed messages.

    I took a look at our data, and our
data, the results of students who receive Pell
and don't receive Pell were about 16 points
different. Very different.

    And my institution has a very robust
support system around students who borrow for
about 10 years, but I believe we are
intentionally guiding students into certain non-
amortizing programs because the staff feels it's
the right thing for the student, and it's not an
indication of a problem with the quality of the
program in the city of New York. If someone's
earning $40,000, they may want to start off at
interest only.
So I guess, what I'm, and I guess I'll say this. When repayment rates came out, there was an implication that a low repayment rate correlated to student default.

That if you had a 20 percent repayment rate, it meant 80 percent of the students were going to default, and I believe that is completely untrue.

And so, I guess I'm asking the Department to think about the messaging of how this all works together, because you know, we're institutions. You are our regulator.

But we look to you to guidance on what's the right thing to do, and I would say, at least in my institution's case, and I have to give some direction, it's unclear to us what the right thing to do is.

MR. MARTIN: Well, I don't think I'm in a position to say for, on behalf of the Department, what the right thing to do is, so I won't go, I won't go quite that far. I don't flatter myself that much.
But I don't think, you know, as far as, I guess you're referring to what's, repayment programs you're going to counsel students to get into.

We, I would just want to say on the record, for the record, we don't look at any of them pejoratively. You know, I mean, so obviously we offer, now, I understand the point you make about how it reflects in repayment rates.

And I've heard that, and I, we get that, but I just want to say that we're not looking, we're not, we're not ranking the repayment options available.

Obviously they're out there, either regulatory or in statute, and I don't think the Department's going to make any assertions about which is better or what you ought to do. So --

MR. ARTHUR: But you actually are, because we are sitting here with a proposal that a low, a high percentage of students in non-amortizing is a reflect, is a negative reflection
of the institution, and we're proposing a penalty phase for it.

And so I'm going to continue to question the validity of sanctions around something like loan repayment where, and someone could help me out.

I believe half of all Americans who borrow are non-amortizing, and I haven't even looked at the data on Pell students, what percentage are non-amortizing.

So I'm just, you know, I'm just raising the philosophical question, and you know, I'm a, especially with, still 500,000 students defaulting, and the Department not seeming to focus on that anymore.

MR. MARTIN: I mean, I'll just close out by saying, I hear you. I hear you. We'll take, we understand that. I'm not saying that you don't have some valid points.

I mean, the package is about, and I, and we've talked about the balancing acts involved here, and what, why we reintroduced the
repayment rate.

And so, I get all of the concerns. I mean, we, at this point, I think, and we brought Sarah up here to get through the data, which she's done.

So if there are any more technical questions for Sarah, I'll feel free to say, ask, on her behalf, go ahead and ask them. I'm very liberal with Sarah's expertise. Isn't that amazing of how I do that?

MS. BUCK: So, are there --

MR. MARTIN: I guess I have complete confidence in her. But if there are no more technical questions for Sarah, I'd like to move on to closing out Issue Paper 6.

MS. BUCK: Okay. I think that Whitney, do you have a technical question?

MS. BARKLEY-DENNEY: I have a followup question to what Marc just asked, for myself. So we, yes, a large number of borrowers are in non-amortizing repayment plans.

Does that necessarily mean they are in
an IDR plan, or could that also be a forbearance issue? Yes.

Because my understanding is that about 27 percent of borrowers are in IDR plans, which yes, they're non-amortizing, but that's also a huge chunk of borrowers who are non-amortizing who are in a different plan or in forbearance or in deferment.

MS. SARGE: Or they could also be paying interest only.

MS. BARKLEY-DENNEY: Right. Yes. So, and I just wanted to point out, you know, in GE 1, we talked about a 35 percent repayment plan.

So I just, and Anthony had to help me, because I'm not very good at math. So I have four lines here, so I'll have to figure out, or, Number 1, the first page.

So it looks like that 35 percent repayment plan, even in just borrowers who receive Pell, would put the vast majority of borrowers over 35 percent of repayment. Is that a correct interpretation?
PARTICIPANT: This one.

PARTICIPANT: Your first one.

MS. BARKLEY-DENNEY: The first, the five-year --

MS. BUCK: Okay.

MS. BARKLEY-DENNEY: -- repayment plan versus percentage of borrowers who receive Pell.

MS. HAY: Okay. So ask your question again. I was trying to forget which slide.

MS. BARKLEY-DENNEY: So if we put repayment at 35 percent, it looks like most borrowers would be above that 35 percent threshold. Like 75 percent of borrowers.

PARTICIPANT: Institutionally.

MS. BARKLEY-DENNEY: Institutionally. And I think that holds true on the next page as well when comparing repayment rates between borrowers receiving Pell and non, those who aren't receiving Pell.

MS. HAY: So I hear what you're saying, but if I draw a horizontal line at about 0.35, I don't see a break in the data there. And
normally, I would draw a threshold where I see a break in the data.

MS. BARKLEY-DENNEY: But I understand that. But I'm not --

MS. HAY: Okay.

MS. BARKLEY-DENNEY: -- wrong to say that most borrowers would pass that, or most institutions' borrowers would pass that standard.

PARTICIPANT: Most institutions --

MS. HAY: I think I might look at different data to answer that question.

MS. BARKLEY-DENNEY: Okay.

MS. BUCK: Johnson, do you have a question?

MR. TYLER: Yes. I'm looking at the second slide you presented here, which --

MS. BUCK: What's the title, just so we're all looking at the same thing?

MR. TYLER: Five-year repayment rate for borrowers receiving Pell versus five-year repayment rate for borrowers who did not receive Pell.
So you're, Sarah, I understood your conclusion to be that the repayment rate wasn't dependant on whether you receive Pell or not.

MS. HAY: So that's what the data appeared to show if you look at it within an institution.

So at any given institution, and there's variation, right? Like, not all the dots are right on that red line.

But within an institution, what it looks like is that there's a likelihood that the repayment rate will be the same for borrowers that received Pell versus borrowers that did not receive Pell.

The students that are not reflected here are those that did not, I mean, you can't calculate a repayment rate if we don't have information. You know, like if they have private loans, that's not captured here. Okay. This is just --

MR. TYLER: Okay.

MS. HAY: -- Title IV students.
MR. TYLER: So then, I have a very technical question here. So one of these dots here, does this represent a Pell or a non-Pell student, or is that the institution that has both Pell and non-Pell --

(Simultaneous speaking)

MS. HAY: Okay. So we're not, so this would be, what we're graphing here is an institution --

MR. TYLER: Okay.

MS. HAY: -- not students.

MR. TYLER: Okay.

MS. HAY: Okay? So this sort of outlier dot --

MR. TYLER: Yes.

MS. HAY: -- that you see here, would be an institution where, I don't know, 65 percent of them did not receive Pell, but, I don't, it looks like maybe 70 percent of them did receive Pell. No, I said that wrong. Sorry. Brian's (phonetic) getting up and correcting me.

MR. TYLER: Sarah, what was your
source? What is the source?

MS. HAY: This is the Scorecard data.

MR. TYLER: So was that --

MS. HAY: So --

MR. TYLER: -- that was just two columns?

MS. HAY: Yes, but let me answer the first question first and get that right. Okay. So I said it wrong. I apologize.

MR. TYLER: Okay.

MS. HAY: So this outlier here --

MR. TYLER: Yes.

MS. HAY: -- indicates that those that did not receive Pell had, and I'm going to, I don't know, guess, maybe that's a 62 percent repayment rate --

MR. TYLER: Okay.

MS. HAY: -- and those that did receive Pell, it looks like 70 percent repayment rate.

MR. TYLER: I see. I understand now.

MS. HAY: Okay.
MR. TYLER: I understand how that curve --

MS. HAY: All right.

MR. TYLER: Thank you.

MS. HAY: Sorry if I confused anyone.

MR. TYLER: No, no, no.

MS. HAY: I apologize.

MR. TYLER: That's very helpful.

MS. BUCK: So we're focusing --

MR. TYLER: Thank you.

MS. BUCK: -- on questions for Sarah.

Chad, did you have a question? Your card is up.

MR. MUNTZ: No.

MS. HAY: Well, I think Marc had a question that we were going to come back to.

MS. BUCK: Okay.

MS. HAY: No? Okay.

MS. BUCK: Tim?

MR. POWERS: Thank you for this, and I know that this is a response to a data request, so we appreciate you guys putting this together.

And I have strictly a data question
for you, coming at the end of the context that I'm going to provide before, which is, I'm just looking at this, and on the first page, we have an incise of 3,865 institutions. So --

MS. BUCK: Make sure we're talking about the same first page.

MR. POWERS: Yes, sorry. The top page, the five-year repayment rate versus percentage of borrowers who received Pell.

It's kind of irrelevant which one we're looking at, because the point is the same, which is, on the bottom here, we have an incise on the far right of 3,865 institutions.

So let's call it a data set of about 4,000, just to make it simple. I just, I think I want to first reiterate the point that we are looking and proposing under this rule to look at programs, not institutions. And I know that we don't have the data on that, and we have been over this many, many, many times.

But if I remember correctly, last, there was a data request during the last session
about how many gainful employment programs the
Department had collected data on, inclusive of
those programs with less than 30 students.

So in other words, there were about
8,000 gainful programs under current regulation
that were reported on, and I believe there were
another 22,000 or so for a complete universe of
about 30,000 gainful employment programs alone,
under the current regulation.

But again, we're expanding this now to
every single major at every single institution at
the bachelor's degree level and below. So
hundreds of thousands to maybe a million
programs. We don't, we don't know the answer.

So here's my data question. This is a
universe of 4,000, and if we get to a universe of
half a million to a million programs, I think we
can all come to the logical conclusion that these
are much smaller programs in nature.

So my data question is, therefore,
because we're looking at smaller numbers enrolled
in programs, I've always been under the
assumption that smaller programs lead to more volatility in the data. Is that a fair assumption to make?

MS. HAY: Yes.

MR. POWERS: And so, while I really appreciate this, and I know that this is a response, can we really draw any conclusions from this data, on the program level, given that they're smaller, and there is more volatility in those programs?

Can we make assumptions from this institutional data on programs, or can we not draw any conclusions based on this as it relates to majors and individual programs?

PARTICIPANT: Very good speculation.

MS. HAY: So from a mathematical perspective, my recommendation, of course, would be to look at the data at the programmatic level if you're trying to make decisions about programs. We don't have them.

And so, in an effort to get you back the information that was requested, this is what
we had. I would agree, things could look very
different, but it's speculative at the program
level.

MR. POWERS: Okay. I just wanted to
clarify that, and just kind of make sure we were
on the same page. So this is institutional and
not major by major. So thank, I really
appreciate it. Thank you.

MS. HAY: Yes, no problem.

MS. BUCK: David?

MR. SILVERMAN: I have a question for
Sarah. Thank you for this. This is David, for
the record.

Right now, this document, to me, is
like one of those Excel circular references that
go round and round and drive you crazy, so maybe
you can just help me with this.

So page 1 is five-year repayment rate
for people who receive Pell. And then, on page
2, you compare Pell versus non-Pell.

If you did what I, what I would've
done, if you did a five-year repayment rate on
page 1 for people who did not receive Pell, would it look exactly the same as this?

MS. HAY: Yes.

MR. SILVERMAN: Okay. So --

MS. HAY: Well, we did graph it. We didn't print it for you.

MR. SILVERMAN: Okay. So --

MS. HAY: But when we overlaid them, we didn't print it because you couldn't really tell the difference between the two.

But if folks would like to see it, I'm not opposed to showing it to you on the computer screen during a break or something like that.

MR. SILVERMAN: Okay. That was just the missing link for me. Thank you.

MS. HAY: Yes.

MR. SILVERMAN: I'm not, I believe you, so I don't need to see it, but maybe others would. So then you get into SAT math score increases, repayment rate increases, which I get.

And then, page 4, SAT math score increases, the number receiving Pell decreased.
So what's the bottom line here?

   It's, since, because then, if, after reading this, I'm going back and saying, this has something to do with Pell recipients, which is bringing me back to page 1 and 2, which says the Pell recipients have nothing to do with it.

   So what's the bottom line here? It's just really SAT math scores, and Pell has nothing to do with it?

   MS. HAY: When I look at this, to me, I see that there isn't a confounding element that has to do with the selectivity of the institution, and who they admit.

   And without further research, I'm not sure I would feel comfortable saying much more than that.

   It's possible that there are other confounding factors going on also that aren't in our data, and that we haven't uncovered. Right? So we're showing you correlations, but that doesn't necessarily mean causation.

   PARTICIPANT: Right.
MS. HAY: Okay.

MR. SILVERMAN: Okay. Thank you.

MS. BUCK: Kelly?

MS. MORRISSEY: Kelly, for the record.

I have a question on the SAT portion. What about students who don't take the SAT all?

Now, how do they affect this universe, because there are institutional types that have very small percentages of students who take the SAT at all. Community colleges, other certificate granting institutions.

So how would this look, and are they somehow reflected in here where we just have this entire group of students that are not included in the data?

