

## UNITED STATES DEPARTMENT OF EDUCATION

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GAINFUL EMPLOYMENT  
NEGOTIATED RULEMAKING COMMITTEE 2017-2018

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SESSION 3

+ + + + +

Thursday,  
March 15, 2018

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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, Rozmyl 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

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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 KEEFFE, 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  
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THELMA L. ROSS, Interim Director of Student  
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Community College  
SANDY SARGE, SARGE Advisors  
AHMAD SHAWWAL, Student, University of Virginia  
DAVID SILVERMAN, Chief Financial Officer and  
Director of Business Affairs, The American  
Musical and Dramatic Academy  
JOHNSON M. TYLER, Senior Attorney, Consumer and  
Foreclosure Units, Brooklyn Legal Services  
CHRISTINA WHITFIELD, Associate Vice President,  
State Higher Education Executive Officers  
Association

STAFF PRESENT

STEVEN FINLEY, Office of General Counsel  
GREGORY MARTIN, Office of Postsecondary  
Education

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P-R-O-C-E-E-D-I-N-G-S

(Time not disclosed)

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.

1 MR. FILTER: I just --

2 MS. BUCK: Is that it?

3 PARTICIPANT: Yes.

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

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

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

20 And then, I added a sentence that  
21 said, this will include but not be limited to a  
22 specific request for consumer input on this topic

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1 in the Federal Register notice.

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

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

22 And so, just requiring the Department

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1 to inquire about that piece of it should be part  
2 of the Federal Register notice. But you know, as  
3 you can see, the Board added back in the, you  
4 know, added back in the consumer testing that the  
5 Department had deleted.

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

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

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

19 So, you know, I think we should  
20 express that we want them to do consumer testing,  
21 not that we want them to decide whether they want  
22 to do consumer testing, and we want it to be done

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1 in, you know, specifically, and the Department  
2 should find the money. I mean, they have a lot  
3 of money. They decide where to use it based on  
4 their policy determinations.

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

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

12 MR. MADAIIO: Correct.

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

16 PARTICIPANT: Sure. No. I mean, yes.

17 MS. BUCK: Okay.

18 (Spontaneous speaking)

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

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

22 MS. BUCK: No.

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1 PARTICIPANT: -- do a temperature  
2 check.

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

5 PARTICIPANT: Yes.

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

8 PARTICIPANT: Yes.

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

13 PARTICIPANT: Or sideways.

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

21 MS. KEEFE: This is Kirsten. This  
22 just occurred to me last night, and I didn't see

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1 it. So there was language put in, I think with  
2 the notification that it had to be provided in  
3 different languages if a course was going to be  
4 taught in Spanish, it had to be included in  
5 Spanish.

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

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

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

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

17 MS. KEEFE: Yes. I think it's  
18 important because there are courses that are  
19 taught to students, in Spanish in particular,  
20 I've seen on some websites. Haven't seen other  
21 languages, but I'm sure -- so if the school is  
22 providing courses in that language, the

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1 disclosure should be provided in that language as  
2 well.

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

5 MR. MARTIN: Should I wait?

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

9 PARTICIPANT: Sure, yes.

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

12 MR. MARTIN: Oh, go ahead.

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

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

19 MR. MARTIN: No.

20 PARTICIPANT: -- Kirsten, so --

21 MR. MARTIN: I just, no. I, we have  
22 that. I'll take that back.

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1 MS. BUCK: Thank you. Okay, Jennifer?

2 MR. MADAIIO: It's okay.

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

4 MR. MADAIIO: All right.

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

7 MR. MADAIIO: Yes.

8 MS. BUCK: Okay.

9 MR. MADAIIO: This is on disclosures.

10 MS. BUCK: All right.

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

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

21 MR. MARTIN: That's the state where  
22 the school is.

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

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

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

21           PARTICIPANT:   Yes.   Now, it actually  
22    segues well, because I'm on the same point as

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1 Chris, which was not scripted. But this does go  
2 back to the language that, and I don't know if  
3 Laura's coming today or not, but this is, so this  
4 is all built around, Chris and I are sort of  
5 piggybacking off of each other.

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

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

22 So, in fairness to the Department,

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1 they didn't get it until last Friday, and it was  
2 Cynthia who got it. We had not sent it to Scott.

3 But we now have sent it to Scott, and  
4 so I just want to understand from the Department  
5 whether there's any sensitivity, in the positive,  
6 of adapting its, it really would be adapting both  
7 16 and 13, because actually, Chris, in our  
8 proposal, we deleted 16 and moved it, in effect,  
9 into 13 to clarify that it was going to be, you  
10 know, the disclosures would relate to licensure  
11 boards, including the use of the licensure board  
12 URLs.

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

17 PARTICIPANT: 8.

18 MR. MARTIN: -- to 8, I'd like to have  
19 that discussion, and I don't think anything  
20 precludes us from saying, if whatever happens in  
21 8, that we would, that would necessarily link  
22 back to this and require a change if something's

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1 agreed to there.

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

6 MS. BUCK: Okay. Johnson?

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

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

10 MR. TYLER: Oh, sorry. Sorry.

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

13 MR. TYLER: Okay. Sorry. Sorry,  
14 Greg.

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

19 So that way, I hear the voice, and I  
20 thought there was, for some reason, I thought it  
21 was Jordan asking me a question. I'm looking at  
22 him, and he's not speaking. So I'll tell you

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1 what I'll do, put my glasses on and look at you  
2 directly.

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

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

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

16 MR. TYLER: Right. Sorry. Lead  
17 generators.

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

19 MR. TYLER: Thank you.

20 MR. MARTIN: That's, I do that kind of  
21 stuff all the time. Yes, the lead generators,  
22 we're concerned with, you know, students seeing

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1 the disclosure in any way that the school, that a  
2 school would reach out to advertise to students.

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

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

20 MR. TYLER: Just a followup on that.  
21 I'm not a technology person, but you can't  
22 advance on the page on some of these websites

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1 without filling out the popup, which generates a  
2 call, a personal touch.

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

7 MR. MARTIN: I wholeheartedly --

8 MR. TYLER: -- stymied with that.

9 MR. MARTIN: -- agree. We agree.  
10 There should be a way for a student to get the  
11 disclosure before giving a number, before giving  
12 the, his or her information to generate a call.  
13 We agree with that, and we will look at that in  
14 the language.

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

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

21 I'm wondering, if that were to be included, what  
22 would be a temperature check on Issue Paper 6 at

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1 this point, just to, just to kind of get a  
2 feeling?

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

9 MS. BUCK: You mean the consumer  
10 testing?

11 MR. MARTIN: The consumer testing  
12 risk. Yes.

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

22 MS. BARKLEY-DENNEY: Just to ask, just

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1 to ask a clarifying question. And Jennifer, you  
2 might be the one to answer this. So the language  
3 that you and Laura worked on would go on, into 13  
4 on 6? Okay.

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

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

15 PARTICIPANT: That's not, that's not -  
16 -

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

19 MS. BUCK: That's --

20 PARTICIPANT: Well, that was my  
21 language on consumer testing, but there's a whole  
22 other subcommittee that had language on Friday

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1 that I think, and it's, we can circulate it, but  
2 to Greg's point, which I think he said a minute  
3 ago, 6 and 8 are really tied together.

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

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

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

20 PARTICIPANT: Sure.

21 PARTICIPANT: Yes.

22 MS. BUCK: Okay. Over to you, Greg.

1                   MR. MARTIN:   Okay.   Cynthia Hammond  
2                   of, from FSA, will be coming up to assist with  
3                   Issue Paper 8.   Okay.

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

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

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

18                  The GE program, so these are part of  
19                  the certifications that the GE program is  
20                  programmatically accredited, or has submitted an  
21                  application       for       pre-accreditation       or  
22                  accreditation.

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1           So that is, that is an addition from  
2 the previous, over the previous, the paper that  
3 was given to you in the previous session. Okay.

4           We would entertain questions.

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

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

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

20          And also, for the program in which the  
21 institution seeks to establish eligibility for  
22 Title IV funds is not substantially similar to a

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1 program offered by the institution that, in prior  
2 years, became ineligible.

3 MS. BUCK: Questions or comments?

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

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

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

17 MS. HAMMOND: So senior leadership was  
18 concerned about the conflict between, when  
19 accreditor is accredit, and when state licensure  
20 boards require licensure.

21 There are numerous cases where an  
22 accreditor will require them to graduate a few

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1 classes before they have a chance to accredit  
2 them, and then, the state, it, rules are in  
3 conflict, and so we, that's the reason why we  
4 struck this paragraph.

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

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

20 MS. BUCK: Whitney, then Laura.

21 MS. BARKLEY-DENNEY: So I understand  
22 that concern, but I guess my concern is what

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1 happens to the borrowers and students who  
2 graduate under that regime?

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

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

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

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

21 So, and I'm not trying to make that  
22 sound like a sugar coating or anything, but the

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1 fact of the matter is that, you know, there, you  
2 can go into some school counseling without being  
3 licensed as a counselor. Like, the schools will  
4 hire, and then you can get, there are sort of  
5 avenues, and I've talked about pathways and  
6 things like that. And so, there are ways.

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

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

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

22 But some states handle it. So some

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

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

8 PARTICIPANT: Candidacy.

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

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

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

21 MS. BARKLEY-DENNEY: Some states have  
22 a programmatic accreditation requirements, and a

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1 lot don't.

2 MS. HAMMOND: Right.

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

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

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

18 And so, it sort of makes the, you  
19 know, for example, in certified nursing, you  
20 know, you might go on and have, like, we have  
21 this little accreditation, and this little  
22 accreditation, and this little accreditation, but

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1 none of it leads to an actual CNA. And that's  
2 the concern that I have when it comes to this.

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

7 MS. BUCK: Laura, and then Mark.

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

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

21 Exceptions where a student would have  
22 to self-identify that they understand the

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1 limitations that, around whether or not they'll  
2 be eligible to sit for licensure in their state,  
3 and then, essentially, affirming that they want  
4 to enroll in the program anyway, which is a way  
5 beyond disclosure, which I think we talked about  
6 yesterday. Most students are not going to click  
7 on those links to determine what their state  
8 level licensure requirements are.

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

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

19 I'd like to propose that language. It  
20 came out by, Scott emailed it out yesterday. I'm  
21 not sure if I, anybody printed copies. Oh, thank  
22 you.

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1 MS. BUCK: So the proposal is coming  
2 around the table.

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

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

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

21 PARTICIPANT: We were, I got the paper  
22 at the same time you were recommending. Is it

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1        somewhere specifically in here that, what you  
2        just stated?

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

5                    PARTICIPANT:    Page 1?

6                    MS. METUNE:    Yes.

7                    PARTICIPANT:    Got it.

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

13                   MS. METUNE:    Yes.

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

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

20                   MR. MADAIIO:    Yes, so this is Chris. I  
21       don't know if it needs, if everybody's reading,  
22       if I'll, if I would interrupt by going,

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1 explaining it a little more.

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

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

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

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

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1 licensure standards.

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

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

13 But as you get students from  
14 additional states, you need to go, the license,  
15 view the institution, you need a licensure board,  
16 look and see what their requirements are, and it  
17 might be that, you know, while one state says you  
18 need to take X course, you don't need to take  
19 that X course in state Y. And so, you add  
20 whatever course is needed in state Y to  
21 accommodate the student who's in that state so  
22 that they can get licensure.

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1 MR. MADAIIO: Right. Sorry. So that,  
2 right, says it a lot better, that just the  
3 specific program a student's about to get into  
4 might, maybe a few more credits, perhaps, for  
5 that state.

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

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

22 Maybe it's because they don't intend

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1 to get licensure. Maybe it's because they intend  
2 to move to Florida, or they move, intend to move  
3 far away from their home state to a state that is  
4 licensed. Or any other reason that it may be.

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

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

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

14 On page 3, the paragraph under Number  
15 2, I don't, I'm not sure that the language that  
16 you currently have in there is going to  
17 accomplish what you're trying to get. And even  
18 the language that, I think, is proposed is also  
19 not going to capture everything.

20 And the reason I'm saying that is you  
21 could, an institution can submit an application  
22 for pre-accreditation or accreditation, and not

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1 even be eligible.

2 PARTICIPANT: Right.

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

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

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

19 MS. BUCK: Todd, and then Jennifer.

20 PARTICIPANT: And I have a question  
21 for Mark too. So, Mark, on that, on that point,  
22 thank you for clarifying that. That helps. I am

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1 involved in a situation where, for a pharmacy  
2 program, you submit the application, do  
3 everything, but they cannot start enrolling  
4 students until they have received that pre-  
5 accreditation.

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

14 So are you, I think that, for me,  
15 would the designation be that, based on the  
16 accreditor, based on when the accreditor allows  
17 the school to begin teaching, whatever the status  
18 is, it's, that's when it needs to matter, right?

19 I mean --

20 MR. MCKENZIE: Well --

21 PARTICIPANT: -- help me.

22 MR. MCKENZIE: -- yes. It's a little

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1 bit complicated, because it changes at each  
2 state. So not all states require pre-  
3 accreditation, or even allow it.

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

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

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

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

20 Therefore, they're enrolled in a time  
21 when they're non, they're not accreditor, and  
22 they're not pre-accredited. They're, they've

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1       been granted state authorization, but they are in  
2       that in between land.     And so they're not  
3       eligible for Title IV at that point.

4                   PARTICIPANT:   Right.

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

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

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

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1 status, so they've met our 21 eligibility  
2 requirements.

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

6 PARTICIPANT: Yes, it does.

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

8 Or, I'm sorry.

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

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

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

19 First of all, not everyone declares  
20 what program they're going into when they enroll,  
21 and more specifically, there is a significant  
22 number of colleges that do not permit students to

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1 select what their major is.

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

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

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

19 And now, so which teaching regulations  
20 are important? I mean, what notice are you  
21 doing? The fact that the college doesn't work on  
22 a focus on Colorado is really not relevant.

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1           That's important for the teacher  
2 education institution and what we're talking  
3 about. You have to disclose here, and you have  
4 to receive a written acknowledgment.

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

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

18           And there are, there are literally,  
19 say dozens there, there are literally a few  
20 hundred institutions in our country where  
21 students are not attracted from the state of the  
22 institution. They're coming from elsewhere.

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1 I'm not saying it's not possible to do  
2 this. I'm saying it's hopelessly bureaucratic,  
3 and really not providing anything of value  
4 because, here's the other thing about these  
5 institutions.

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

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

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

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1       okay.

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

5                   MS. HAMMOND: It's fine. I just  
6       wanted to respond to something in Mark's comment.

7       First of all, I want to clarify that all schools  
8       are required to get accreditation.

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

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

17                   So Number 2 could read, the program is  
18       programmatically accredited, or has pre-  
19       accreditation status, when available, if such  
20       accreditation is required by a federal government  
21       entity, or a governmental entity in the state in  
22       which the institution is located, or in which the

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1 institution is otherwise required to obtain state  
2 approval under 34 CFR 600.9.

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

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

11 MS. HAMMOND: This is more on Number  
12 2, so it doesn't touch into all of the issues  
13 that are in Laura's proposal.

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

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

20 MS. BUCK: Yes.

21 MS. HAMMOND: -- between the  
22 Department's proposal --

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1 MS. BUCK: Yes. Yes.

2 MS. HAMMOND: -- and Laura's.

3 MS. BUCK: I think so too.

4 MS. HAMMOND: So --

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

9 MS. METUNE: Sure.

10 MS. BUCK: Okay.

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

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

17 MS. HAMMOND: Sure.

18 MS. BUCK: Please?

19 MS. HAMMOND: The program is  
20 programmatically accredited, or has pre-  
21 accreditation status, when available, if such  
22 accreditation is required by a federal entity, or

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1 by a government entity in the state in which the  
2 institution is located, duh, duh, duh, to the end  
3 of the, that paragraph.

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

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

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

18 MS. HAMMOND: Yes. After the word  
19 pre-accreditation, delete or accreditation. And  
20 the only reason I'm deleting that is it's  
21 duplicated from what it says in the, in the line  
22 above. Yes, there's a, also a comma at the end

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1 of the highlighting that can be deleted. Thank  
2 you.

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

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

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

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

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

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

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

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1 accreditor prior.

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

8 MS. HAMMOND: It doesn't say --

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

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

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

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1 and running prior to doing that.

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

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

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

14 MR. MIRANDO: Right.

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

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

20 So the one story that I think  
21 everybody remembers is a school being opened in  
22 New York, and I think it was for ultrasound, and

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1 I think that's where this is kind of coming from,  
2 I think.

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

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

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

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1 MR. MIRANDO: Right.

2 MS. HAMMOND: -- that had the --

3 MR. MIRANDO: Okay.

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

8 MR. MIRANDO: Sit the licensure.

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

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

18 Now, the students may have to be  
19 notified that the school is not programmatically  
20 accredited yet, but that we're working towards  
21 getting it, but it doesn't ensure that it meets  
22 that requirement. Yes.

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1 MS. BUCK: Are there any other  
2 questions of Cynthia, as to what, as to the  
3 proposal? Questions about it? Jennifer?

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

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

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

20 PARTICIPANT: It's under state  
21 requirements. Yes, the state authorization  
22 regulations also include that the institution

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1 meets other state requirements for the programs  
2 it's offering. So it's like, other state  
3 requirements, if applicable.

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

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

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

22 Now, a lot of states don't require

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1 accreditation, so that's a whole different ball  
2 of wax. But that last phrase of, or in which the  
3 institution is otherwise, to me, muddies the  
4 water with the rest of the paragraph.

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

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

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

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

22 And your language corrects the pre-

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1 accreditation candidacy, but it doesn't  
2 accommodate the students that are enrolled in a  
3 program that is deemed to be eligible, but has  
4 not yet been granted pre-accreditation status.

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

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

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

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

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

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1 area.

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

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

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

16 But that also means if they're  
17 marketing inappropriately to say, you can take  
18 this program and go out and work two years, and  
19 then sit for this exam, or here's the earnings  
20 you're going to get if you take this program and  
21 start working, without then having the additional  
22 step to be able to get this other licensing

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1 thing, that would be okay. But this is, this is  
2 the context for the prior discussions we had on  
3 this issue.

4 MR. MARTIN: We'd like to call for a  
5 10 minute break, please. Thank you.

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

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

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

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

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

19 MR. MARTIN: Yes, right.

20 MS. BUCK: No, I think we were focused  
21 on the wording that had been brought by Cynthia.  
22 That's what we're focused on right at this

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1 point.