MS. HAY: So that's a good question, and I'll point you to the incise that's at the bottom of the SAT slides, and you'll see that we go, in the first couple of slides, from about 3,300 institutions down to about 1,100 or 1,200 institutions.

And that's because we don't have data
points on math SAT scores for institution. And that is the data we have.

There are other variables on the file. This is the one we picked, but you're right. We can only provide you information on data that we have. But I hear your point.

MS. BUCK: Chad?

MR. MUNTZ: This is Chad. All right. So I, to follow up on Tim and Todd's kind of comments, if we can go to that second slide, because I think that, which is the five-year by five-year, and it was the point that you had made, Sarah, that it looks like the institutions have the same kind of repayment rate regardless of the percentage of Pell.

So if you had 10 percent Pell or you have 90 percent Pell, if your institutions don't repay, they all don't repay. Or if they do repay, they all repay, I think is the statement I heard, correct?

MS. HAY: That's what we saw in the data.
MR. MUNTZ: Okay. So if each of these dots represent an institution that has 20 to 40 to 100 programs, in order to stay at a 90 percent repayment, it kind of draws a conclusion that I would have to say the vast majority of all those programs and all those students are repaying at a 90 percent level.

I don't think we can draw that from the data, because you can have an engineering program. I mean, this is hypothetical. And you can have an engineering program with a 90 repayment rate --

PARTICIPANT: Okay.

MR. MUNTZ: -- and a social work or some other program with a 10 percent --

MR. MARTIN: But you don't know --

PARTICIPANT: How about this side?

MR. MARTIN: -- the vast majority of the students, regardless of the program, have to be paying at that high level.

MR. MUNTZ: But I don't, I don't know if we can draw that conclusion, because it's
just, it's just the average, rather, I mean --

MR. MARTIN: Yes.

MR. MUNTZ: -- I would assume that you're correct, but I don't know if we can, and I'm not a, I'll turn to Jordan or Sarah or someone who's more data sciencey than I am.

But I agree with the notion, but I don't know if the data necessarily can support that statement.

MR. MARTIN: I think probabilistically, I probably could say that it's likely that most students at the top in all of their programs are repaying, to being able to have the institution remain at the top.

MR. MUNTZ: I just, and we don't, I don't --

MR. MARTIN: Yes.

MR. MUNTZ: -- know.

MR. MARTIN: Yes. So I think that there is something that we could learn with that, and that's why I think it offers, and I know there's no break in the data, but if we looked at
and said, like, a 30 or 20 percent repayment rate is kind of where we want to focus, then I would expect a lot of those institutions and programs would all have a 20 percent kind of repayment rate. I wouldn't think of someone --

MR. MUNTZ: But we don't know.

MR. MARTIN: -- but I just think it kind of offers us a, yes. I mean --

MR. MUNTZ: No. I, and like, I totally agree with the, with the sentiment, and the notion. I just, I just don't think we --

MR. MARTIN: Okay.

MR. MUNTZ: -- would know.

MS. BUCK: So Chad, did you have a question for Sarah?

MR. MUNTZ: Yes, I was just hoping we could use this as, for that other second metric, as some sort of point that we could --

MS. HAY: So I think the answer to that question is no, and I'll answer it by playing devil's advocate, okay?

So, say an institution has three
programs, right? And one program has 1,000
students enrolled in it, and that's the one that
has a 90 percent repayment rate.

But these other two programs each have
50 students enrolled in them, and the middle one
has a 50 percent repayment rate, and the third
one has a 20 percent repayment rate.

When you, if you look at, if you
ignore the program group and you look at just the
students, you're going to end up with a pretty
high repayment rate for the institution.

If you group by program, you're going
to see one program that passes, clearly, at a 90
percent repayment rate, right? One that is, and
two that are much lower, where one of those two
is even lower than the other.

And so, if you were to average 90, 50,
and 20, you're going to get a really different
figure for the institution than if you remove the
program group and just average the repayment rate
for all students, or average sort of the percent
of students, ignoring what program they're in,
that are repaying.

    MR. MUNTZ: Yes, I agree, that
    mathematically, that would be the case.

    MS. HAY: Okay.

    MR. MUNTZ: I don't have a problem
    with that. But it still kind of points to where
    the risk would be.

    For that situation to exist, it would
    have to be a very small minority of students in
    the whole vast universe to make that happen, 1,000 to 50 to 50. Fifty are bad.

    So I get that. I'm just trying to
    help us understand that for an institution to be
    good, most of the students have to be doing well.

    PARTICIPANT: Be good.

    MS. BUCK: Chris, did you have a
    question for Sarah?

    MR. GANNON: Yes. So, Sarah, I think
    I heard you say that you stated the right way to
    calculate these rates would be to have the data,
    but we don't currently have the data.

    Can you clarify, are you saying that
the Department is irresponsibly writing this rule by going forward and not having that data?

MS. HAY: That's not a data question I can answer for you.

MS. BUCK: Jennifer, did you have a question?

MR. MARTIN: I would just like to, I would like to respond to that. I don't think, I don't think it's irresponsible on our, on our part that we don't have data.

We did, we did, as we talked about earlier, put forth looking at the repayment rate with, by applying a statistical model.

And one of the reasons we did that is we didn't have anything on which to base an absolute, and absolute floor or cutoff.

MS. BUCK: Jennifer?

PARTICIPANT: I just wanted to thank the Department, because this is actually, and I actually don't think they're being irresponsible at all.

I think, in order to write a good
regulation, and this is why I actually, I'm one of those few people who actually really like neg reg, because I actually think, even if you don't reach consensus, it informs the conversation in a way that helps the Department and it helps all of us, because we'll be going into a comment phase, and I find these charts to be very interesting to the extent that the Department has raised good questions for this last session and around looking at demographics and thinking about sort of where the middle ground is to look at when constructing a rate.

I think this informs us a lot about the, how to treat and how to think about selective institutions, because the message here is that, and there are a lot of really good selective institutions that are making great strides to enroll Pell students.

But the fact of the matter is that they're holding them to a, they're making sure that they're academic, which they should, academically ready to be in their school.
But it also demonstrates, and I think the data shows it, is that you're going to get a different outcome there.

And if a, if a school is an open admission, and they're going through the process of enrolling 80 or 90 percent of their students are Pell, and we're seeing some results there, I think it just helps, this data will help inform the Department when thinking about what the thresholds might be, and it helps me, and so I want to thank you.

It helps me think about what data, and I hope other institutions will do this too, helps me think about what data might be helpful to provide the Department in our comments about what we know about our programs, and at program level, because we can slice and dice some things in ways that the Department actually, you know, might not be as able to about our own students.

And so, this is, I just want to thank the Department, because I actually think it's quite responsible and very helpful.
MS. BUCK: Johnson, did you have a question?

MR. TYLER: I'll pose it a question, but it's a statement, which is thank you for the information.

And I think it's really important, because it shows that the quality of the institution, not the resources of the family, indicate whether a person can repay their debt, instead has to take on, go into a negative amortization program. So I view this data differently.

MR. MARTIN: I think, this is great. I think we just have to agree to disagree on what, you know, on how we interpret this.

I don't, I don't think it serves our purpose to have a cyclical argument about, you know, to what extent it shows the quality of institutions. It wasn't, it wasn't intended to do that.

MS. BUCK: So unless there are more questions for Sarah, we want to express
appreciation for the production of this, and I think we then want to move back to Issue Paper 6.

Isn't that what you were proposing, Greg?

MR. MARTIN: Yes. I'd like a temperature check on Issue Paper 6, at which point we'll move on to Technical and Conforming Changes.

MS. BUCK: So when we looked at Issue Paper 6, you felt like you needed to I think look at 8 first, and now that we've done that and you're looking back at Issue Paper 6, I'll wait until everybody kind of has it in front of them, because there are a lot of papers, aren't there?

Are you ready to indicate a temperature check for Issue Paper 6? So Sandy is asking for just a few minutes to review it, so we'll just let you review it for a couple minutes.

MR. RAMIREZ: And just to clarification --

MS. BUCK: And --

MR. RAMIREZ: -- it's the, it's the
language that was issued with the one change of the consumer testing --

    MS. BUCK:  Right.

    MR. RAMIREZ: -- language that Jennifer had.

    MR. MARTIN:  Yes, thank you, Javier. Yes, I do want to reiterate that. To accommodate those concerns we had in Issue Paper 8, we took this back to leadership, and we are willing to adjust the language in, I think it's 13, right?

    PARTICIPANT:  Yes.

    MR. MARTIN:  Yes, 13, about whether the program does satisfy the applicable education prerequisites for professional licensure.

    We, as we, as I said earlier, would be amendable to strengthening that language such that institutions have to disclose the, whether it meets the licensure requirement in that state, and any other state that they want to make assertion, that they want to make assertions about such that, for any, for any state that the, certainly for the state the institution's in, and
any other states that they want to assert that they meet the licensure requirements for, would be in the disclosure.

We would also append the disclosure to indicate that students, it's incumbent upon a student, if they intend to practice the profession in any other state that's not listed here, to check with that state's licensure requirements.

MS. BUCK: Sandy?

MS. SARGE: Hi, this is Sandy. Just for understanding, does, maybe you guys can answer this, that put out these disclosures.

Do you guys actually list the states in which you believe your, or your certifying, or, wrong word, thinking that your schools do it, do, thank you.

I don't know how to say it, but is it actually, like, it is our intent to comply with the licensure requirements of Alabama, Arkansas, New Jersey, California, and Texas? Just throwing them out. Is that how it is looked at? Anybody?
Anybody who --

MS. BUCK: Greg, do you have a response to that?

MR. MARTIN: I'll let, if that has to do, I think, is your, this is great for the record. Is the question about what the template currently allows for? Because they can, I think --

MS. SARGE: That's a good question.

MR. MARTIN: -- one of the schools could answer that. I'll, Jen, do you want to, no.

The disclosure currently allows for a drop down for schools to indicate the various states that they offer licensure in.

So there, you know, there's two things in play here. With the regulatory language surrounding the disclosures, and how it reflects on the template itself.

So I think, for a lot of are maybe at a disadvantage because you don't use it or you haven't seen it, whereas the folks who have, who
have been subject to GE obviously have worked
with that to a great, to a great extent. So I
think I captured that correctly. But if users
want to add anything, let me know.

MS. SARGE: Can you pick multiple
states?

MR. MARTIN: You can.

MS. SARGE: Okay. There you go. I
like that.

MR. MARTIN: We would be talking about
writing some of that functionality into the reg.

MS. BUCK: Any other questions?
Pamela?

MS. FOWLER: On page 2, Number 7,
where it talks about the total cost of tuition
fees and total cost of books and supplies for the
program, for completing the program. For those
of us that don't know what that is, can we put an
estimate in there?

MR. MARTIN: No, I mean, we, the whole
purpose of this was for students to know what
the, and I understand that a lot of institutions
look at things, you know, every year, and students could take different course loads and whatever.

We, and I think, excuse me, I think where we acknowledge that in the, in the end, in the end, that the student might not actually wind up having been charged exactly what that number is.

But that should be a, I hesitate to use the word estimate. That should be the charges over the entire cost of the, of the education, but, I'll let Cynthia speak to that as well.

MS. HAMMOND: So if your concern is just that your state hasn't set what the tuition fees are going to be going forward, then we do allow you to estimate that.

I'm not sure it's something we could put in the regs or not. We can certainly look at that.

But we want the total cost of the program as best you know it. We understand that,
you know, states change, things change, especially in longer programs.

MS. BUCK: Jeff, did you have something to say on that point?

MR. ARTHUR: Yes. I just have a suggestion, that why not just show one year's total cost, and then the median completion time, and let them do that math?

PARTICIPANT: That would be so much better.

MR. MARTIN: And this is Greg again, for the record. The whole, the purpose of this particular disclosure is to give students the cost of the program, not a year.

And I understand that's probably, in some cases, it's, for a lot of the schools, currently, a lot of the programs, not all, currently covered by GE, that, you know, if it's a, if it's a 13 month program, or a 9 month program, that that's very representative, and that would, extending it to, as, in your case, Pam, you know, extensively, a lot of
baccalaureate programs, that you are projecting it out.

You are looking, I don't want to say projecting, you are looking over a number a years, and that can seem somewhat daunting.

But the, but the goal here is to give the student the cost of the entire program, and for a baccalaureate program, that program is four years. So we would, we would be inclined to stay with this.

MS. BUCK: Whitney?

MS. BARKLEY-DENNEY: Yes. So I just have some, a question about the disclaimer on the top of 4, little Number 2.

It says, if appropriate, a disclaimer states, please note, however, that the institution believes the earnings may be effected by a significant number of students.

I'm just wondering where the enforcement is going to happen on that disclaimer to ensure that both, it is appropriate, which is not defined, and that it is, in fact, a
significant number of students who are affected.

MR. MARTIN: Well, again, yes. This is, this is an assertion being made by the institution, and we would, we would expect that it's, that it's accurate.

We, I, we didn't want to burden the reg or, you know, with all kinds of language as to exactly how we would, we would look at this. I would view this as a, as a program review audit issue.