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

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

7 MS. HAMMOND: Oh, dear.

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

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

14 PARTICIPANT: Credible?

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

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

21 So I think that gets us a little bit  
22 closer, at least as a starting point to what we

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1 need with including the schools that are eligible  
2 for accreditation, but you know, we, it kind of  
3 addresses the issue of, well, they've submitted  
4 the paperwork, but they know that they're not  
5 accredited, they're not going to be eligible for  
6 it.

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

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

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

19 So that's what this is trying to  
20 address and ensuring that it's not just a  
21 paperwork exercise that the school or the  
22 program, rather, has actually, knows that they

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1 can or should meet the eligibility requirements.

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

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

9 PARTICIPANT: The schools.

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

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

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

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1 on that.

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

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

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

21 MS. BUCK: So Cynthia, you want to  
22 respond to her question?

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1 MS. HAMMOND: Yes, let me give you an  
2 example. So there was a program in California  
3 that was a law program that were very clear that  
4 it did not lead to a law degree, and they  
5 marketed it as not a law degree program. You  
6 couldn't sit for the bar, and that's how they  
7 marketed that program.

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

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

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

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

22 MR. CHEMA: Yes. I was actually kind

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1 of holding my place in the line in case we  
2 meandered back to the other proposal, so --

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

5 MS. METUNE: I've got a question.

6 MS. BUCK: Okay, go head, Laura.

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

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

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

20 MS. HAMMOND: Correct.

21 MS. BUCK: Mark, did you have a  
22 question?

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1                   MR. MCKENZIE: It's actually, I think,  
2 a friendly amendment to the language that I think  
3 might make it a little clearer, if you will  
4 engage me.

5                   So the first line, the program is  
6 programmatically accredited, or pre-accredited,  
7 comma, or meets state or accreditor eligibility  
8 requirements for accreditation.

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

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

22                   So some of it may be irrelevant in

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1 some ways, but I just want to make sure that  
2 we're catching the language correctly. So,  
3 what's that?

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

6 MS. BUCK: Whitney?

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

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

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

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1 projected?

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

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

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

14 PARTICIPANT: Okay.

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

19 MR. CHEMA: Well, you know, Steve  
20 Chema, for the record. And this relates to the,  
21 you know, the Jen (phonetic) and Laura and Chris  
22 proposal, and I thought that Todd did a good job

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1 of explaining, you know, in a practical way, you  
2 know, some of the difficulties with implementing  
3 this.

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

12 MS. BUCK: Page 1 or page 2?

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

15 PARTICIPANT: Of the proposed --

16 MR. CHEMA: Yes.

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

19 MR. CHEMA: Yes, it is. It's the  
20 underscored sentence, right there. What I'm  
21 thinking is, this is, I think when we contemplate  
22 this, you know, being part of an agreement formed

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1 on the front end, you can probably understand  
2 what you might need to do and, you know, saying  
3 doing anything possible or anything, as needed,  
4 wouldn't seem like that would be too difficult.  
5 But understanding that things aren't as static.

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

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

16 And you know, one more point to this  
17 idea that these things are not, you know, set in  
18 stone, that you don't just have, at the point a  
19 student matriculates, you know, a clear idea of  
20 where you need to be for licensure, when I try to  
21 deal with this issue, I have talked to schools  
22 about certainly, at the, as part of the

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1 admissions process, explaining what the licensure  
2 requirements are in the state in which the school  
3 is located, getting input from the student as to  
4 what their career path and plans are, but also,  
5 and then, explaining, well, if it's in our state,  
6 great. If it's in some other state, this is what  
7 we think we need to do, or maybe we need to  
8 investigate this.

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

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

20 MS. METUNE: What we said prior to  
21 enrollment, this is Laura, prior to enrollment in  
22 the program for, like, so, or at the point, we

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1       could add something about at the point of  
2       declaring a major in that language there to make  
3       it clear that that's really what we're talking  
4       about is the point at which the institution has  
5       discovered the student has this pathway towards  
6       licensure.

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

9                   MS. METUNE:  So the, at the bottom  
10       section in red, right now, after the pursuant to  
11       668, 412, that, and prior to a student's  
12       enrollment or declaration of major, or program  
13       participation, of program enrollment --

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

16                   MS. METUNE:  Or program enrollment.

17                   MS. BUCK:  Major or program  
18       enrollment?

19                   MS. METUNE:  I mean, prior to  
20       student's enrollment, so that it's clear it's not  
21       just prior to enrolling in the institution, but  
22       prior to that specific program.

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1 PARTICIPANT: Or change, it could be  
2 or change.

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

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

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

19 MR. JONES: I'm sorry. I'm just not  
20 seeing this address the issue I'm raising. And  
21 let's go back to that said, or the section, and  
22 receives a written acknowledgment from the

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1 student affirming the student knows that the  
2 program does not meet the state licensure  
3 requirements, and the institution requires the  
4 student to explain in writing, in his or her own  
5 words, the reason the student still seeks to  
6 enroll in the program.

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

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

15 It is the over-inclusion of programs  
16 in this that is the flaw from the beginning, and  
17 I'm not, I can't go along with that that we're  
18 adding, it's, to say it's, well, it's just  
19 another piece of paper, I'm sorry. This is the  
20 problem, that we're just, you know, from the  
21 federal level, including more and more  
22 obligations of processing paperwork on higher ed

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1 institutions where the person collecting this may  
2 well be the head of the Department of Teaching at  
3 a small college, when the, this really is  
4 providing absolutely no benefit to the kind of  
5 student we are talking about. And then --

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

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

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

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

17 MR. JONES: It --

18 MS. BUCK: -- in opposition to?

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

21 MS. BUCK: Okay. Okay.

22 MR. JONES: -- of that. There may be

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1 a solution. I'm not going to foreclose that, but  
2 I simply can't see that as being something that's  
3 accepted.

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

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

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

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

20 But I think that if it's a program  
21 that is going to, you know, for most of the  
22 students, require a license for employments, you

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1 know, I understand that there is going to be some  
2 bureaucratic hurdle. Of course.

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

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

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

19 But I mean, I think we kind of have to  
20 start somewhere. So with the state the student  
21 lives, we, you know, essentially assume that  
22 they're going to want to work there. And that

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1 may not be correct, and that's the point of the  
2 student being able to clarify.

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

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

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

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1 check is for it.

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

5 Jennifer?

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

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

19 So I just, before we go down the,  
20 further on this rabbit hole, are you open to  
21 hearing, like, before we start editing it and  
22 trying to make, are you open to it, or are we

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1       stuck with not having a provision in, you know,  
2       which, I just want to know before we start  
3       tackling --

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

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

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

22               MS. BUCK: I think it's still useful

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1 for the negotiators to indicate their views, and  
2 the Department of Education can then decide what  
3 they're going to do.

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

5 MS. BUCK: Yes. Okay. Pamela?

6 MS. FOWLER: Well, I agree with Todd.

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

11 And I don't have to collect this piece  
12 of paper, because my question was going to be  
13 what the heck do I do with this piece of paper once  
14 I collect it? Who's going to read it? No one.  
15 And what do I do with it? Stuff it in a drawer?

16 Image it and stick it in a file somewhere?

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

20 MR. JONES: I'm sorry. I'm just  
21 waiting, you know, and I appreciate the sincerity  
22 of the belief that this can't cause, you know,

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1 this could only be beneficial for the students  
2 involved, and I'm always hesitant to point out  
3 the names of individual institutions, because I  
4 don't want it showing up inside higher ed that  
5 I'm saying this institution or that institution.

6 So, I'm not. I'm not going to put them on the  
7 spot.

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

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

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

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1 the issue.

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

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

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

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

21 MS. METUNE: Just maybe a closing  
22 comment.

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1 MS. BUCK: Yes.

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

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

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

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

17 PARTICIPANT: A show of thumbs?

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

21 So thank you for your work in putting  
22 together a proposal, and I always appreciate it

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1 when people can come forward with a specific  
2 proposal that people can look at. So thank you  
3 for that. Let -- yes, Sandy?

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

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

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

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

21 MS. HAMMOND: Cynthia, yes. In  
22 looking at Whitney's language, I just want to ask

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1 a clarifying question. So it says meets state or  
2 accreditor requirements for accreditation and has  
3 submitted an application, pre-accreditation,  
4 that's in the state in which the institution is  
5 located, correct?

6 MS. BARKLEY-DENNEY: Sorry about that.

7 I'd be willing to hear from people better at  
8 this than I am as far as this piece goes, from  
9 Anthony and Laura, or Tony and Laura, rather.

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

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

18 PARTICIPANT: That's good.

19 MS. HAMMOND: Okay. I just wanted to  
20 get that clarification before seeing if we had  
21 any more comments on this paper, then voting on  
22 this entire paper.

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1 MS. BUCK: Any other comments or  
2 questions? So do you want to take a temperature  
3 check on Issue Paper 8 with the modification that  
4 has been approved?

5 PARTICIPANT: Yes.

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

10 PARTICIPANT: What issue papers are  
11 left?

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

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

19 MR. MADAIIO: Sure, that the licensure  
20 certification that we discussed previously, for  
21 me, Chris.

22 MS. BUCK: Johnson?

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

6 MS. BUCK: Jennifer?

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

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

18 So the one piece that I would ask, and  
19 I'm not saying that we need to get to consensus  
20 on 8, but I, it's why I keep saying that I  
21 actually view Issue 6, Issue Paper 6 as being  
22 more important, because that's where the

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1 disclosure section is for this student piece.

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

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

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

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

21 MR. GANNON: This is Chris Gannon, for  
22 the record. Yes, just the licensure

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1 certification, and also just that the group nixed  
2 the proposed changes.

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

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

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

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

22 MS. BUCK: Sandy?

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

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

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

21 It's done with, and now let's figure  
22 out whether, in the future, you could possibly

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1 perceive that a student might feel like they got  
2 screwed by a public or a private not for-profit.

3 There's a possibility of that. So let's work  
4 towards that.

5 MS. BUCK: Greg?

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

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

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

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

20 MS. BUCK: Okay.

21 MR. MARTIN: Before we, before we do  
22 that, I'm going to bring up Sarah Hay. She has a

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1 couple of comments about some data that we  
2 provided yesterday, so she'd like to make some  
3 clarifications there. Then we'll proceed to  
4 close out 6 and move on to Technical and  
5 Conforming Changes.

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

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

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

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

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

22 MR. MARTIN: So tell them around the

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1 table, what, they're passing them around.

2 MS. HAY: They are passing some  
3 around.

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

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

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

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

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

20 So if you flip the page over, there's  
21 more to the story, and this is something that I'm  
22 not sure everyone is attuned to.

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1           The title of this one is five-year  
2           repayment rate for borrowers receiving Pell  
3           versus five-year repayment rate for borrowers who  
4           do not receive Pell.

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

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

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

20          So as a proxy for selectivity, we did  
21          use SAT math scores. There are arguments to be  
22          made for other metrics. We used median SAT math

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1 scores. It's on the Scorecard. It's the one we  
2 picked.

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

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

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

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

19 So I don't know, converting that in  
20 to, what does that maybe mean, right? I'm not  
21 going to do a lot of interpretation. I'm going  
22 to let you guys think about that.

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1                   But to me, there's some evidence here,  
2                   or some data here, that suggest that the  
3                   difference may not be the student. It might be  
4                   the institution and the selectivity of the  
5                   institution affecting repayment rate.

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

13                  MS. BUCK: Johnson, and then Chad?

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

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

21                  MS. HAY: No. So that was the last  
22                  one we did, which is the higher the SAT score,

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1 the lower the percent that are, of the borrowers  
2 at that institution that are receiving Pell.

3 PARTICIPANT: I think our pages were  
4 stapled differently.

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

7 PARTICIPANT: I just wanted to let you  
8 know.

9 MR. TYLER: Oh, thank you. Okay.

10 MS. HAY: Sorry about that.

11 MR. TYLER: Okay. I guess my, I guess  
12 what I'm trying to understand is why are the last  
13 two slides you showed inconsistent? I mean,  
14 aren't they reinforcing the same principle? Or -  
15 -

16 MS. HAY: I think they are consistent.

17 MR. TYLER: They are consistent?  
18 Okay.

19 MS. HAY: Yes.

20 MR. TYLER: Okay. Thank you.

21 MS. BUCK: Chad?

22 MR. MUNTZ: To try and pull back one

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1 of the conversations we had with you, I think,  
2 over this week about repayment rates and what  
3 would be a good rate, just curious if this helps  
4 provide that?

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

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

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

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

21 I mean, that's one of the key things  
22 is getting the loan money back to the federal

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1 government. So any insights about that?

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

3 MR. MUNTZ: Okay.

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

8 MS. BUCK: Jordan?

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

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

18 But if you disaggregate the data and  
19 look at repayment rates for Pell students versus  
20 non-Pell students, as I'd suggested, you actually  
21 see that, you know, schools with higher shares of  
22 Pell, even the non-Pell students do worse.

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1           So suggesting, you know, as you, as  
2           you were characterizing it, that school quality  
3           here really plays a role in differential access  
4           to better quality schools between richer and  
5           poorer students is partially explaining these  
6           patterns.

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

11          So you know, we know there are big  
12          correlations with socioeconomic status and how  
13          students score on the SAT. And so, if you have  
14          the microdata to be able to look at students with  
15          high SAT scores and low SAT scores, then you  
16          might also conclude that this is less of a kind  
17          of relationship between students SAT or that kind  
18          of academic background and repayment rates per  
19          se, but rather students with different academic  
20          preparation are attending different schools with  
21          different qualities, in the same way that we came  
22          to that conclusion with the Pell data.

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1           So I realize those data are not  
2 available for the Department to be able to do  
3 that analysis, but just want to caution in the  
4 interpretation.

5           MS. BUCK: Thank you. Chris Gannon?

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

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

15          MS. BUCK: Sandy?

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

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

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1 yours, Jeff?

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

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

8 So there are colleges out there that  
9 have a limited amount of ability to accept  
10 everybody that applies. I think the state  
11 schools probably get, I mean, Pamela, you gave us  
12 in the first week, a tremendous thing, right?  
13 Interest, couple hundred thousand, application,  
14 50,000, and then, you went down the list until  
15 you get to about 5,000, and then 1,000 that  
16 actually attend, or something thereabouts, right?

17 Roughly, that span.

18 So the fact that students that want to  
19 go to certain institutions, but can't get in  
20 because of limitations, let's just say it's  
21 limitations due to the capacity of the school,  
22 and not, you know, they're going to take the

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1 cream of the crop, the ones with the highest  
2 eligibility requirements, or standards.

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

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

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

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

22 What are we going to do with all those

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1 students if we go harsh on everything we're  
2 talking about here? Just a question of, we've  
3 got to figure that out.

4 MS. BUCK: Marc Jerome?

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

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

13 And my institution has a very robust  
14 support system around students who borrow for  
15 about 10 years, but I believe we are  
16 intentionally guiding students into certain non-  
17 amortizing programs because the staff feels it's  
18 the right thing for the student, and it's not an  
19 indication of a problem with the quality of the  
20 program in the city of New York. If someone's  
21 earning \$40,000, they may want to start off at  
22 interest only.

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1           So I guess, what I'm, and I guess I'll  
2 say this. When repayment rates came out, there  
3 was an implication that a low repayment rate  
4 correlated to student default.

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

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

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

18           MR. MARTIN: Well, I don't think I'm  
19 in a position to say for, on behalf of the  
20 Department, what the right thing to do is, so I  
21 won't go, I won't go quite that far. I don't  
22 flatter myself that much.

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1           But I don't think, you know, as far  
2 as, I guess you're referring to what's, repayment  
3 programs you're going to counsel students to get  
4 into.

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

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

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

19           MR. ARTHUR: But you actually are,  
20 because we are sitting here with a proposal that  
21 a low, a high percentage of students in non-  
22 amortizing is a reflect, is a negative reflection

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1 of the institution, and we're proposing a penalty  
2 phase for it.

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

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

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

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

20 I mean, the package is about, and I,  
21 and we've talked about the balancing acts  
22 involved here, and what, why we reintroduced the

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1       repayment rate.

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

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

11                  MS. BUCK: So, are there --

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

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

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

22                  Does that necessarily mean they are in

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1 an IDR plan, or could that also be a forbearance  
2 issue? Yes.

3 Because my understanding is that about  
4 27 percent of borrowers are in IDR plans, which  
5 yes, they're non-amortizing, but that's also a  
6 huge chunk of borrowers who are non-amortizing  
7 who are in a different plan or in forbearance or  
8 in deferment.

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

11 MS. BARKLEY-DENNEY: Right. Yes. So,  
12 and I just wanted to point out, you know, in GE  
13 1, we talked about a 35 percent repayment plan.

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

18 So it looks like that 35 percent  
19 repayment plan, even in just borrowers who  
20 receive Pell, would put the vast majority of  
21 borrowers over 35 percent of repayment. Is that  
22 a correct interpretation?

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1 PARTICIPANT: This one.

2 PARTICIPANT: Your first one.

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

5 MS. BUCK: Okay.

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

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

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

14 PARTICIPANT: Institutionally.

15 MS. BARKLEY-DENNEY: Institutionally.

16 And I think that holds true on the next page as  
17 well when comparing repayment rates between  
18 borrowers receiving Pell and non, those who  
19 aren't receiving Pell.

20 MS. HAY: So I hear what you're  
21 saying, but if I draw a horizontal line at about  
22 0.35, I don't see a break in the data there. And

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1 normally, I would draw a threshold where I see a  
2 break in the data.

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

5 MS. HAY: Okay.

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

9 PARTICIPANT: Most institutions --

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

12 MS. BARKLEY-DENNEY: Okay.

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

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

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

19 MR. TYLER: Five-year repayment rate  
20 for borrowers receiving Pell versus five-year  
21 repayment rate for borrowers who did not receive  
22 Pell.

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1           So you're, Sarah, I understood your  
2 conclusion to be that the repayment rate wasn't  
3 dependant on whether you receive Pell or not.

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

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

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

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

21          MR. TYLER:   Okay.

22          MS. HAY:    -- Title IV students.

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1 MR. TYLER: So then, I have a, I have  
2 a very technical question here. So one of these  
3 dots here, does this represent a Pell or a non-  
4 Pell student, or is that the institution that has  
5 both Pell and non-Pell --

6 (Simultaneous speaking)

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

10 MR. TYLER: Okay.

11 MS. HAY: -- not students.

12 MR. TYLER: Okay.

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

15 MR. TYLER: Yes.

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

22 MR. TYLER: Sarah, what was your

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1 source? What is the source?