If an institution is making, is asserting that this is the case, that, you know, a significant number of students who completed our program did not report their income, such as tip income, it would be incumbent upon the school to demonstrate to us that that's the case.

We do the same thing currently with consumer information. You know, if a reviewer's looking at that, and a school puts consumer information out, we would, we would want to be certain that that information is accurate.

And the same thing here. It is, yes,
it is up front, presuming the integrity on the part of the institution for making this statement.

MS. BARKLEY-DENNEY: And I'm sorry, just to follow up with that. There's no requirement in the statement, and maybe it's earlier in the rule and I've forgotten it, because we've looked at so much language this week.

But there's no requirement that this tip income comes from, for example, in Neal's case, where I'm fine with it. It comes from the program that the person trained for, right?

This could be any tip income on any second job or anything they're doing to bring income in?

MR. MARTIN: We don't specify that here. And I don't know. I mean, that's something we have to take back.

I mean, if a, if a school were making an assertion that, well, you know, many of my students, I think that the intent here is for, I
just, I'm not picking on cosmetologists.

I'm just pointing out that in cosmetology, this is something which would probably be a very accurate assertion. Tip income's a job.

If someone was trying to make the case, well, you know, a lot of my students don't get, don't get jobs in the, in the profession for which they trained, therefore, they maybe waitresses or waiters for a while, and tip income could be there.

I don't know how we would look at that. I don't think that's what's intended, but we're not 100 percent clear here about --

MS. BUCK: Chad?

MR. MUNTZ: This is to follow up on that Number 7 again with the tuition fees. I think I have two questions with this.

I appreciate that we can put an estimate. I don't know how this works, legality, if we're trying to disclose if a student actually got charged more than we estimated. I don't know
if that sets up a situation.

MR. MARTIN: Well, I mean, I think, Greg, for the record. There's no, there's no, I think in circumstances, certainly, where a school, where an institution, I think, has a program where you have a student signing enrollment agreements as to the cost of the program, that that's, that we would expect that to be reflected.

Where we're expanding this to, to include all programs, I understand that at, you know, because you, Pam's here, at University of Michigan, she might not know what tuition's going to be in 2000 and, you know --

MR. MUNTZ: Yes, I know.

MR. MARTIN: -- '22. So it might wind up that it isn't exact.

And Cynthia pointed out, and I'll use her language, that to the absolute best of your ability, at the current, at the time you're disclosing it, you disclose the cost for the entirety of that program to make it as clear to
the student as possible.

I also want to ask the question to the group, do you think it would be, if, would you like us to consider for tip income, that, to say that tip income derived from the --

MS. SARGE: Program you're --

MR. MARTIN: -- program for which the student was trained? Or --

PARTICIPANT: Yes.

MS. BUCK: So why don't you do thumbs on that question, just so he can be clear? Is everybody clear about the question?

PARTICIPANT: I'm not. Could you say it again?

MS. BUCK: Could you say the question again?

MR. MARTIN: The question was, because around the table, there seemed to be this idea that this, is this, does this assertion here, is it, are we asserting that the student's tip income is derived from employment in a field which this, for which the student was trained by
the program. And I just asked, I'm asking this as a, to get some opinion.

MS. BUCK: Just to get a feeling, okay? So, can you respond to that question? So it looks like at least two thumbs down. Several thumbs up. Several thumbs sideways.

MR. MUNTZ: And sorry. I did have a second question on the tuition. Back in some days, when I've worked with the private institutions, I think --

MS. BUCK: Can you get a little closer to the mic?

MR. MUNTZ: Yes, I think that there was an issue that, for competition, that you're not always allowed to disclose tuition. How does that work? I don't know if that's still the case.

MR. MARTIN: I don't know what anybody's rules would be about competition, but our rule would supercede that. If you're required to report this --

MR. MUNTZ: Oh.
MR. MARTIN: -- you're required to disclose it, you're required to disclose it --

MR. MUNTZ: Yes. Okay.

MR. MARTIN: -- in earnest.

MR. MUNTZ: Yes, but, and just to sort of align ourselves with our public colleagues on this, I mean, our boards meet twice, three times a year every year, and some of them set tuition really far in advance, some of them set it just a few months in advance.

So I just wanted to align ourselves with the publics, and we don't usually have to deal with state legislatures setting our tuition, so thank goodness for that.

So, but you know, even without the state legislature interfering in sort of our tuition setting, we face those issues as well.

MS. BUCK: Jennifer? Oh, sorry, go ahead.

MR. MARTIN: This is Greg, for the record, one more time. I think, I think the Department, you know, we're, we definitely want
to be reasonable about this.

We would be looking, is a school being
disingenuous in what it's putting out there, not
a got you where, you know, I don't think any
Department leadership would support if a review,
if I were a reviewer and I went out there and
said, aha, you estimated this and it's -- a
student, I can see from the student's, the
student's account that he was charge or she was
charged, you know, an additional $20,000 because
the tuition changed. We would not, we would not
be going down that path.

MS. BUCK: Jennifer?

PARTICIPANT: So, first, I just want
to say why I voted no on the tip question. We
gave up a long time, I think, ago, I think it was
in Gainful 1, on equating the earnings to the,
whether they were trained in the field or not,
because the Department couldn't quite figure out
how to do that.

And so it would be inconsistent at
this point in a disclosure to tie the tips to,
and I think there's actually even a, potentially, sort of a legal sort of aspect to that where, the Department, like I said, they're relying on earnings that are earned, regardless of the field that the person actually ultimately ends up in. And David's now back at the chair, but he can speak to it.

There are lots of people, obviously, who are actors who, you know, are doing tips on the side, making their way as they also act.

And so, I think it gets really squirmy to try to figure out what portion of income is relevant to the, so that's my, that is on that. I don't know.

I have a different point though, which is why my card was up. So on this issue of tuition, first of all, I would propose that if you feel like it can be an estimate, then let's put the word estimate in, which would be hugely helpful. I can't even tell you how much that one word would be helpful.

But then, I also would urge the
Department, and I don't think we're going to come up with this today, but I would strongly urge the Department, when it goes into the NPRM phase, to be thinking, assuming we don't reach consensus, that paragraphs 2, 3, and 7 ought to, they need to really correlate very carefully.

So paragraph 2 is on completion rates for full time, and less than full time students, and withdraw rates.

Number 3 is the length of program and the calendar time. And so the completion rates have to sort of correlate to the length of time.

So that's why they correlate.

And then, the cost has to correlate to 2 and 3. And I think that's, it is very, frankly, confusing for everybody. I think it's confusing for it.

God knows was each of the programs are doing around the country on this, because I don't know that it's consistent across different institutions and how they decipher what you mean.

And then, for the students who are
reading it, there needs to be actually a correlation between those three paragraphs.

   And so, I would urge the Department to consider not actually, even considering not having them be separate.

   I'm not saying not disclose the data, but somehow correlate those three factors together in the disclosure. But I would put on the table right now, adding the word estimate to 7.

   MS. BUCK: Jordan?

   MR. MATSUDAIRA: Thank you. I wanted to ask a quick question about, I think it's Number 10, about the disclosure for median loan debt.

   And I think the way it reads is it says, you report the median debt for any one or all of the following groups.

   And then, and then, the three groups are students who completed, students who didn't complete it, and then, all of the students.

   And I just wonder whether it's not
strange to have the option to only report debt
for students who withdrew, which I think is the
way that reads?

MR. MARTIN: I, yes, Jordan, I think
you could if you're, if you're parsing it that
way. You probably, I mean, so the students who
completed, yes, the following, the following
groups, I mean, I would say that, yes, you,
looked at that way, you, that's certainly not the
way we intended it.

And it's, and in the, yes, remembering
again that we, on the template, in the Federal
Register, we publish which elements we're going
to require to be disclosed. So these are just a
list of those that we may use.

MR. MATSUDEIRA: Okay.

MR. MARTIN: I don't, I couldn't
foresee an instance where anybody would say we're
going to only list it of the students who
withdrew, but you know --

MR. MATSUDEIRA: It would certainly be
lower.
MR. MARTIN: And we could, yes, we could look at it, but I don't, I don't, I see it as something, it's a little bit interpretive, but I don't, certainly that's something, I don't, we would ever do. But --

MR. MATSUDAIRA: Okay.

MR. MARTIN: -- I'll take it back.

MR. MATSUDAIRA: Thank you. And just one followup. I wonder whether there wouldn't be some level of agreement around the table for the idea which we discussed a little bit yesterday, but just to bring it back up again, of requiring the secretary to post some of the program level data on the Scorecards to some of these disclosures.

I don't know, you know, how much of this it makes sense to incorporate into some of the public facing tools that we have.

But you know, to the extent that some of these could be put in a centralized location that's maintained by ed, and kind of more easily accessible to students.
You know, again, especially the things
that Ed is kind of already just calculating from
their own data, like whether it's the Scorecard
or something similar, just like a kind of program
level pages for the Scorecard so, you know,
things like earnings and debt are kind of
straightforward.

And then, if you are incorporating the
disclosure things, you know, bringing in cost of
attendance and time to degree, like Jeff was
suggesting, I think would be potentially burden-
reducing.

I don't know how that part of the
equation would shake out, but at least very
helpful to students. I wonder whether, if some
language like that couldn't be incorporated.

MR. MARTIN: I think we are going,
Greg, for the record. We'll, we certainly will
consider what additional information we can
publish in the Scorecard.

I don't, I'm not going to, I don't, we
wouldn't be, we wouldn't be accepting of anything
that would obligate us to do, to do that, at this point.

MS. BUCK: Chris Madaio?

MR. MADAIO: Chris Madaio. So a few points on the disclaimer. On the second Roman numeralette, 3, the institution believes that the data used may not reflect earnings potentially in your geographic location.

My concern might be that any school that enrolls students nationally would put that on there, thus kind of challenging, I mean, I understand, that is a point they would make.

But also, I mean, obviously the earnings incorporates their students, which are national, if that's the case.

So I just think, again, over disclosing too much information, it's going to become confusing.

It makes the disclosure of the debt to earnings less valuable if we're adding all of these phrases on that seem to essentially say, but you should ignore it because of all these
reasons.

I mean, again, maybe some consumer testing would be good on this to get what the objective of that is, and to get what a consumer takes out of it, because I don't think it adds a lot of value, and only adds confusion.

As the, in the first, this disclaimer, you know, I think it should be a little more declarative, as far as, you know, it says, the university believes that the earnings may be effected by a significant number of students, and I think to accomplish, Greg, what you said before, that the university is stating that it believes that its graduates, a significant number of them, have all of those scenarios, you know, I think it should be a little more clear to the student that this is a significant number of its graduates have this outcome.

And again, triggering a moment of pause for the student to understand, you know, why this would be.

And again, I guess I, as far as the
tips being derived from the program, you know, I think that's important simply to ensure that the student understands why this is.

So you know, I get why you don't do it in the debt to earnings calculation itself, but you know, if a school believes that that's the case, if it's a drama class, or a drama program, I mean, a lot of those students probably aren't making tips in the drama use of that degree, but a lot of them may be making tips in the "waiter or waitressing" part of that degree, because that's the job I guess they have to get if they can't find a job.

So a student should know that, and it shouldn't, I should be clear to that student that that's where they're getting the tips because they may not be able, a significant number of students may not be able to find jobs in that field.

I would definitely, it was a suggestion, so I want to make sure the Department doesn't do this, which is to have one year of
tuition instead of the full course of the tuition.

I think if a student sees one year or one semester's worth of tuition, that would be deceptive for them, and they're not, may not always do the math to calculate it.

And then, I just would think, there was a discussion, the Department was going to alter Number 13, as far as the licensure bit, and I guess I would just like to see that language.

Maybe if they could write it, or over the break, lunch break, kind of put forth how they would propose to alter it, so when we vote on it, we know what we're voting on. Thank you.

MS. BUCK: So we have about 10 minutes before lunch, so I just wanted to give that time check. I think John is next.

MR. KAMIN: Yes, John Kamin, for the record. I, Jordan kind of took what I said, and I just want to re-emphasize, when it comes to transparency and informing consumers, there is numerous references to College Navigator and
College Scorecard that all indicate that the school's disclosure website needs to link back to them.

And that does seem to me fundamentally backwards and how to do this to the point that if I wanted to find a school disclosure, I mean, or information about gainful employment, for that to be absent from the College Navigator, my recourse is then to Google a school and find through just public domain, where that is.

I think that it's incumbent upon the Department of Education to include this in the College Navigator, and that really, I'm not sure if it needs to be put in the CFR.

It could be done without having to rewrite regulations, but again, I mean, with the intent being that we're raising awareness for students to know, it seems like a common sense thing that I don't see any opposition to.

MS. BUCK: Mark (phonetic)? Johnson? No. Yes.

MR. TYLER: I would, I would agree
with John and Jordan's point. It is difficult. I found it difficult finding the disclosures on various websites.

I want to just go back to what Kirsten had said earlier on today, which is what about language. I just found four schools that are advertised, that have the Spanish pages about their HVAC, beauty, massage, medical assistant school.

I think there has to be something that says, you know, if you're presenting information in Spanish, the disclosure, or whatever language it is, it should be compatible.

I don't think it's a big problem for the schools. They have things that say translate this page. It just should make sure that it translates over the disclosure page as well.

Thank you.

MR. SILVERMAN: This is David Silverman, for the record, speaking on behalf of performing arts. This disclaimer is, would be extremely helpful. It would be perfect.
I mean, we have everything for our students, and we don't make train for it, but we have everything, and then we have tip income, we have self-employed, we have business expenses, part-time, and everything else. So, thank you.

However, my question is, would this be applicable for the performing arts? Please say yes.

MR. MARTIN: The way, the way, the way that the regulation, the proposed regulation is currently written, it would not preclude that. Yes. You see, I mean, the way it's written, it simply says tip income. You know?

MR. SILVERMAN: Thank you, Tony.

Thank you.

MR. MARTIN: I'm learning to be a lawyer from Steve. So --

MS. BUCK: Jennifer?

PARTICIPANT: I just wanted to comment on something that Chris said about the geography disclaimer, because I hear, you know, actually I think I hear him on that.
And I just wanted to say that maybe it could be so simple, because I don't love the institution believes part either, to be honest with you.

It's just a general, it's a factual statement that earnings vary geographically, and so, couldn't it just be, literally, a note, earnings can vary significantly one part of the country to another, without the sort of first part, it would literally be just the last phrase?

Because the whole, may not reflect your earnings, put, like, all that piece, so it's just literally a statement where an institution, if an institution has high earnings, it's covering every base.

It's covering all scenarios, frankly, to just make the factual statement that earnings vary, which is true. Just a thought.

MS. BUCK: Jessica?

MS. BARRY: Hi, Jessica Barry, for the record. I actually wanted to comment on the geographic statement too. I think the simplified
version would work too.

But I just wanted to give you an example, and I actually have gotten this complaint at our school.

So our median income is in the high 30s, and we have many students who come from rural communities, and we talk to them when they enroll, and we say, you know, if you choose to move back to your rural community, you may not be able to achieve this median. But a lot of times, they didn't listen.

Now they're back in their small community where employment opportunities are very few, and they end up making maybe 20 percent less than what they say we have told them they would make. So I'm, I definitely want to support this, and I hope you all consider supporting it too.

MS. BUCK: So would you like to take a temperature check on Issue Paper 6? All right. So --

MR. MARTIN: I don't know, I can't do language right now. You know, it's going to take
some time, if we're still doing that.

MS. BUCK: You're thinking about the language?

MR. MARTIN: If we want the language --

MS. BUCK: You're thinking about the language that's --

MR. MARTIN: If people want to see the language that would be adjusted for the disclosure, on 13.

MS. BUCK: Do you want to have a temperature check of it as it stands?

MR. MARTIN: Yes. Take what, take it as it stands.

MS. BUCK: Okay. So show of thumbs, as it stands. One, two, three --

MR. MARTIN: Greg, for the record. What I can do is work on the language at lunch, come back, present it to you before we take a vote on the package.

MS. BUCK: Okay. There were at least six thumbs down, that I saw. So I think it is
time for lunch.

After lunch, we will come back and look at Technical and Conforming Changes. We want to let you know that at some point this afternoon, we are probably going to have a round where we ask each person to think about what is most important that you want to leave the Department of Ed with.

So I'm just telling you that so you can kind of have that question in your mind ahead of time. So we will come back. Again, we have to allow an hour and a half, so I think it will be 1:30.

MR. RAMIREZ: A two-minute statement.

MS. BUCK: Right.

MR. RAMIREZ: A short, brief --

MS. BUCK: Not a long statement from each person.

MR. RAMIREZ: -- statement.

MS. BUCK: A very short statement.

Thank you, Javier.

(Whereupon, the above-entitled matter
went off the record and resumed at an undisclosed time.)

MS. BUCK: Okay. Welcome back, everyone. I think what we're going to do is start with tactical and conforming changes, and then come back to the Issue 6, in terms of having it ready for projection.

So, Greg, I'll turn it over to you to talk about technical and conforming changes.

MR. MARTIN: Thank you. So we're looking at technical and conforming changes. And I had initially thought that we wouldn't have to do anything here, but we -- a couple of things we do have to consider. So bear with me while we go through this.

So the summary of changes since -- as a refresher -- I know this is going to sound somewhat convoluted, but as a reminder, remember, there were certain areas of disclosures in 41, 668.41, that even though none of that was -- none of that was pertinent to our discussions about -- about DE rates or GE/DE, it -- we were...
tasked with looking at it because it was -- it had to do with disclosures and because we were -- we were dealing with disclosures, even though our disclosures were in a completely different section.

So that was the way it was initially.

Then the borrower defense negotiators took back 41, or they had taken back -- taken back responsibility for 41. So what you see here is that there is a reference here to requiring schools that use pre-disputed arbitration agreements or class action waivers to disclose the information -- disclose that information, rather, in an easily accessible format for students, prospective students, and the public, and to require these schools to provide an annual notification of this information to enrolled students.

We note here this is an -- this is an issue for borrower defense that we are currently tracking. We don't have to track this. Borrower defense took it back. So we are not going to
look at pre-disputed arbitration, which is a subject with which I only have a nodding acquaintance. I know what it is, but I have not been dealing with it. So we're not going to deal with that.

However, when we look in here, if we turn into the document to -- if you'll follow me to page 4, at the bottom of page 4, under Reporting and Disclosure Information, you'll note that this has been struck. It's not highlighted, but for procedural reasons we have to -- I have to raise this. I have to raise this topic here and mention it, although we're not going to be making any decisions about this.

As you probably are aware, borrower defense negotiations have concluded and consensus was not reached. So the Department is currently in the process of drafting a Notice of Proposed Rulemaking for that.

However, these -- these areas here have to be just noted and brought up here. So even though it's struck out, I refer you to the
bottom of page 4, Financial Protection Disclosures. And we note that the Department proposed to remove these financial protection disclosures, and that was that the institution had to deliver to enrolled and prospective students.

These are basically disclosures dealing with financial protection triggers. So when there were triggering events that were -- were apparent, that the school would be required to disclose those. So you'll see that actually all of Section -- this is Section I, I believe, right? Has been struck.

Just to make sure I have this right because I was not 100 -- okay. Yes, right. Right. So it's 41-I, 668.41-I has been struck. And I would refer you to -- to moving on to page -- so we follow all of that through.

All disclosures -- this follows all the way through to page 7 where you'll note that we start with H, which in the normal course of things comes before I, but not here.
(Laughter.)

MR. MARTIN: So it was a little bit of a --

PARTICIPANT: It might have been a cut and paste.

MR. MARTIN: It might have been a cut-and-paste issue. Actually, it was entirely intentional and it's very complex. I just don't want to go into it. No.

(Laughter.)

MR. MARTIN: No, it's not that at all. It was a cut-and-paste issue.

So H as well, which is loan repayment warning for -- for proprietary institutions, this is -- this requirement to issue a warning for loan repayment has also been struck. So I don't -- it's very -- it's a fairly lengthy section here. It talks about how the institution was to -- to post the warning, and that goes on until the bottom of page 9.

So I bring it up. If anybody wants to say anything about it at all, it's -- I mean,
it's kind of a -- I don't know how much good that would -- well, the Department is currently writing the NPRM for it. So if anybody has anything brief they want to say, I'd be willing to entertain that. I have no further comments on the matter.

MS. BUCK: You don't want -- you don't want to go on to page 11 until they comment on the other parts?

MR. MARTIN: No, we're not going to do page 11 at all. We're not too -- we're not discussing pre-disputed arbitration at all.

Anything else, Steve?

MS. BUCK: So are there comments or questions? Chris?

PARTICIPANT: So I understand the process, so are you looking -- going to be looking for a temperature check on these issues?

MS. BUCK: First, I was asking if there were comments or questions.

PARTICIPANT: So, okay, I guess -- I mean, my comment is just this is difficult to
vote on. I mean, obviously, because it touches other things. So, I mean, if I was asked to take my temperature on this -- this technical conforming issue paper, I think I would be a down vote because I just disagree with all of the other things that it is changing.

I understand why this is a technical thing. It's not the substance, but -- so I guess that's my question. If you're looking for a temperature check, as I'm telling you now, that's my comment is that I just disagree with the underlying substance.

MR. MARTIN: I was just -- in talking to our counsel on this, who was involved in this issue, so as a clarification, the pre-disputed arbitration was already decided by that team. This has not been. We do need an up or down -- we need an up or down on consensus on this -- on this particular -- on these two -- on these two sections of the regulation.

So continue, Chris.

MS. BUCK: Okay. Just clarify to help
me, Greg. Which two sections?

MR. MARTIN: Sections I --

MS. BUCK: I --

MR. MARTIN: -- which in our -- for our purposes here is coming before H. I and Section H.

MS. BUCK: -- and Section H.

MR. MARTIN: Right. So I will -- pardon? No, starting on -- so starting on page -- yeah, I goes back to page 4, I believe. Right. So those two pages. I apologize. You probably haven't given this much thought, but -- but to the extent that you do have any comments or opinions, please let us know. We are required to vote -- to vote up or down on this.

MS. BUCK: It's page 4. So by page, it's page 4 through 9.

MR. MARTIN: It starts -- it's Section I and Section H of 668.4 -- .41.

MS. BUCK: Which ends at the bottom of page 9. Is that correct?

MR. MARTIN: No, wait. Maybe not.
Hold on a minute.

(Simultaneous speaking.)

MS. BUCK: That's why I'd like to have the page number, so we're all really clear. So page what to page what? And then page what to page what?

MR. MARTIN: Yeah. Right. Four to 7, and then H starts at the -- on -- and I do apologize for the -- for my lack of preparedness here. But I was -- H is starting at the top of page 7 where you see those four asterisks there. And then going on to page 8. And then on page -- through page 9.

MS. BUCK: So it's pages 4 through 7, and then the H starting on 7 through 9. Is that right?

MR. MARTIN: Correct.

MS. BUCK: Okay. Okay. Before we take a temperature check, does anybody have any questions? Sandy?

PARTICIPANT: Okay. I just don't even know where this falls in. So could you just help
me. What do we use this for? I apologize for being ignorant on this.

MR. MARTIN: I apologize for the last-minute aspect of this. This is part of borrower defense. It has nothing to do with -- with our renegotiating gainful employment rules or debt to earnings. It's entirely related to borrower defense.

At a certain point in time, the disclosure aspect of borrower defense was turned over to this group because it was related to disclosures, though we don't have any disclosures in this section.

So it -- that's what happened. So there was some uncertainty over what part of that the borrower defense group took back. So in this paper, it's written -- we do have on 11 that the -- the part that is highlighted that we're not going to deal with has to do with pre-disputed arbitration.

They took that up and considered it in borrower defense. So we have nothing to say
about that at all here. However, the areas related to striking out the -- those disclosure requirements related to the trigger and also the warnings were not -- were not considered there. So we have to consider them here.

PARTICIPANT: And they're struck out.

MR. MARTIN: They are. Yes. Their being struck out indicates that the Department -- the Department proposed to strike those, and there was no consensus reached at that -- that negotiating session. So that's the way it remains, with the Department proposing to strike these.

MS. BUCK: So Whitney, and then Kirsten.

MS. BARKLEY-DENNEY: I still don't understand what I'm doing. So would this be imputed somewhere in the rule that we're working on now.

MR. MARTIN: This has nothing to do with the rule we're working on now. Absolutely nothing. This would not have any effect on what
we're doing -- this particular rule. This is related to borrower defense.

MS. BARKLEY-DENNEY: So why am I voting on it?

MR. MARTIN: I -- the best I can do is to tell you that we were tasked -- this group was initially tasked with looking at all matters related to disclosures, because we are dealing with disclosures, though I will admit that, yes, our disclosures are not borrower defense disclosures.

There was some confusion as to whether or not the borrower defense team had taken that back, but a portion of that was back. Apparently, this -- these two items were not wholly considered by the borrower defense negotiating team. Therefore, we have to consider them here.

MS. BARKLEY-DENNEY: So given -- I mean, I didn't follow borrower defense very closely. So how am I to contextualize this within borrower defense if that's not a rule that
we have negotiated or followed?

MR. MARTIN: I'm going to -- I will turn that over to counsel.

(Laughter.)

MS. BARKLEY-DENNEY: I'm not trying to be difficult. I just want to make an informed vote, and I don't -- I don't know what any of this is or does.

MR. FINLEY: So this is Steve. This is just to give Greg a break, and so I can say the same thing that he has been saying to you.

(Laughter.)

MR. FINLEY: So we can take turns. This is a -- the proposal to strike these provisions was shifted over to this group because we're dealing with other disclosures, and these were disclosures. It's the trigger that would have been required if one of the financial responsibility standards had been caught that had been in the original borrower defense proposal.

And a loan -- a more detailed loan repayment rate disclosure is what it looks like
to me. But the proposal for the Department was to just strike those provisions from the disclosure section, so they were given to us to note in these discussions, that the pieces were being struck.

And this third part about the arbitration agreement evidently did get language that was proposed that did get taken back and discussed in the borrower defense group. So it's -- that's the best explanation I can give you.