2 MS. HAY: This is the Scorecard data.

3 MR. TYLER: So was that --

4 MS. HAY: So --

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

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

10 MR. TYLER: Okay.

11 MS. HAY: So this outlier here --

12 MR. TYLER: Yes.

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

17 MR. TYLER: Okay.

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

21 MR. TYLER: I see. I understand now.

22 MS. HAY: Okay.

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1 MR. TYLER: I understand how that  
2 curve --

3 MS. HAY: All right.

4 MR. TYLER: Thank you.

5 MS. HAY: Sorry if I confused anyone.

6 MR. TYLER: No, no, no.

7 MS. HAY: I apologize.

8 MR. TYLER: That's very helpful.

9 MS. BUCK: So we're focusing --

10 MR. TYLER: Thank you.

11 MS. BUCK: -- on questions for Sarah.  
12 Chad, did you have a question? Your card is up.

13 MR. MUNTZ: No.

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

16 MS. BUCK: Okay.

17 MS. HAY: No? Okay.

18 MS. BUCK: Tim?

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

22 And I have strictly a data question

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

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

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

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

14 So let's call it a data set of about  
15 4,000, just to make it simple. I just, I think I  
16 want to first reiterate the point that we are  
17 looking and proposing under this rule to look at  
18 programs, not institutions. And I know that we  
19 don't have the data on that, and we have been  
20 over this many, many, many times.

21 But if I remember correctly, last,  
22 there was a data request during the last session

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1 about how many gainful employment programs the  
2 Department had collected data on, inclusive of  
3 those programs with less than 30 students.

4 So in other words, there were about  
5 8,000 gainful programs under current regulation  
6 that were reported on, and I believe there were  
7 another 22,000 or so for a complete universe of  
8 about 30,000 gainful employment programs alone,  
9 under the current regulation.

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

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

20 So my data question is, therefore,  
21 because we're looking at smaller numbers enrolled  
22 in programs, I've always been under the

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1 assumption that smaller programs lead to more  
2 volatility in the data. Is that a fair  
3 assumption to make?

4 MS. HAY: Yes.

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

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

15 PARTICIPANT: Very good speculation.

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

21 And so, in an effort to get you back  
22 the information that was requested, this is what

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1 we had. I would agree, things could look very  
2 different, but it's speculative at the program  
3 level.

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

9 MS. HAY: Yes, no problem.

10 MS. BUCK: David?

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

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

18 So page 1 is five-year repayment rate  
19 for people who receive Pell. And then, on page  
20 2, you compare Pell versus non-Pell.

21 If you did what I, what I would've  
22 done, if you did a five-year repayment rate on

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1 page 1 for people who did not receive Pell, would  
2 it look exactly the same as this?

3 MS. HAY: Yes.

4 MR. SILVERMAN: Okay. So --

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

7 MR. SILVERMAN: Okay. So --

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

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

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

16 MS. HAY: Yes.

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

21 And then, page 4, SAT math score  
22 increases, the number receiving Pell decreased.

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1 So what's the bottom line here?

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

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

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

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

17 It's possible that there are other  
18 confounding factors going on also that aren't in  
19 our data, and that we haven't uncovered. Right?

20 So we're showing you correlations, but that  
21 doesn't necessarily mean causation.

22 PARTICIPANT: Right.

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1 MS. HAY: Okay.

2 MR. SILVERMAN: Okay. Thank you.

3 MS. BUCK: Kelly?

4 MS. MORRISSEY: Kelly, for the record.

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

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

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

16 MS. HAY: So that's a good question,  
17 and I'll point you to the incise that's at the  
18 bottom of the SAT slides, and you'll see that we  
19 go, in the first couple of slides, from about  
20 3,300 institutions down to about 1,100 or 1,200  
21 institutions.

22 And that's because we don't have data

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1 points on math SAT scores for institution. And  
2 that is the data we have.

3 There are other variables on the file.

4 This is the one we picked, but you're right. We  
5 can only provide you information on data that we  
6 have. But I hear your point.

7 MS. BUCK: Chad?

8 MR. MUNTZ: This is Chad. All right.

9 So I, to follow up on Tim and Todd's kind of  
10 comments, if we can go to that second slide,  
11 because I think that, which is the five-year by  
12 five-year, and it was the point that you had  
13 made, Sarah, that it looks like the institutions  
14 have the same kind of repayment rate regardless  
15 of the percentage of Pell.

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

21 MS. HAY: That's what we saw in the  
22 data.

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1 MR. MUNTZ: Okay. So if each of these  
2 dots represent an institution that has 20 to 40  
3 to 100 programs, in order to stay at a 90 percent  
4 repayment, it kind of draws a conclusion that I  
5 would have to say the vast majority of all those  
6 programs and all those students are repaying at a  
7 90 percent level.

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

13 PARTICIPANT: Okay.

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

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

17 PARTICIPANT: How about this side?

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

21 MR. MUNTZ: But I don't, I don't know  
22 if we can draw that conclusion, because it's

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1 just, it's just the average, rather, I mean --

2 MR. MARTIN: Yes.

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

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

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

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

17 MR. MARTIN: Yes.

18 MR. MUNTZ: -- know.

19 MR. MARTIN: Yes. So I think that  
20 there is something that we could learn with that,  
21 and that's why I think it offers, and I know  
22 there's no break in the data, but if we looked at

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1 and said, like, a 30 or 20 percent repayment rate  
2 is kind of where we want to focus, then I would  
3 expect a lot of those institutions and programs  
4 would all have a 20 percent kind of repayment  
5 rate. I wouldn't think of someone --

6 MR. MUNTZ: But we don't know.

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

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

12 MR. MARTIN: Okay.

13 MR. MUNTZ: -- would know.

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

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

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

22 So, say an institution has three

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1 programs, right? And one program has 1,000  
2 students enrolled in it, and that's the one that  
3 has a 90 percent repayment rate.

4 But these other two programs each have  
5 50 students enrolled in them, and the middle one  
6 has a 50 percent repayment rate, and the third  
7 one has a 20 percent repayment rate.

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

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

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

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1 that are repaying.

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

4 MS. HAY: Okay.

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

8 For that situation to exist, it would  
9 have to be a very small minority of students in  
10 the whole vast universe to make that happen,  
11 1,000 to 50 to 50. Fifty are bad.

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

15 PARTICIPANT: Be good.

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

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

22 Can you clarify, are you saying that

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1 the Department is irresponsibly writing this rule  
2 by going forward and not having that data?

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

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

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

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

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

17 MS. BUCK: Jennifer?

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

22 I think, in order to write a good

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

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

19 But the fact of the matter is that  
20 they're holding them to a, they're making sure  
21 that they're academic, which they should,  
22 academically ready to be in their school.

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1           But it also demonstrates, and I think  
2 the data shows it, is that you're going to get a  
3 different outcome there.

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

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

20           And so, this is, I just want to thank  
21 the Department, because I actually think it's  
22 quite responsible and very helpful.

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1 MS. BUCK: Johnson, did you have a  
2 question?

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

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

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

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

21 MS. BUCK: So unless there are more  
22 questions for Sarah, we want to express

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1 appreciation for the production of this, and I  
2 think we then want to move back to Issue Paper 6.

3 Isn't that what you were proposing, Greg?

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

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

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

19 MR. RAMIREZ: And just to  
20 clarification --

21 MS. BUCK: And --

22 MR. RAMIREZ: -- it's the, it's the

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1 language that was issued with the one change of  
2 the consumer testing --

3 MS. BUCK: Right.

4 MR. RAMIREZ: -- language that  
5 Jennifer had.

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

11 PARTICIPANT: Yes.

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

15 We, as we, as I said earlier, would be  
16 amendable to strengthening that language such  
17 that institutions have to disclose the, whether  
18 it meets the licensure requirement in that state,  
19 and any other state that they want to make  
20 assertion, that they want to make assertions  
21 about such that, for any, for any state that the,  
22 certainly for the state the institution's in, and

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1 any other states that they want to assert that  
2 they meet the licensure requirements for, would  
3 be in the disclosure.

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

10 MS. BUCK: Sandy?

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

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

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

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1 Anybody who --

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

4 MR. MARTIN: I'll let, if that has to  
5 do, I think, is your, this is great for the  
6 record. Is the question about what the template  
7 currently allows for? Because they can, I think  
8 --

9 MS. SARGE: That's a good question.

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

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

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

20 So I think, for a lot of are maybe at  
21 a disadvantage because you don't use it or you  
22 haven't seen it, whereas the folks who have, who

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1 have been subject to GE obviously have worked  
2 with that to a great, to a great extent. So I  
3 think I captured that correctly. But if users  
4 want to add anything, let me know.

5 MS. SARGE: Can you pick multiple  
6 states?

7 MR. MARTIN: You can.

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

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

12 MS. BUCK: Any other questions?  
13 Pamela?

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

20 MR. MARTIN: No, I mean, we, the whole  
21 purpose of this was for students to know what  
22 the, and I understand that a lot of institutions

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1 look at things, you know, every year, and  
2 students could take different course loads and  
3 whatever.

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

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

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

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

21 But we want the total cost of the  
22 program as best you know it. We understand that,

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1 you know, states change, things change,  
2 especially in longer programs.

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

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

9 PARTICIPANT: That would be so much  
10 better.

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

15 And I understand that's probably, in  
16 some cases, it's, for a lot of the schools,  
17 currently, a lot of the programs, not all,  
18 currently covered by GE, that, you know, if it's  
19 a, if it's a 13 month program, or a 9 month  
20 program, that that's very representative, and  
21 that would, extending it to, as, in your case,  
22 Pam, you know, extensively, a lot of

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1       baccalaureate programs, that you are projecting  
2       it out.