MS. BUCK: Kirsten?

MR. RAMIREZ: Let me just jump in real quick, because I don't want to waste too much time on this because it -- if I -- if I understand this part correctly, the vote is more for procedure and formality, because borrower defense there was no consensus. It is being drafted, and their final rule will include elements of this, which is being drafted by the Department right now anyways.

So the outcome will be for advisement purposes, but not necessarily for approval.
Would that be accurate?

MR. MARTIN: Just as a clarification, Javier, it will -- the Department's rule will not include H and I because they are being -- they are being struck.

MR. RAMIREZ: Okay. Okay.

MS. BUCK: I think -- I think Kirsten was next, or did you want to say something? Sure.

MR. MARTIN: One second here.

MS. BUCK: Sure.

MR. MARTIN: We're bringing up -- this is Amanda Ayman (phonetic). She is one of our attorneys who worked on borrower defense. Amanda is going to contradict me, apparently, so since I don't know anything about this subject, or very little, there is no offense taken -- taken or offered. So --

(Laughter.)

MS. AYMAN: Hi. Amanda Ayman. These two disclosures were -- have always been part of the gainful employment portfolio. We just
haven't discussed them.

The Department is proposing for this group to vote on that we strike these two disclosures. The first disclosure, financial protection, that one does relate strictly to borrower defense. The idea was that in borrower defense there are triggers that if the -- if certain events happen that could potentially jeopardize an institution's finances, then they would have to issue a letter of credit to the Department.

Most of those triggers have been -- they have proposed to eliminate. So there was no consensus on that. The Department is considering what triggers there should be, but in reality it would -- there would no longer -- it would no longer be this robust structure under which letters of credit would be required.

So we think that the Department's position is that this probably wasn't ever a particularly useful disclosure for consumers. We had never come to agreement on what language we
would use in that disclosure, and we also think it's a bit of a moot point now, since most of that -- those provisions have been eliminated -- or we propose to eliminate them. This --

PARTICIPANT: This does, however --

PARTICIPANT: I know what you're going to say.

MS. AYMAN: The second one is not limited to borrower defense. It's a loan repayment warning that was solely applied to proprietary institutions, because the Department is now not treating proprietary institutions different from other institutions. And because we are taking up loan repayment issues through the -- our new regulations, we don't think it's appropriate any more to have this additional disclosure.

MS. BUCK: I think Kirsten was next.

MS. KEEFE: Yeah. That was essentially my question. If the issues were (inaudible).

MS. BUCK: Jennifer?
PARTICIPANT: I think I'm okay now, especially on -- what I was going to ask is, do we have to vote for these together in one vote? Because H makes a lot of -- I mean, to me, it makes a lot of sense because we're having a whole conversation. And loan repayment rate has flip-flopped between two different NAG-regs (phonetic) for a while.

And so the inclusion of this here makes sense to me, because we're dealing with it in this rulemaking. And it wasn't dealt with in the other one, so it makes sense.

The other disclosure, honestly, that's a little bit out of left field because it was never in gainful, like ever. And so this one -- I seems a little bit out of left field for us now to -- so, to me, there are two sort of votes, because I might vote different. I mean, I don't know for everybody, but it -- I think people can wrap their heads around loan -- the loan repayment rate piece.

And then I would just say, honestly,
I'm not sure why you even included the arbitration piece in here if we don't have to vote on it. It's like your technical correction but not ours. So -- yeah, so it probably shouldn't have been in this document, because I think that's part of the confusion.

MS. BUCK: Tony? So do you want to have a temperature check of each of these separately, then? Do you want to start --

MR. MARTIN: We're okay with that.

MS. BUCK: Okay. So do you want to start with I? Pages 4 through 7. Okay. Do you want to -- thumbs, put up thumbs?

PARTICIPANT: Five. Five down.

MS. BUCK: Five thumbs down. At least. Not sure everybody voted, but five thumbs down.

So now we will go to H, which is pages 7 through 9. You look puzzled. Oh, I'm sorry. You wanted to say something, Jeff? I'm sorry.

MR. ARTHUR: Yeah. I was just going to make one comment before we voted on the next
one. The warning language that is there was developed prior to understanding that the national repayment rate was what it is. It was thought to be considerably higher than it actually was, and so it never got adjusted after that. So it's a really inappropriate warning that would apply to 53 percent of everybody in higher ed.

PARTICIPANT: So the one we're about to vote on.

MR. ARTHUR: That's the H that comes after I.

MS. BUCK: Okay. So now we're on to H, pages 7 through 9. So do you want to show thumbs on that one?

I think there are at least five down. So five down for each, it looks like.

So thank you.

MR. MARTIN: I want to thank Amanda for her able assistance, and also thank all of you for your indulgence.

MS. BUCK: So now I think we're back
to the changes that were proposed for Issue Paper
6. Is that right?

MR. MARTIN: Correct. Hold on one
moment while I pull that up. Okay.

PARTICIPANT: We just need -- we just
need another minute to get it up on the board.

MR. MARTIN: Okay. No problem. We
can wait.

(Pause.)

MR. MARTIN: Since we have dead air,
I'll just say that for all you liberal arts
people out there, of whom I include -- I include
myself among you, since yesterday was Pi day,
which I never have much interest in -- my
daughter loves that kind of thing. But today is
the Ides of March, so that is more of, you know
--

(Laughter.)

PARTICIPANT: Beware.

MR. MARTIN: Beware of the Ides of
March. And my colleagues have told me I'm not
allowed to make any jokes about who is to be
praised or buried, so I'm not going to go there.

So --

(Laughter.)

MR. MARTIN: But I would sorely love to go there, but I'm not going to. I could make some bad jokes, but no. I don't know what it means, but the Ides of March mean that much -- but you can remember, those of you who had Latin, the teachers always loved, you know, dressing up on that day or something, whatever, wearing a toga.

(Pause.)

PARTICIPANT: Daniel, may I suggest, you know, giving a time limit? Just the technical difficulties of getting this on the screen continue.

MS. BUCK: So that we could just go forward without it, you mean?

PARTICIPANT: Yeah.

MS. BUCK: Okay. So maybe one more minute, and if it's not up, we'll just have to talk through it. Okay? And we appreciate all
the efforts of the people who are working on it.

PARTICIPANT: No pressure, Erin.

MS. BUCK: Look, there's something on the screen now.

MR. MARTIN: Okay. Are we live? Okay. This is Greg for the record.

So in looking at this again, when we went back over lunch and looked at 13-I, we -- so we believe that this does -- what we currently have here does satisfy what -- what we were talking about in rereading it and considering it more closely.

So we're talking about whether the program does or does not satisfy. So in the disclosure, the school is -- is stating whether it does or does not --

MS. BUCK: Just a second. What page is it? I'm sorry.

MR. MARTIN: Page number 4.

MS. BUCK: Okay. That's where I was. I just wasn't in the right place.

MR. MARTIN: Page number 4, Issue
Paper 6.

MS. BUCK: Yeah.

MR. MARTIN: About halfway through.

13, Romanette one.

So if we look at A, the applicable educational prerequisites for the professional licensure or certification in each state within the institution's MSA. So we already have that, and we already have the applicable educational prerequisites for professional licensure or certification in any other state for which the institution has made a determination.

So what we're saying here is that the institution is -- must disclose for its MSA, which just to make it simple would be -- so for Washington, D.C., it would be Washington, Maryland, and Northern Virginia, right? So whatever the MSA is.

And then the applicable educational prerequisites for any other state for which the institution has made a determination. So if they've made any determination about that, then
they would have to -- to certify whether -- not certify, but disclose whether the program does not -- does or does not satisfy the applicable requirements for those states for which they have made the determination.

Now, if you drop down to Romanette two there, for any states not described, a statement that the institution has not made a determination with respect to the licensure or certification requirements of those states.

So we have not required institutions to list every state for which they haven't made a determination, but -- but pretty much the -- on the template, that's pretty much inferred. If you haven't made a determination for that state, those other states you have not made a determination for.

We have included on here the -- just to note the template will include a notification to students that they need to be aware of the requirements for states; any state for which the institution has not made a determination.
So we feel that that adequately covers the MSA and any other states that the institution is -- is stating that it has made a determination about professional licensure for.

(Simultaneous speaking.)

(Pause.)

MR. MARTIN: I was just waiting for that language to be pulled up. At the bottom there you can see in B the only language we added was "And it is incumbent upon students to know the licensure or certification requirements for states. The institution has not made the determination with respect to their licensure or certification requirements."

PARTICIPANT: Hey, Greg, there was also some agreement on consumer testing language, the language that Jennifer had proposed in the morning. I thought that there was some agreement on that as well to include that.

MR. MARTIN: There was, yes. We -- we agreed to include that. What's here doesn't.

PARTICIPANT: So that's not included
in this draft; is that correct?

PARTICIPANT:  (Inaudible.)

MR. MARTIN:  Okay. It is included.

We'll pull it up.

Yeah. The new language is at the bottom here. "The Department will conduct consumer testing to determine how to make the disclosure template as meaningful as possible."

MS. BUCK:  All right. So, Chris, did you have a question or comment?

PARTICIPANT:  So, you know, I just feel like it's -- it got worse, I guess, from my perspective and not better in asking the student to try and figure out on their own whether the program -- you know, I guess, I'll just kind of -- I don't want to repeat what I said before.

I mean, I just think that the schools, if they're enrolling students, I mean, this is most important obviously for the distance education programs, that students need to know whether the state that they're living in is one that they are able to get a license if the
license is required to be able to work there.

MS. BUCK: Other questions or comments? Daniel?

MR. ELKINS: Chris, thanks for addressing that. I need some clarification because as I was reading this I, unfortunately, I guess came to the opposite conclusion that you did.

So, Greg, as Chris has posed the question, is that your understanding of the -- of how it's written?

MR. MARTIN: Yeah. We are -- to clarify, we are not going to require institutions to -- to provide -- to disclose this, whether it meets the certification requirements for every state a student may reside in.

There are numerous reasons for that. First of all, I mean, I am -- I perceive this is, to a large extent, meant to deal with distance education, and students could be in a variety of different states. They could move. Military people could move about. We just don't think
it's a -- it's a requirement that we are prepared
to place on schools to do that.

With respect to the student being
aware, you know, I -- we feel it's perfectly
reasonable for any -- the schools may -- the
school has to disclose whether or not it --
whether or not the program meets those
requirements for any state that they are making
those assertions about, so if the -- so -- or
that they made a determination about.

So if a school has made a
determination that the program satisfies the
licensure requirements in North Carolina, South
Carolina, Virginia, then they would have to
disclose that that's the case. We're not
requiring the schools to -- to disclose
information about any other -- anything else
other than that.

So, no, we're not requiring -- the
answer would be we're not requiring schools to
look at every state in which a student might
reside.
MS. BUCK: Daniel, did you have anything else? Other questions or comments?

Then are you ready to take a temperature check on Issue Paper 6 as revised?

Okay. So let's see thumbs. One, two, three, four, five, six.

PARTICIPANT: Six down.

MS. BUCK: Six to seven thumbs down.

So thank you.

So we have now gone through I think all the issue papers to some extent, as well as the technical and conforming changes. Before the Department of Ed proposes something overall for you to respond to, we are thinking it would be, as I mentioned before lunch, helpful to the Department of Ed to hear from each of you briefly -- we're thinking of maybe about two minutes per person, and certainly you can pass -- what you particularly want them to remember that was important to you. So, you know, any sort of final words from you, special words from you, thoughts that you really want them to remember
from you.

So we thought we would go around in a circle, not that you're in a circle, but you know what I mean, and we could start with whoever feels ready to speak. Anyone want to begin this?

PARTICIPANT: And just for -- just a little bit more, just to kind of give you an understanding of where we're going next because after your comments, we plan on taking a consensus vote on the -- on the entire package, right?

And that entire package, to be clear, is going to be the package that we start off with at the beginning of the week with the modifications that you all just vote on in 6, as well as on Issue Paper 8 on program eligibility there was a modification there that you all agreed to.

But apart from that, it is the package proposal that we started off with at the week. So what we want to do is make sure that everyone has an opportunity, if you'd like -- you don't
have to -- to make any comments before we --
before we take that vote.

    MS. BUCK: Daniel?

    MR. ELKINS: Just so I can be crystal
clear, so you're saying we're going to combine
all issue papers together and take an up/down
vote on all of that.

    PARTICIPANT: That's correct.

    MS. BUCK: I think the Department of
Ed is going to propose that after this round.
But I -- we'll get to that and you can certainly
comment on that.

    Johnson, did you have a question or
comment?

    MR. TYLER: I am ready to --

    MS. BUCK: Oh, you're ready to start.

    MR. TYLER: (Inaudible.)

    MS. BUCK: Oh, great. So can we start
with Johnson.

    MR. TYLER: I'd like to thank the
Department of Ed and Greg and Steve for being
here. I know this is a difficult thing to deal
with, that there is a change of administration. And thank you to all of the other negotiators who are here. It's -- I really enjoyed getting to know you and participating in this.

I think, you know, the idea that the marketplace can police this is -- is a valid point, but I don't think it's a valid point if they're not meaningful sanctions. Banks, stockholders, investors, creditors, they all are involved in higher education. And if there is a meaningful sanction that it percolates down to those entities who make decisions on where they want to put their money.

If the idea is full disclosure results in students making more informed choices, I'll all in favor of that, but I don't think that will result in protecting taxpayers or in protecting students.

Thank you.

MS. BUCK: So, Chris, are you ready to go next?

MR. MADAIO: Sure. From a consumer
protection, you know, Attorney General standpoint, you know, I can definitely say that our office has investigated, you know, schools in the for-profit sector and found that there is -- that students are being poorly affected in a variety of ways.

And I think that that's what the gainful employment language in the Higher Education Act is trying to get at, and that's what I think that the previous rule with a sanction that related to loss of disclosure was trying to get at. I'm all for disclosures. I said loss of disclosure. I meant loss of Title 4 funds. I'm glad we had that video.

As far as -- I'm all for disclosures, but, you know, I think that could be a separate rule or a separate rulemaking sessions, if we wanted to have disclosures for all institutions to be able to compare numbers across the sector. I'm not opposed to that, but I am opposed with taking away something that would protect students in the ways that we heard from the student
comments and in ways that my office and multiple other state attorneys general offices have found not just the fraud in the sector but the high debt and poor outcomes, which burdens students, and thereby also burdening states.

MS. BUCK: So certainly everyone doesn't have to speak, so what we'll do is we'll go around and just ask the people whose tents are up, so that people don't feel compelled to speak or no one has to.

Laura.

MS. METUNE: I, similar to Johnson, want to thank the Department and the rest of the negotiators. I also enjoyed the opportunity to get to know everyone, and I really do understand the situation that the Department is in. And I support the role of civil service generally, and I appreciate your willingness to be here and to go through this process with us.

I also want to say that we know we have a problem in this country with bad actors in the for-profit sector, and the truth is, if we
all admit it to ourselves is that none of us
called those institutions who we can now point to
bad actors before they folded.

We all stood up and defended them, or
many of us did, until the day that they folded.
And I think we need to take that into account
when we're trying to design a rule that helps us
identify those bad actors before they shut down.

I'm really disappointed that we were
forced into a conversation about applying a
relatively meaningless disclosure to all
institutions, and I understand the concern that
my fellow public and nonprofit institutions have
raised about that.

I'm concerned that the Department is
reducing staffing at a time when it's clear that
they are creating a structure that will require
more staffing to use these tools in any sort of
meaningful way. So I'll leave it there, and
thank everyone for this opportunity and the
chance to participate.

MS. BUCK: Thank you.
Jennifer?

PARTICIPANT: Okay. Sorry, I didn't think I was going to be next. So I really just -- I mean, I think we all probably have -- share -- hopefully have the same sentiment that -- and I said it this morning, that I actually always see value in negotiated rulemaking because it does allow for the opportunity for the community that doesn't have rare -- very rarely, you know, has consensus on points of view. But I think just the sheer process of talking through issues, I hope it informs the Department in the negotiation process.

There were places where we did, you know, reach some form of -- I forget what we called it instead of consensus, but, you know, some form of common understanding. And so I do hope that the Department will take those pieces back. It certainly helped inform me, as I said earlier today, on what might be helpful during the comment process, too.

So I just want to voice appreciation
for the other negotiators and for the Department.

MS. BUCK: Thank you. Jeff?

MR. ARTHUR: Yeah. When I started this process, I saw it as a real exciting opportunity to be the genesis to start providing data to the public that they have never seen before and to help them make better decisions on higher education.

This is really a massive expansion of accountability across higher ed from what is six percent of the enrollment in higher ed to the vast majority of the enrollment in higher education.

The data -- I mean, I don't want to -- when we're -- we don't need to blame the Department. Or, yeah, when you don't have data to make decisions, I mean, it's kind of like a Catch 22. We've got to get the data first before we start setting metrics.

And so I think that's why today it's important that we err on choosing some guardrails that may -- that are clearly appropriate, but not
make mistakes that result in unintended consequences and end up doing something to some institutions and some populations or particular programs that we wouldn't have intended.

And I also want to clarify that there has been a lot of talk about who the bad actors are, and I can tell you -- I can give you examples of bad acts across all sectors. I could -- if you want to talk to me afterwards, I'll list several. It is not -- this is about -- this whole process is about improving information for students in higher education, and that's why I was excited to participate in this.

I hope that that's something that comes out of this, and I would really feel satisfied if we really transformed the way students see higher ed and make their enrollment decisions.

MS. BUCK: Tony?

MR. MIRANDO: Yes. Tony Miranda. I, too, want to thank all of my colleagues around the table. It has been a pleasure meeting and
spending time with you all, getting to know you a little bit better.

I can say walking away this week after the three sessions that I have a different perspective on a lot of different topics now, and I appreciate that. I want to thank the Department and all of you for all the work that you do. I know this is not an easy task. I don't want to be in your shoes, but I know that it has to be done.

The one thing that I hope that -- that you walk away with today is that the metrics that you all have proposed, what you have used in the past, what some -- some individuals have proposed going forward, doesn't work for all. I have said this every single time I have been here, and I'll continue to say it going forward, that you are trying to fit a round peg into a square hole, and it just isn't going to work. But I do appreciate the energy that you are trying to get something accomplished.

I know I speak for everybody in this
room when I say we all are trying to get the bad actors out of the system. That's what I do every day, and so I do appreciate at least what we're heading towards.

    MS. BUCK: Thank you. Mark?

    MR. McKENZIE: Thank you. Mark McKenzie.

    Like everybody else, thanks to the Department and everybody else that is at the table. This is my first time in negotiated rulemaking. And, well, when you get into the weeds it can be a lesson in frustration and patience at the same time.

    The positive I think is something that Jeff said. Even though I think everybody is leaving somewhat unhappy with the potential outcomes at the end of the day here, the result is that there is more information available to a greater number of students about the processes involved.

    And so even though it may not be at the level that I think anybody really wanted, is
that -- is that a positive? I actually think it is, and that's where I'm going to try and hang it rather than getting caught up in what could have happened.

I was hoping that this group could actually come together with a consensus, and I guess the biggest thing from my perspective, leaving with the Department to consider, from a regulatory perspective when you don't have enough information to be able to understand the long-term impact of a decision on a metric, there has to be a way to create a regulatory framework that allows you to adjust that metric downstream once you do have that data.

And if you could create that, I actually think you could come to consensus on metrics if people know that there is a way to adjust that. So I'm going to leave it there, and thank you very much.

MS. BUCK: Thank you. And you're all staying very close to the two-minute mark. We're timing it, and we haven't had to stop anyone.
Whitney?

MS. BARKLEY-DENNEY: I'll try to break that record.

(Laughter.)

MS. BARKLEY-DENNEY: I'm just kidding. Thank you, first, to everybody around the table. I think remarkably sometimes when we are able to just talk among ourselves or talk offline we make further progress than we do when other actors are involved.

But I just want to say really quickly and make really clear why, from a consumer perspective, disclosures are not enough. Nothing about a disclosure is going to help someone pay back $30,000 in student loans when they can't get a job that they were supposed to get from that program. Similarly, in other places I work, nothing about a disclosure helps somebody pay back a 400 percent payday loan or get rid of a car, you know, that they couldn't afford that was given to them at too high of an interest rate.
So I think we need to be really realistic about what a disclosure does.

Hopefully, for the most sophisticated borrowers who have parents or colleagues or other students or family members guiding them, it will keep them from making a bad decision. But the ones I'm concerned about are the ones who I worked with every day when I was in Mississippi who didn't have that kind of guidance to whom the disclosures don't really mean anything, and who find themselves with an education that doesn't actually help them build the life that they thought that they were going to build.

So in everything that I have done around this table, I have always kept those people in my mind, you know, who went to a truck driving class only to find out when someone told him because he was illiterate that it was a chauffeur license, not a truck driver license.

Or, you know, people who went into pharmacy tech with drug felonies on their records. So those are the people who are always
at the center of my mind, the center of my heart, and the people who I'm sitting around this negotiating table for.

MS. BUCK: Thank you. Tim.

MR. POWERS: So thank you to everybody around the table, particularly those who had to travel to get here. For better or worse, I live here. It was really easy for me to get here, but I know it wasn't for a lot of you. So, really, thank you.

Thank you to the Department, some of the guest stars who have made appearances over the last three weeks, Brian, Sarah, Cynthia. All of you, thank you.

Thank you to the three of you, and thank you to the public as well. It's I think really useful when these meetings are open and transparent. I was sitting out there for the borrower defense negotiations. I know how brutal and dry it can be, so thank you to all of you as well.

You know, obviously, we're in a
difficult position here to make policy that we think is inappropriately targeted towards bachelor's degree programs. But I also just want to say philosophically how lucky we are to be able to have this conversation, because not every department, and in fact very few departments, have a process anything near what we have here, which is the chance to come together and actually hash these issues out with our different perspectives.

So I'll just very briefly sum up what the private nonprofit presidents support, which is accountability, it's transparency, it's useful data, both quantitative and qualitative. And then, first and foremost, it's about protecting students.

So if we can walk away from this table with those principles intact, I think that we will feel proud to have participated even though I think, you know, we certainly have our qualms with where we think this is headed.

But the last point I want to make is
just generally -- and several others have talked about this -- but the difficulty of a one-size-fits-all model. I think the diversity of the institutions and the students that we serve has come out over the last three weeks, and whenever flexibility and context can be considered, when the Department looks at data and when we try to facilitate this information to our students, I think it's the best for everybody involved.

So, once again, thank you to everybody. Todd is on a flight back to Ohio. I'll send his regards as well. And if you ever want to talk, email me or call me. We're happy to have these conversations further with all of you. Thank you.

MS. BUCK: Thank you. Jessica.

MS. BARRY: Hello. Jessica Barry. I do -- I'm going to echo the same comments. I want to thank the Department, and I want to thank all of you. I really feel like you listened to the challenges that those of us who have lived
with GE now for I feel like a lifetime -- of what we have really experienced.

    I really feel like you listened to us, and thank you. I think that's very important. And I think you made a good faith effort to find ways to resolve some of those issues that led to so many unintended consequences, which that's what we're trying to resolve.

    And, honestly, I don't want to see those unintended consequences happen in other sectors where other good programs are eliminated for the same reasons that we have been dealing with. I don't think any of us came here to protect bad schools, and I don't want that to come across that way.

    I came here to protect the students who are enrolled at really good institutions that were suffering from the unintended consequences from the GE rule.

    I applaud the Department in finally viewing us on the same plane as other sectors. That's very, very frustrating to me, that we are
always kind of seen as I think what was called
the stepchild a few times. I really feel like we
have been viewed in that same light, which has
been refreshing.

And just the last thing I want to say
is, you know, even if you totally disagree with
the Department's direction right now, we are
about to give students more data on debt, on
earnings, than they have ever had before. And I
don't know how that could ever be a bad thing.

So I hope you're all proud of the work
that you've done here, and, again, thank you so
much for just listening to our concerns.

MS. BUCK: Thank you. Neal?

MR. HELLER: Couldn't let this last
opportunity go.

(Laughter.)

MR. HELLER: Anyway, no, it was -- it
really is a pleasure to work with everybody
around the table. There are some very smart
people who have some great ideas in this room,
and it's very much appreciated. So to hear
different perspectives is always enlightening, and I hope that others feel the same way. The Department -- I want to thank the Department because, honestly, it is the first time in a long time that there has been an open-minded and sort of pragmatic approach, and a real look at what gainful employment meant to a lot of schools that got caught up in it, inadvertently in many cases.

And I hope that that open-mindedness will remain as you draft your final proposals, and that we remember those little old certificate programs that everybody wants to throw dirt on. Only kidding.

But, seriously, that -- we do remember that, you know, we were not the reason that we're here, and I'm glad that we were able to participate, and I think we did open some minds and get people thinking a little bit more about the types of programs that the cosmetology and the beauty world provides and the students that we serve.
But thank you very much, and go 'Canes.

(Laughter.)

MS. BUCK: Chris Gannon.

MR. GANNON: First of all, I just wanted to say that Ahmad couldn't be here today, but Ahmad and myself are very thankful for this opportunity and thankful for -- to the Department for giving it to us.

And we're in our early twenties, so a lot of stuff we're hearing for the first time at this table, but it was really enlightening and really special to hear all the different input that everybody gave at the table. And I appreciate also everybody that came to public comment and spoke on every side of the issue and participated in that.

I think it's really important to mention that the loss of Title 4 funding is the only reasonable sanction. That's the only sanction that is really going to protect students in this, and I want the Department to know that
if we really do want to protect students we have to include loss of Title 4 funding. There is no way to do that without including the loss of Title 4 funding.

And disclosures aren't enough, and also, I think I heard earlier that this is expanding the accountability for everyone. And this isn't expanding accountability, what we've seen so far. It's dismantling it, and it's not protecting students.

So just I thank everybody for their input and for meeting all of you, and thank the Department for this opportunity, and I hope that they take some of what I have said and some of the other consumer negotiators, what they have said, and take it back and implement it in the rule once they write it.