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

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

11               MS. BUCK: Whitney?

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

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

19               I'm just wondering where the  
20      enforcement is going to happen on that disclaimer  
21      to ensure that both, it is appropriate, which is  
22      not defined, and that it is, in fact, a

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1 significant number of students who are affected.

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

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

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

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

22 And the same thing here. It is, yes,

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1 it is up front, presuming the integrity on the  
2 part of the institution for making this  
3 statement.

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

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

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

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

20 I mean, if a, if a school were making  
21 an assertion that, well, you know, many of my  
22 students, I think that the intent here is for, I

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1 just, I'm not picking on cosmetologists.

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

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

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

15 MS. BUCK: Chad?

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

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

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1 if that sets up a situation.

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

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

15 MR. MUNTZ: Yes, I know.

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

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

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1 the student as possible.

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

6 MS. SARGE: Program you're --

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

9 PARTICIPANT: Yes.

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

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

15 MS. BUCK: Could you say the question  
16 again?

17 MR. MARTIN: The question was, because  
18 around the table, there seemed to be this idea  
19 that this, is this, does this assertion here, is  
20 it, are we asserting that the student's tip  
21 income is derived from employment in a field  
22 which this, for which the student was trained by

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1 the program. And I just asked, I'm asking this  
2 as a, to get some opinion.

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

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

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

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

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

22 MR. MUNTZ: Oh.

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1 MR. MARTIN: -- you're required to  
2 disclose it, you're required to disclose it --

3 MR. MUNTZ: Yes. Okay.

4 MR. MARTIN: -- in earnest.

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

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

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

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

20 MR. MARTIN: This is Greg, for the  
21 record, one more time. I think, I think the  
22 Department, you know, we're, we definitely want

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1 to be reasonable about this.

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

13 MS. BUCK: Jennifer?

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

21 And so it would be inconsistent at  
22 this point in a disclosure to tie the tips to,

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1 and I think there's actually even a, potentially,  
2 sort of a legal sort of aspect to that where, the  
3 Department, like I said, they're relying on  
4 earnings that are earned, regardless of the field  
5 that the person actually ultimately ends up in.  
6 And David's now back at the chair, but he can  
7 speak to it.

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

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

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

22           But then, I also would urge the

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

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

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

13 So that's why they correlate.

14 And then, the cost has to correlate to  
15 2 and 3. And I think that's, it is very,  
16 frankly, confusing for everybody. I think it's  
17 confusing for it.

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

22 And then, for the students who are

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1 reading it, there needs to be actually a  
2 correlation between those three paragraphs.

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

6 I'm not saying not disclose the data,  
7 but somehow correlate those three factors  
8 together in the disclosure. But I would put on  
9 the table right now, adding the word estimate to  
10 7.

11 MS. BUCK: Jordan?

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

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

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

22 And I just wonder whether it's not

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1 strange to have the option to only report debt  
2 for students who withdrew, which I think is the  
3 way that reads?

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

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

16 MR. MATSUDAIRA: Okay.

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

21 MR. MATSUDAIRA: It would certainly be  
22 lower.

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1           MR. MARTIN:   And we could, yes, we  
2           could look at it, but I don't, I don't, I see it  
3           as something, it's a little bit interpretive, but  
4           I don't, certainly that's something, I don't, we  
5           would ever do.   But --

6           MR. MATSUDAIRA:   Okay.

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

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

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

19          But you know, to the extent that some  
20          of these could be put in a centralized location  
21          that's maintained by ed, and kind of more easily  
22          accessible to students.

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1           You know, again, especially the things  
2           that ed is kind of already just calculating from  
3           their own data, like whether it's the Scorecard  
4           or something similar, just like a kind of program  
5           level pages for the Scorecard so, you know,  
6           things like earnings and debt are kind of  
7           straightforward.

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

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

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

21          I don't, I'm not going to, I don't, we  
22          wouldn't be, we wouldn't be accepting of anything

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1 that would obligate us to do, to do that, at this  
2 point.

3 MS. BUCK: Chris Madaio?

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

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

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

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

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

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1 reasons.

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

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

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

22 And again, I guess I, as far as the

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1 tips being derived from the program, you know, I  
2 think that's important simply to ensure that the  
3 student understands why this is.

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

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

20 I would definitely, it was a  
21 suggestion, so I want to make sure the Department  
22 doesn't do this, which is to have one year of

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1 tuition instead of the full course of the  
2 tuition.

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

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

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

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

18 MR. KAMIN: Yes, John Kamin, for the  
19 record. I, Jordan kind of took what I said, and  
20 I just want to re-emphasize, when it comes to  
21 transparency and informing consumers, there is  
22 numerous references to College Navigator and

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1 College Scorecard that all indicate that the  
2 school's disclosure website needs to link back to  
3 them.

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

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

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

20 MS. BUCK: Mark (phonetic)? Johnson?

21 No. Yes.

22 MR. TYLER: I would, I would agree

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1 with John and Jordan's point. It is difficult.  
2 I found it difficult finding the disclosures on  
3 various websites.

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

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

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

19 MR. SILVERMAN: This is David  
20 Silverman, for the record, speaking on behalf of  
21 performing arts. This disclaimer is, would be  
22 extremely helpful. It would be perfect.

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1 I mean, we have everything for our  
2 students, and we don't make train for it, but we  
3 have everything, and then we have tip income, we  
4 have self-employed, we have business expenses,  
5 part-time, and everything else. So, thank you.

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

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

14 MR. SILVERMAN: Thank you, Tony.  
15 Thank you.

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

18 MS. BUCK: Jennifer?

19 PARTICIPANT: I just wanted to comment  
20 on something that Chris said about the geography  
21 disclaimer, because I hear, you know, actually I  
22 think I hear him on that.

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1           And I just wanted to say that maybe it  
2           could be so simple, because I don't love the  
3           institution believes part either, to be honest  
4           with you.

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

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

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

19                 MS. BUCK: Jessica?

20                 MS. BARRY: Hi, Jessica Barry, for the  
21                 record. I actually wanted to comment on the  
22                 geographic statement too. I think the simplified

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1 version would work too.

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

5 So our median income is in the high  
6 30s, and we have many students who come from  
7 rural communities, and we talk to them when they  
8 enroll, and we say, you know, if you choose to  
9 move back to your rural community, you may not be  
10 able to achieve this median. But a lot of times,  
11 they didn't listen.

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

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

21 MR. MARTIN: I don't know, I can't do  
22 language right now. You know, it's going to take

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1 some time, if we're still doing that.

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

4 MR. MARTIN: If we want the language -  
5 -

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

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

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

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

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

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

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

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1 time for lunch.

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

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

14 MR. RAMIREZ: A two-minute statement.

15 MS. BUCK: Right.

16 MR. RAMIREZ: A short, brief --

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

19 MR. RAMIREZ: -- statement.

20 MS. BUCK: A very short statement.

21 Thank you, Javier.

22 (Whereupon, the above-entitled matter

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1 went off the record and resumed at an undisclosed  
2 time.)

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

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

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

16 So the summary of changes since -- to  
17 -- as a refresher -- I know this is going to  
18 sound somewhat convoluted, but as a reminder,  
19 remember, there were certain areas of disclosures  
20 in 41, 668.41, that even though none of that was  
21 -- none of that was pertinent to our discussions  
22 about -- about DE rates or GE/DE, it -- we were

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1       tasked with looking at it because it was -- it  
2       had to do with disclosures and because we were --  
3       we were dealing with disclosures, even though our  
4       disclosures were in a completely different  
5       section.

6                 So that was the way it was initially.

7       Then the borrower defense negotiators took back  
8       41, or they had taken back -- taken back  
9       responsibility for 41. So what you see here is  
10       that there is a reference here to requiring  
11       schools that use pre-disputed arbitration  
12       agreements or class action waivers to disclose  
13       the information -- disclose that information,  
14       rather, in an easily accessible format for  
15       students, prospective students, and the public,  
16       and to require these schools to provide an annual  
17       notification of this information to enrolled  
18       students.

19                We note here this is an -- this is an  
20       issue for borrower defense that we are currently  
21       tracking. We don't have to track this. Borrower  
22       defense took it back. So we are not going to

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1 look at pre-disputed arbitration, which is a  
2 subject with which I only have a nodding  
3 acquaintance. I know what it is, but I have not  
4 been dealing with it. So we're not going to deal  
5 with that.

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

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

20 However, these -- these areas here  
21 have to be just noted and brought up here. So  
22 even though it's struck out, I refer you to the

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1 bottom of page 4, Financial Protection  
2 Disclosures. And we note that the Department  
3 proposed to remove these financial protection  
4 disclosures, and that was that the institution  
5 had to deliver to enrolled and prospective  
6 students.

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

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

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

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1 (Laughter.)

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

4 PARTICIPANT: It might have been a cut  
5 and paste.

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

10 (Laughter.)

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

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

21 So I bring it up. If anybody wants to  
22 say anything about it at all, it's -- I mean,

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1 it's kind of a -- I don't know how much good that  
2 would -- well, the Department is currently  
3 writing the NPRM for it. So if anybody has  
4 anything brief they want to say, I'd be willing  
5 to entertain that. I have no further comments on  
6 the matter.