Thank you.

MS. BUCK: Thank you, Chris.

Kelly?

MS. MORRISSEY: Kelly, for the record.

And like my colleagues before me, I really
appreciate having had this opportunity to have a voice at the table and my voice being that of financial aid administrators.

Going into this when I was selected last year, I was eager to represent all of us in demonstrating that the former gainful employment rule we felt really placed an undue administrative burden on colleges and financial aid administrators in particular.

I am very happy to see that most of that administrative burden has been removed in the elimination of reporting, but I do feel that has happened at the expense of losing some important data, namely that of private loan debt and direct costs that were covered by federal borrowing because I feel that that information is very meaningful for students, especially as we're moving towards a disclosure-only regime.

So I'm kind of not sure if that was a win, to give up that administrative burden. I also feel that at the same time expanding disclosures to all higher education programs will
result in additional burden at all of our institutions and providing all of those metrics for all programs.

And I'm not sure that I feel it's appropriate to be viewing all higher education programs through the lens that was formerly known as gainful employment. Where we've seen in some of the small amounts of data that we were provided, we see that there are certain programs, certain institutions that have very high repayment rates.

So I'm not sure how the students that are enrolled in those programs who already are savvy enough to seek data and to seek information about the programs and the institutions where they're enrolling, I'm not sure what benefit we're providing them by doing disclosures at those institutions and at those programs.

And this will indirectly result in higher costs to those students at those institutions because of the administrative burden that results in doing that additional reporting.
MS. BUCK: So it has been two and a half --

MS. MORRISSEY: Okay. Done.

(Laughter.)

MS. BUCK: Andrew?

MR. HAMMONTREE: Well, Kelly said most of what I was going to say, so I won't belabor all of it. But I do -- my biggest concern when I came here was the administrative burden on financial aid administrators. I think there were a lot of innocent schools that were good schools.

I'm thinking primarily community colleges and low-cost schools that were impacted by the current GE rules that I really was sympathetic to because I saw them spending way too many resources on administrative burden that I think that you guys have recognized.

And I do appreciate you taking away the reporting requirements, especially when you can get most of that information through NSLDS, and taking out the direct distribution and active confirmation and programs that were passing and
clearly weren't in any danger of putting the students in a bad situation.

So I appreciate you guys listening to that. I think that's very, very helpful. I think this whole conversation is going to shift dramatically now that we're opening it up to all sectors. I think there is still going to be a lot of administrative burden placed on schools, and I'm concerned about that, and I just hope that you will continue to think about how this impacts the financial aid office.

Our jobs are so complicated, and we have so many complicated things that we have to explain to students. The more complicated you make our lives, the more complicated you make it for the students, too.

They are already confused enough. So I just hope that you will keep that in mind as you develop these new regulations.

Thank you.

MS. BUCK: Thank you.

Jordan?
MR. MATSUDAIRA: Thank you. So I also wanted to thank everybody around the table and especially give thanks to the career staff at Ed for handling this issue and just express my gratitude and admiration for all of you, many of whom were former colleagues during a previous stint in government.

So I wanted to make three points. One was that from my position at the Council of Economic Advisors, I was involved in the last rulemaking around gainful employment. And I just wanted to stress something that I've raised before but that a lot of the changes that are being made here, most of the key changes that are being made here really are contrary to all the additional evidence that have come out since that rulemaking. So I wish that when we were kind of crafting the rule that was being made back in 2013, 2014, that we had access to the information that we do now.

I think the most important things are, you know, the elimination of sanctions in the
rule, the elimination of the consequence of the loss of Title 4 eligibility, when we have so much information in the literature that disclosures alone are not sufficient. They have a small impact on student choices, but the benefits tend to be concentrated among students who are relatively affluent and have access to a lot of resources to help them process that information.

And the removal of the graduate programs from the scope of the rule I think is also really contradicted by a lot of recent evidence that suggests growing and growing shares of loan balances, and especially loan balances in default, are accounted for by graduate schools, many of which are in the gainful -- current gainful employment scope.

Now, that research is not perfect. The Department, in many cases, has much better information than is available to researchers.

So if the Department had the interest in making its case, it could do so with a lot of the data that are available right now, and I
really encourage the Department to use the infrastructure, to use its own administrative data, to produce relevant analyses for this kind of policymaking that a lot of people, some of whom are in the room, worked very hard to accomplish, you know, only a few years ago.

So things like estimating repayment rates is something that is trivial for the Department to do. You know, I welcome somebody to change my mind about that, but I insist that it can be done --

MS. BUCK: Okay. So that is --

MR. MATSUDAIRA: -- in very finite -- I'll close in a second -- in very finite time. So I'd just ask you to use the data that you have in making the rule.

And the last thing is just the one thing that I think really can be done that is consistent with the spirit of the change here is something that others have mentioned. But just if we're going to rely on getting this information and having that be the way that we
help students in this rule, given the removal of sanctions, really invest in putting that information in the hands of students by making it available through tools like the scorecard, and so on, and reach out for help in thinking about how you're going to do that.

For example, how are you going to have a repayment rate for non-completers? What programs are you going to assign them to? There are tricky issues like that that need to be waded through, and I hope the Department reaches out for help on things like that.

And my offer to bring a bus of graduate students stands.

MS. BUCK: David?

MR. SILVERMAN: David Silverman, for the record. I want to thank the Department. You all did some great listening. I want to thank everyone at the table. You did some good listening. And everyone else did some good listening I hope.

To remind everyone else, this is not a
for-profit rule. The newspapers say it's a for-profit rule. The representative said it's a for-profit rule. I'm a not-for-profit. I'm part of this.

You know, we felt threatened by especially the original GE regulations, and, you know, moving forward it's not -- this is for not-for-profits, too. So just want to remind everybody.

I met -- I didn't know too many for-profit owners, schools, before I got here. I met a number of them. We have third generation. We have a former student that is now running her own school. We have Neal and --

(Laughter.)

MR. SILVERMAN: He wasn't -- he wasn't as cranky before GE, I have a feeling.

(Laughter.)

MR. SILVERMAN: So these are good people. I mean, these are -- these are good people. You're portrayed a robber barons in the newspapers, and you're not. And, you know, you
care about your programs. Not-for-profits care about our programs. You're good people.

So, I mean, you know, the public should realize when -- when you see the newspaper and it's all these robber baron for-profits, it's not. They're good people, and there's not-for-profits as well.

Lastly, you know, it's very easy to say take away Title 4, close these schools, close down -- I don't know if you realize what you're doing when you're saying that is, you know, you take away my students and I can't pay -- I can't pay my employees and my employees can't pay their mortgage. They can't pay their rent.

I said this, how would you like to come home and say -- for the people that don't run a school, you come home to your spouse and say, you know, "We achieved an 8.01 on this metric instead of 7.99. And, by the way, kids can't go to camp this summer. We can't pay our mortgage this week -- this month."

So go after the bad actors, but, you
know, a lot of good actors got sucked up into this, and it could affect -- it could affect people's lives. So when -- it's very easy to say close people's doors, take away their funding, but, you know, you've really got to think deeply into what it could do to schools and to people.

MS. BUCK: Thank you. Sandy?

MS. SARGE: This is Sandy, for the record.

Thank you to everybody. I want my whole two minutes. I appreciate everything that I've gotten to learn here. I came here relatively young in this world of higher education. I had a whole other career, two of them, before I got into this.

So this was my first exploration into the policy-making side of things, and I learned a lot, probably learned more of what I shouldn't do than what I should do. But with that being said, I came here from the perspective of CFOs and business officers because I think that finance people feel very strongly about consistency.
We feel strongly about metrics that make sense and can't be pulled apart, and I wanted to make sure that some of those got on the record.

So with that, I also believe in good math. And so rah, rah, to Sarah back there.

I feel that -- I feel the same way that David does. There are a lot of schools out there that are not -- do not get always -- they do sometimes, they don't always get the student that was the straight A student. I was valedictorian of my high school. I wasn't going to be a cosmetologist or a graphic designer. I was going to go off and do great things, at least according to my counselor.

So our schools oftentimes are the ones that are dealing with the students in the back of the room that are a little bit bored in high school, that are scratching in the next comic-con game that is going to make a billion dollars.

They're not your traditional learner or your traditional student, and they're not
guided oftentimes by parents who have had that
direct experience. These are -- they don't know
what borrowing is.

And, quite frankly, in this country we
don't talk about money in our families. It's a
taboo. It's up there with religion, politics,
sex, and money. You don't talk about it in
families. So it's hard for students and their
parents to understand what's going on.

So all of us are trying I think, quite
frankly, to do the right things, but not just for
the elite students but for all students. And,
yes, we're not going to get it right.

And believe it or not, there are
parties out there on all sides of this equation
that are gaming the system. All sides. And it's
tough. So with that being said, I'm going to try
my best to respect Ramona. And thank you guys
for listening. But at the same time, let's not
vilify. Let's look for really good, weighted on
both sides, issues. Not just one sided; let's
look at the whole thing.
Thank you.

MS. BUCK: Thank you.

John?

MR. KAMIN: Yes. I'd like to just echo what a couple people have said before, and that's, number one, to thank the Department of Education for hosting this. I don't think it should be lost upon us what other agencies are going through right now.

And the fact that we are at the table discussing this in a nuanced matter is really impressive, and that's contingent on the people at the table bringing their A game. And I think that's what everybody did here today in terms of coming forth and discussing in practical -- a practical matter what the problems are and what proposals are for solutions.

I came into this pretty cynical based on what I believe to be a way to maneuver gainful that effectively killed the rule. That was our big concern going in, and the only thing that we really wanted was to keep the ember alive and for
-- to keep the intent of gainful.

    And I am -- I have to say that I am encouraged to see that we weren't alone in thinking that this rule matters, and that it does need to -- there does need to be an accountability piece to it. What that is and how it gets corrected, I think that people gave a lot of feedback to talk about what the proper way of doing that is, and I think -- I'm encouraged that the Department of Education is receptive in terms of the guidelines they gave of how that could happen.

    Certainly not -- can't say we're leaving happy with it, obviously, but it -- again, it's keeping the spirit and the intent alive. And I think that goes far above what --some of the actions we have seen.

    I know Daniel is going to talk a little bit about some external factors that we're also kind of considering right now in the field. So really appreciate learning from everybody on this, and look forward to seeing what the next
steps for this are, and we're always here to
provide background support in ways that the
lessons we learn on the military side or from the
Title 38 side, from the GI Bill, how that can be
applied for any of them.

So thank you guys again.

MS. BUCK: Thank you.

Daniel?

MR. ELKINS: I wanted to thank the
Department, specifically Greg, Steve, thank you
so much. You guys have done an amazing job.
Department staff, thank you.

I don't believe anyone has thanked our
negotiators yet, but I wanted to thank you guys
as well for keeping this process ongoing. We
appreciate it.

The sound guy in the back, thank you
for letting us be heard as well as our -- I
believe the people -- yeah, taking notes in the
back. So I think that -- and for the public for
coming as well.

Two or three things that we wanted to
say. I echo the comments of my colleague, John, from a veteran's perspective. We're very, very glad to hear and to participate in these negotiations and to hear that the Department has taken the feedback.

And we have generally kept the idea that this -- this rule, the idea of gainful employment, is important, and it's being expanded to all schools at all institutions, and I think it's going to be fascinating to see the data moving forward, and then to continue to work with all of the groups at this table moving forward.

We do know that HEA is coming up. And although you guys do not comment on Congress and what they're doing, I have the ability to comment on that, and I think that that provides an interesting backdrop that this is still a relevant topic to be discussed to protect students across all institutions.

And then I will -- I will close with the idea that there are some within the community that have stood up and specifically named names
and discussed schools. And I know we're not technically supposed to name a school, but I think I'll be as transparent as possible.

We know that there are some schools that have recently decided to transfer from for-profit status to nonprofit status, and we would encourage the Department to strongly look at the implications of that. And that being said, thank you very much for allowing us to participate in this gainful NAG-reg.

Thank you.

MS. BUCK: Thank you.

Chad?

MR. MUNTZ: I'm afraid to get too close. Okay. There it is.

Thank you, guys. Thank you, everybody, the Department of Ed. I especially enjoyed meeting almost everybody. I think I talked to almost everybody in this room at some point. It's been fun working with you, getting to know a little bit about your background, your struggles.
I appreciate those with gainful employment regulations already explaining the pitfalls and the areas that we need to consider when revising. I think that's one thing I would have for the Department of Ed is that the previous rule wasn't perfect. There was pitfalls to applying it to everyone. It also means there is going to be unintended consequences.

So two things -- data and time. I don't think we had enough time. We didn't have enough data, and that's why I don't think we're quite there. The scope for us -- for everybody to be included, we're more than happy to have gainful employment programs in.

But for everybody to be in without seeing the data and having enough time to work out where the key points are to get the bad actors in all sectors makes it very hard to implement a one-size-fits-all rule.

As the universe gets bigger, you have to also be -- have a more nuanced approach to it, and you have to be very careful, especially if
you're going to apply sanctions with an unknown rule without knowing the consequences.

    So I think even though some -- if something doesn't get settled here today, it doesn't mean we don't want to protect students. It just means we don't want to unintentionally kill institutions without realizing the effect that an arbitrary standard might have.

    So I like the points that we have already talked about -- guiderails. I like having more data. We are about accountability. We are about more public information available. And we like it at the program level.

    So I think those pursuits and being able to come together and look at the data and determine exactly where in our analysis with the expertise, who have been working on this for, you know, 10, 20 years, we can pinpoint that exactly.

    So, again, thank you. And I'll save the best for last.

    (Laughter.)

    MS. BUCK: Thelma?
MS. ROSS: (Inaudible.)

(Laughter.)

MS. ROSS: Mark would not allow me to be last.

(Laughter.)

MS. ROSS: This is Thelma, for the record. Thank you to the Department, and specifically Steve and my, yeah, friend still, Greg. Sarah, for your generosity, thank you. Cynthia and Scott, thank you both. And to the public for being in this process with us for four days.

I'm not sure -- I'm not sure where we're going to land before we leave here. But what I would hope is that the Department -- and I know that -- and I know that you will take -- take a very, very careful look and listen at everything that was put on the table over the past three sessions.

There have been some really good suggestions from the consumer, from financial aid administrators, from all types of institutions
that are being served. But most importantly, there have been some really good feedback from the student representatives.

And at the heart of all of what we all do are students. And if we just take the time to think of this from a student's perspective -- and I know we all have a diverse population of students, we do. But if we keep them at the center of the decisions that are going to be made and the rule that you would ultimately write, I think that we may do something that could be meaningful to them, or for them.

But having said that, I also know that by including all institutions in this one-size-fits-all kind of model is going to open up in the disclosure world something that could be very problematic for those students.

And so there has to be I want to say a careful consideration of what is in the final rule that you write. And I'm going to leave it at that. Just keep in mind that at the center of it all it is all of our students that will
benefit or not from what ends up being put out for the final regulation.

Thank you.

MS. BUCK: Thank you.

Kirsten?

MS. KEEFE: So I just want to add to the thanks to everyone. Really thankful for meeting folks in the proprietary schools. Jessica and I shared a cab over during the first session. I've had great conversations with Neal and Mark, and I have really -- it has been very helpful for me to hear from you and to hear from the non-robber-baron proprietary schools, which I certainly agree that you guys are.

I also want to thank Greg. I actually really appreciate your humor. You might not hear that a lot, so I want to put it on the record for you.

(Laughter.)

MS. KEEFE: But I really appreciate it in the back row.

One thing that I want to just say is
the data that Sarah presented this morning, the biggest message to me was that I really felt like that data showed that the deck is so stacked against low-income students.

And I certainly agree with you, Thelma, that I think the focus needs to, you know, remain the students, and I would go a step further to say that I would really hope, in considering whatever incarnation of the gainful employment rule you come up with, that you keep low-income students at the heart of it, because although the students that are scammed and go to the bad schools are certainly a minority of all the students out there.

The low-income students are a majority of those folks, and, you know, education has always been the key way in the United States to have upward mobility and to get ahead. And my fear is that -- not even my fear, it's an acknowledgement already -- my fear is that it is just going to get worse and worse.

I work in a lot of different consumer
issues. You know, Whitney mentioned a couple others as well, and the profits are being made off of the backs of the lowest income people. And my fear is that education -- that is just going to become worse and worse.

And so, you know, I asked the Department to keep in mind the lowest income consumers out there, both when you're considering big things like getting rid of sanctions and small pieces of the rule like changing disclosures to an only online, which just like further stacks the deck against the lowest income people.

So that's all I have to say. Thank you.

MS. BUCK: Thank you.

I think we're over now to Steve?

MR. CHEMA: Like so many others, I want to express my gratitude to the Department, all of you who have participated in this, Greg, Steve, and Cynthia, Sarah, Brian, as well as -- Scott -- as well as those who are sitting and
listening, as well as those who accompanied me up and down elevators, especially if I was running a little late.

I want to thank my colleagues here for the passion and the energy and commitment to this that you have all shown, and also express my gratitude to the FMCS for shepherding us through this process.

Everybody who came here today to participate in this answered a challenge to tackle a pretty difficult problem. And it's one that I don't think is limited to just abuse in the federal student aid programs. I think the problem is affordability in higher ed.

And I have some reservations about the means chosen, a debt-to-earnings income I think -- or a debt-to-earnings comparison doesn't fully give you a picture of what the return on investment in an educational program is, or even help you understand how to decide if that return is adequate.

But, you know, I understand, you know,
the necessity for understanding cost. And I think certainly at the extremes it is easy to see when a program is very good and when a program is very bad, but there is all those grades in between, and all of the different factors we have talked about over these three weeks that influenced that, that make this such a difficult project to take on.

And so, you know, in closing, to the Department, thank you, again, and I would urge you, Greg and Steve, as you, you know, go forward on this project to continue down a path that you have been on that is, you know, deliberate, that is aware of the need to balance good policy with minimizing burden on institutions, on emphasizing the need for consistency and fairness.

And I think if you stay true to those approaches that you have demonstrated so far, you know, we may come up with a much better result.

MS. BUCK: Thank you.

And, finally, Marc.

MR. JEROME: It was the last week of
November in Orlando, Florida. I was at the FSA Conference, and I was introduced to -- the first time to a man named Greg Martin, who they told me was going to be leading the gainful employment negotiation.

I just told him I would be with him, and I looked forward to it. I'll never forget this. He looked at me and said, "I'm actually very nervous about it." And I want you to know, because it's now my second time through this, along with Whitney -- and John did it last time -- Greg has the hardest job of everybody because he has all of us coming to him at all sides.

He has the career staff behind us and the political staff who have pressures on him. And if you noticed, during part of it, he was sick. And so I'd like us to thank him for leading us in a dignified way. I'm going to give you a little round of applause.

(Applause.)

MR. JEROME: And with a sense of humor.

I also just -- I do want to thank all
of you for your professionalism and collegiality.

I learned a lot from you. I especially want to thank the career staff. And, Sarah, I hope you took all of my data submissions in the spirit of collegiality that they were given to you. So I thank you for dealing with that.

And then, lastly, I guess echoing Thelma and Kirsten, I always want us to focus on our first generation lower income students. And if all of us, including the Department, can keep focusing on completion, lowering student debt, lowering default, and just keep our eyes on those balls, on that -- those balls, we will be in better shape.

Thank you very much.

MS. BUCK: Thank you. And thank you to everyone for your thoughtful comments.

It seems like it would be a good time for a break. It's a little earlier than we usually take a break. So how about if we take 10 minutes? Would that be okay?

PARTICIPANT: I'm willing to do that.
We are just going to call the vote. Does anybody have a problem with calling the vote? I call the question. I know we're not using Robert's Rules, but it's -- I always wanted to say that.

(Laughter.)

PARTICIPANT: Yes.

PARTICIPANT: (Inaudible) taking a break.

PARTICIPANT: Yeah. There is consensus on that, right? All right. I'm not imposing it arbitrarily. Okay.

PARTICIPANT: Wonderful.

PARTICIPANT: I think we can just -- I think we can just proceed, Ramona.

MS. BUCK: Okay. So go ahead and propose it to us, then.

PARTICIPANT: Okay. We are just going to -- we are taking a vote on -- this is on consensus, not -- this is not a temperature check. It is a formality that we have to do at the end of these to take a -- we'll take a vote
on whether or not to approve the package as presented to you.

The position papers you received and the -- and the clean copy of the regulations, we had a lot of discussion, but we failed to reach consensus on any individual -- on anything here that would -- so that would lead us to change those rules.

We did make those minor revisions we talked about, so we are voting on the rule with the revisions you saw this afternoon. So it's a strict up or down vote. I just want to make certain that you all understand that the version you're voting on is the version that you were presented with at the beginning of the week with those minor changes we made.

MS. BUCK: So can we have our vote? Thumbs up? Thumbs down? Thumbs to the side?

One, two, three, four, five, six, seven, eight, nine, 10, 11, 12, 13. I think it was about 13 thumbs down.

PARTICIPANT: Yeah. I saw three to
the side. The rest were down. Almost a consensus at the end.

(Laughter.)

MS. BUCK: So I guess we are ready to do the closing aspects of the meeting, right? Is that right? Rather than take a break, do you want to just -- or --

PARTICIPANT: Yes.

MS. BUCK: Yes. Very good. Then, first, we just want to ask if there are any participant comments before we get to the public comments, and then we'll have closeout from us and from you.

PARTICIPANT: But we have participant comments, I believe.

MS. BUCK: All right. Daniel?

MR. ELKINS: Neal had conveniently gotten up to -- to take a moment when I was commenting, but I wanted to say that I believe many of us around the table think that you have gotten the VIP negotiator. You are many of our favorite negotiators with your antics, so I
thought that --

(Laughter.)

MS. BUCK: Chris Gannon?

MR. GANNON: I think I saw online that we have -- the first session's transcripts are out, but I don't think we have the second session's transcripts yet. I just want to know like when we're possibly going to have those, and also for the third session, when those transcripts might be available.

PARTICIPANT: Let me check with my -- my people back here about that, please. I'll let you know, but I just want to make sure I -- I don't want to give you a made-up answer, so --

MS. BUCK: And, Thelma, your name is up, but I don't think you meant it to be. Okay. Any -- I'm sorry? Yeah, I know.

So no more participant comments, right?

PARTICIPANT: Can I say one thing?

Sorry.

MS. BUCK: Okay.
PARTICIPANT: Ramona?

MS. BUCK: Yes.

PARTICIPANT: Behind you.

MS. BUCK: Oh.

(Laughter.)

PARTICIPANT: The transcripts from the second session are up on the website. The audio recordings are not yet. We're working on those due to some technical difficulties. The third one will be up in a couple weeks.

PARTICIPANT: Thank you, Amy.

MS. BUCK: So, Ahmad, you wanted to make a comment?

MR. SHAWWAL: Ahmad. I propose that we keep the gainful employment regulations as defined under the Obama administration. I was hoping to get a consensus check on that.

(Laughter.)

PARTICIPANT: Yeah. You're going to take that hope with you.

(Laughter.)

MS. BUCK: Okay. I forgot to say at
the beginning that Christina had to leave, so for
the record she wasn't here after lunch. But she
knew we were going to go forward.

Now, let's go to public comment. Is
there any public comment?

(No response.)

MS. BUCK: Okay. Then we will just
say very brief remarks as facilitators, and then
give Greg the last word. I just want to thank
you for all your hard work and participation. I
know it's not easy.

I think you made a lot of good
suggestions, and I think the Department of
Education heard you. And even though you didn't
reach consensus here, I think some of your ideas
are going to appear. And this is a wonderful
forum for them to hear from such different
perspectives. So I appreciate that.

Do you want to say --

MR. RAMIREZ: All right. So I would
say to the public, although I know that there has
been some frustrating moments, I do -- and it was
said here, but I want to remind everyone that these regulatory negotiation processes, they're not mandatory things, right? And so the fact that the Department actually put this forward and gave the folks an opportunity to hear this thing, I really commend them for that.

And although there was no agreement, it was still very informative. And although there was no agreement, that doesn't mean that it's any less work. It's a lot of work, and so I really want to thank Greg and Steve as well.

I don't want to say any of the Department names because I -- I have worked with a lot of them, and I know how much they're all putting in.

Tony, for the reasonable accommodation efforts over there, it is pretty impressive seeing what he does there. And as well as Bill on the audio. Apart from a few ear-piercing wakeup feedbacks, a fantastic job.

(Laughter.)

MR. RAMIREZ: Thank you. We really
appreciate everything you did there, Bill.

For the negotiators, your expertise and your time, just fantastic. What a great group. And just as -- being up here and having to work with you all, I really appreciate your professionalism.

And as far as the group as a whole, I really hope that this not the end of the discussion but the beginning. So keep that up.

Thank you, all.

MS. BUCK: So I think, Greg, it's over to you to close us out.

MR. MARTIN: I'll confine my remarks to an hour, no more than -- no.

(Laughter.)

MR. MARTIN: First of all, I want to say that, though we didn't reach consensus, I think we had a very fruitful discussion here at the table. You certainly all kept me very intellectually honest and not allowed me to be lazy in any regard.

So I want to say it has been my
privilege to be the negotiator here for the Department, and I want to thank my management for having the confidence in me to put me in this position. And I want to thank all of those who came to the table to assist me -- Steve, Sarah, Brian Foo (phonetic), Amanda, Cynthia Hammond, and so all those people. Without -- and Scott, my able -- Scott, he is just scott.filter@ed.gov.

That's the way --

(Laughter.)

MR. MARTIN: But so I just -- I just want to say thank you to all. And thank all of my colleagues behind the scenes who you may not -- whom you may not have met, but whose efforts are just as important as all of ours up here.

So, in closing, I just want to wish you all a safe trip home and say, again, that it has been -- it has been my pleasure to be up here.

Take care. Good-bye.

PARTICIPANT: Okay. Thank you.

(Whereupon, the proceedings in the
above-entitled matter went off the record.)