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

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

13 Anything else, Steve?

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

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

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

21 PARTICIPANT: So, okay, I guess -- I  
22 mean, my comment is just this is difficult to

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1 vote on. I mean, obviously, because it touches  
2 other things. So, I mean, if I was asked to take  
3 my temperature on this -- this technical  
4 conforming issue paper, I think I would be a down  
5 vote because I just disagree with all of the  
6 other things that it is changing.

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

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

21 So continue, Chris.

22 MS. BUCK: Okay. Just clarify to help

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1 me, Greg. Which two sections?

2 MR. MARTIN: Sections I --

3 MS. BUCK: I --

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

7 MS. BUCK: -- and Section H.

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

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

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

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

22 MR. MARTIN: No, wait. Maybe not.

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1 Hold on a minute.

2 (Simultaneous speaking.)

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

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

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

17 MR. MARTIN: Correct.

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

21 PARTICIPANT: Okay. I just don't even  
22 know where this falls in. So could you just help

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1 me. What do we use this for? I apologize for  
2 being ignorant on this.

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

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

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

21 They took that up and considered it in  
22 borrower defense. So we have nothing to say

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1 about that at all here. However, the areas  
2 related to striking out the -- those disclosure  
3 requirements related to the trigger and also the  
4 warnings were not -- were not considered there.  
5 So we have to consider them here.

6 PARTICIPANT: And they're struck out.

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

14 MS. BUCK: So Whitney, and then  
15 Kirsten.

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

20 MR. MARTIN: This has nothing to do  
21 with the rule we're working on now. Absolutely  
22 nothing. This would not have any effect on what

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1 we're doing -- this particular rule. This is  
2 related to borrower defense.

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

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

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

19 MS. BARKLEY-DENNEY: So given -- I  
20 mean, I didn't follow borrower defense very  
21 closely. So how am I to contextualize this  
22 within borrower defense if that's not a rule that

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1 we have negotiated or followed?

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

4 (Laughter.)

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

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

12 (Laughter.)

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

21 And a loan -- a more detailed loan  
22 repayment rate disclosure is what it looks like

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1 to me. But the proposal for the Department was  
2 to just strike those provisions from the  
3 disclosure section, so they were given to us to  
4 note in these discussions, that the pieces were  
5 being struck.

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

11 MS. BUCK: Kirsten?

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

21 So the outcome will be for advisement  
22 purposes, but not necessarily for approval.

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1 Would that be accurate?

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

6 MR. RAMIREZ: Okay. Okay.

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

10 MR. MARTIN: One second here.

11 MS. BUCK: Sure.

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

19 (Laughter.)

20 MS. AYMAN: Hi. Amanda Ayman. These  
21 two disclosures were -- have always been part of  
22 the gainful employment portfolio. We just

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1 haven't discussed them.

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

12 Most of those triggers have been --  
13 they have proposed to eliminate. So there was no  
14 consensus on that. The Department is considering  
15 what triggers there should be, but in reality it  
16 would -- there would no longer -- it would no  
17 longer be this robust structure under which  
18 letters of credit would be required.

19 So we think that the Department's  
20 position is that this probably wasn't ever a  
21 particularly useful disclosure for consumers. We  
22 had never come to agreement on what language we

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1 would use in that disclosure, and we also think  
2 it's a bit of a moot point now, since most of  
3 that -- those provisions have been eliminated --  
4 or we propose to eliminate them. This --

5 PARTICIPANT: This does, however --

6 PARTICIPANT: I know what you're going  
7 to say.

8 MS. AYMAN: The second one is not  
9 limited to borrower defense. It's a loan  
10 repayment warning that was solely applied to  
11 proprietary institutions, because the Department  
12 is now not treating proprietary institutions  
13 different from other institutions. And because  
14 we are taking up loan repayment issues through  
15 the -- our new regulations, we don't think it's  
16 appropriate any more to have this additional  
17 disclosure.

18 MS. BUCK: I think Kirsten was next.

19 MS. KEEFE: Yeah. That was  
20 essentially my question. If the issues were  
21 (inaudible).

22 MS. BUCK: Jennifer?

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1           PARTICIPANT: I think I'm okay now,  
2 especially on -- what I was going to ask is, do  
3 we have to vote for these together in one vote?  
4 Because H makes a lot of -- I mean, to me, it  
5 makes a lot of sense because we're having a whole  
6 conversation. And loan repayment rate has  
7 flip-flopped between two different NAG-regs  
8 (phonetic) for a while.

9           And so the inclusion of this here  
10 makes sense to me, because we're dealing with it  
11 in this rulemaking. And it wasn't dealt with in  
12 the other one, so it makes sense.

13           The other disclosure, honestly, that's  
14 a little bit out of left field because it was  
15 never in gainful, like ever. And so this one --  
16 I seems a little bit out of left field for us now  
17 to -- so, to me, there are two sort of votes,  
18 because I might vote different. I mean, I don't  
19 know for everybody, but it -- I think people can  
20 wrap their heads around loan -- the loan  
21 repayment rate piece.

22           And then I would just say, honestly,

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1 I'm not sure why you even included the  
2 arbitration piece in here if we don't have to  
3 vote on it. It's like your technical correction  
4 but not ours. So -- yeah, so it probably  
5 shouldn't have been in this document, because I  
6 think that's part of the confusion.

7 MS. BUCK: Tony? So do you want to  
8 have a temperature check of each of these  
9 separately, then? Do you want to start --

10 MR. MARTIN: We're okay with that.

11 MS. BUCK: Okay. So do you want to  
12 start with I? Pages 4 through 7. Okay. Do you  
13 want to -- thumbs, put up thumbs?

14 PARTICIPANT: Five. Five down.

15 MS. BUCK: Five thumbs down. At  
16 least. Not sure everybody voted, but five thumbs  
17 down.

18 So now we will go to H, which is pages  
19 7 through 9. You look puzzled. Oh, I'm sorry.  
20 You wanted to say something, Jeff? I'm sorry.

21 MR. ARTHUR: Yeah. I was just going  
22 to make one comment before we voted on the next

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1 one. The warning language that is there was  
2 developed prior to understanding that the  
3 national repayment rate was what it is. It was  
4 thought to be considerably higher than it  
5 actually was, and so it never got adjusted after  
6 that. So it's a really inappropriate warning  
7 that would apply to 53 percent of everybody in  
8 higher ed.

9 PARTICIPANT: So the one we're about  
10 to vote on.

11 MR. ARTHUR: That's the H that comes  
12 after I.

13 MS. BUCK: Okay. So now we're on to  
14 H, pages 7 through 9. So do you want to show  
15 thumbs on that one?

16 I think there are at least five down.  
17 So five down for each, it looks like.

18 So thank you.

19 MR. MARTIN: I want to thank Amanda  
20 for her able assistance, and also thank all of  
21 you for your indulgence.

22 MS. BUCK: So now I think we're back

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1 to the changes that were proposed for Issue Paper  
2 6. Is that right?

3 MR. MARTIN: Correct. Hold on one  
4 moment while I pull that up. Okay.

5 PARTICIPANT: We just need -- we just  
6 need another minute to get it up on the board.

7 MR. MARTIN: Okay. No problem. We  
8 can wait.

9 (Pause.)

10 MR. MARTIN: Since we have dead air,  
11 I'll just say that for all you liberal arts  
12 people out there, of whom I include -- I include  
13 myself among you, since yesterday was Pi day,  
14 which I never have much interest in -- my  
15 daughter loves that kind of thing. But today is  
16 the Ides of March, so that is more of, you know  
17 --

18 (Laughter.)

19 PARTICIPANT: Beware.

20 MR. MARTIN: Beware of the Ides of  
21 March. And my colleagues have told me I'm not  
22 allowed to make any jokes about who is to be

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1       praised or buried, so I'm not going to go there.

2       So --

3                       (Laughter.)

4                       MR. MARTIN: But I would sorely love  
5       to go there, but I'm not going to. I could make  
6       some bad jokes, but no. I don't know what it  
7       means, but the Ides of March mean that much --  
8       but you can remember, those of you who had Latin,  
9       the teachers always loved, you know, dressing up  
10      on that day or something, whatever, wearing a  
11      toga.

12                      (Pause.)

13                      PARTICIPANT: Daniel, may I suggest,  
14      you know, giving a time limit? Just the  
15      technical difficulties of getting this on the  
16      screen continue.

17                      MS. BUCK: So that we could just go  
18      forward without it, you mean?

19                      PARTICIPANT: Yeah.

20                      MS. BUCK: Okay. So maybe one more  
21      minute, and if it's not up, we'll just have to  
22      talk through it. Okay? And we appreciate all

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1 the efforts of the people who are working on it.

2 PARTICIPANT: No pressure, Erin.

3 MS. BUCK: Look, there's something on  
4 the screen now.

5 MR. MARTIN: Okay. Are we live?  
6 Okay. This is Greg for the record.

7 So in looking at this again, when we  
8 went back over lunch and looked at 13-I, we -- so  
9 we believe that this does -- what we currently  
10 have here does satisfy what -- what we were  
11 talking about in rereading it and considering it  
12 more closely.

13 So we're talking about whether the  
14 program does or does not satisfy. So in the  
15 disclosure, the school is -- is stating whether  
16 it does or does not --

17 MS. BUCK: Just a second. What page  
18 is it? I'm sorry.

19 MR. MARTIN: Page number 4.

20 MS. BUCK: Okay. That's where I was.  
21 I just wasn't in the right place.

22 MR. MARTIN: Page number 4, Issue

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1 Paper 6.

2 MS. BUCK: Yeah.

3 MR. MARTIN: About halfway through.  
4 13, Romanette one.

5 So if we look at A, the applicable  
6 educational prerequisites for the professional  
7 licensure or certification in each state within  
8 the institution's MSA. So we already have that,  
9 and we already have the applicable educational  
10 prerequisites for professional licensure or  
11 certification in any other state for which the  
12 institution has made a determination.

13 So what we're saying here is that the  
14 institution is -- must disclose for its MSA,  
15 which just to make it simple would be -- so for  
16 Washington, D.C., it would be Washington,  
17 Maryland, and Northern Virginia, right? So  
18 whatever the MSA is.

19 And then the applicable educational  
20 prerequisites for any other state for which the  
21 institution has made a determination. So if  
22 they've made any determination about that, then

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1 they would have to -- to certify whether -- not  
2 certify, but disclose whether the program does  
3 not -- does or does not satisfy the applicable  
4 requirements for those states for which they have  
5 made the determination.

6 Now, if you drop down to Romanette two  
7 there, for any states not described, a statement  
8 that the institution has not made a determination  
9 with respect to the licensure or certification  
10 requirements of those states.

11 So we have not required institutions  
12 to list every state for which they haven't made a  
13 determination, but -- but pretty much the -- on  
14 the template, that's pretty much inferred. If  
15 you haven't made a determination for that state,  
16 those other states you have not made a  
17 determination for.

18 We have included on here the -- just  
19 to note the template will include a notification  
20 to students that they need to be aware of the  
21 requirements for states; any state for which the  
22 institution has not made a determination.

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1           So we feel that that adequately covers  
2 the MSA and any other states that the institution  
3 is -- is stating that it has made a determination  
4 about professional licensure for.

5           (Simultaneous speaking.)

6           (Pause.)

7           MR. MARTIN: I was just waiting for  
8 that language to be pulled up. At the bottom  
9 there you can see in B the only language we added  
10 was "And it is incumbent upon students to know  
11 the licensure or certification requirements for  
12 states. The institution has not made the  
13 determination with respect to their licensure or  
14 certification requirements."

15           PARTICIPANT: Hey, Greg, there was  
16 also some agreement on consumer testing language,  
17 the language that Jennifer had proposed in the  
18 morning. I thought that there was some agreement  
19 on that as well to include that.

20           MR. MARTIN: There was, yes. We -- we  
21 agreed to include that. What's here doesn't.

22           PARTICIPANT: So that's not included

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1 in this draft; is that correct?

2 PARTICIPANT: (Inaudible.)

3 MR. MARTIN: Okay. It is included.  
4 We'll pull it up.

5 Yeah. The new language is at the  
6 bottom here. "The Department will conduct  
7 consumer testing to determine how to make the  
8 disclosure template as meaningful as possible."

9 MS. BUCK: All right. So, Chris, did  
10 you have a question or comment?

11 PARTICIPANT: So, you know, I just  
12 feel like it's -- it got worse, I guess, from my  
13 perspective and not better in asking the student  
14 to try and figure out on their own whether the  
15 program -- you know, I guess, I'll just kind of  
16 -- I don't want to repeat what I said before.

17 I mean, I just think that the schools,  
18 if they're enrolling students, I mean, this is  
19 most important obviously for the distance  
20 education programs, that students need to know  
21 whether the state that they're living in is one  
22 that they are able to get a license if the

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1 license is required to be able to work there.

2 MS. BUCK: Other questions or  
3 comments? Daniel?

4 MR. ELKINS: Chris, thanks for  
5 addressing that. I need some clarification  
6 because as I was reading this I, unfortunately, I  
7 guess came to the opposite conclusion that you  
8 did.

9 So, Greg, as Chris has posed the  
10 question, is that your understanding of the -- of  
11 how it's written?

12 MR. MARTIN: Yeah. We are -- to  
13 clarify, we are not going to require institutions  
14 to -- to provide -- to disclose this, whether it  
15 meets the certification requirements for every  
16 state a student may reside in.

17 There are numerous reasons for that.  
18 First of all, I mean, I am -- I perceive this is,  
19 to a large extent, meant to deal with distance  
20 education, and students could be in a variety of  
21 different states. They could move. Military  
22 people could move about. We just don't think

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1 it's a -- it's a requirement that we are prepared  
2 to place on schools to do that.

3 With respect to the student being  
4 aware, you know, I -- we feel it's perfectly  
5 reasonable for any -- the schools may -- the  
6 school has to disclose whether or not it --  
7 whether or not the program meets those  
8 requirements for any state that they are making  
9 those assertions about, so if the -- so -- or  
10 that they made a determination about.

11 So if a school has made a  
12 determination that the program satisfies the  
13 licensure requirements in North Carolina, South  
14 Carolina, Virginia, then they would have to  
15 disclose that that's the case. We're not  
16 requiring the schools to -- to disclose  
17 information about any other -- anything else  
18 other than that.

19 So, no, we're not requiring -- the  
20 answer would be we're not requiring schools to  
21 look at every state in which a student might  
22 reside.

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1 MS. BUCK: Daniel, did you have  
2 anything else? Other questions or comments?

3 Then are you ready to take a  
4 temperature check on Issue Paper 6 as revised?  
5 Okay. So let's see thumbs. One, two, three,  
6 four, five, six.

7 PARTICIPANT: Six down.

8 MS. BUCK: Six to seven thumbs down.  
9 So thank you.

10 So we have now gone through I think  
11 all the issue papers to some extent, as well as  
12 the technical and conforming changes. Before the  
13 Department of Ed proposes something overall for  
14 you to respond to, we are thinking it would be,  
15 as I mentioned before lunch, helpful to the  
16 Department of Ed to hear from each of you briefly  
17 -- we're thinking of maybe about two minutes per  
18 person, and certainly you can pass -- what you  
19 particularly want them to remember that was  
20 important to you. So, you know, any sort of  
21 final words from you, special words from you,  
22 thoughts that you really want them to remember

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1 from you.

2 So we thought we would go around in a  
3 circle, not that you're in a circle, but you know  
4 what I mean, and we could start with whoever  
5 feels ready to speak. Anyone want to begin this?

6 PARTICIPANT: And just for -- just a  
7 little bit more, just to kind of give you an  
8 understanding of where we're going next because  
9 after your comments, we plan on taking a  
10 consensus vote on the -- on the entire package,  
11 right?

12 And that entire package, to be clear,  
13 is going to be the package that we start off with  
14 at the beginning of the week with the  
15 modifications that you all just vote on in 6, as  
16 well as on Issue Paper 8 on program eligibility  
17 there was a modification there that you all  
18 agreed to.

19 But apart from that, it is the package  
20 proposal that we started off with at the week.  
21 So what we want to do is make sure that everyone  
22 has an opportunity, if you'd like -- you don't

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1 have to -- to make any comments before we --  
2 before we take that vote.

3 MS. BUCK: Daniel?

4 MR. ELKINS: Just so I can be crystal  
5 clear, so you're saying we're going to combine  
6 all issue papers together and take an up/down  
7 vote on all of that.

8 PARTICIPANT: That's correct.

9 MS. BUCK: I think the Department of  
10 Ed is going to propose that after this round.  
11 But I -- we'll get to that and you can certainly  
12 comment on that.

13 Johnson, did you have a question or  
14 comment?

15 MR. TYLER: I am ready to --

16 MS. BUCK: Oh, you're ready to start.

17 MR. TYLER: (Inaudible.)

18 MS. BUCK: Oh, great. So can we start  
19 with Johnson.

20 MR. TYLER: I'd like to thank the  
21 Department of Ed and Greg and Steve for being  
22 here. I know this is a difficult thing to deal

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1 with, that there is a change of administration.  
2 And thank you to all of the other negotiators who  
3 are here. It's -- I really enjoyed getting to  
4 know you and participating in this.

5 I think, you know, the idea that the  
6 marketplace can police this is -- is a valid  
7 point, but I don't think it's a valid point if  
8 they're not meaningful sanctions. Banks,  
9 stockholders, investors, creditors, they all are  
10 involved in higher education. And if there is a  
11 meaningful sanction that it percolates down to  
12 those entities who make decisions on where they  
13 want to put their money.

14 If the idea is full disclosure results  
15 in students making more informed choices, I'll  
16 all in favor of that, but I don't think that will  
17 result in protecting taxpayers or in protecting  
18 students.

19 Thank you.

20 MS. BUCK: So, Chris, are you ready to  
21 go next?

22 MR. MADAIIO: Sure. From a consumer

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1 protection, you know, Attorney General  
2 standpoint, you know, I can definitely say that  
3 our office has investigated, you know, schools in  
4 the for-profit sector and found that there is --  
5 that students are being poorly affected in a  
6 variety of ways.

7 And I think that that's what the  
8 gainful employment language in the Higher  
9 Education Act is trying to get at, and that's  
10 what I think that the previous rule with a  
11 sanction that related to loss of disclosure was  
12 trying to get at. I'm all for disclosures. I  
13 said loss of disclosure. I meant loss of Title 4  
14 funds. I'm glad we had that video.

15 As far as -- I'm all for disclosures,  
16 but, you know, I think that could be a separate  
17 rule or a separate rulemaking sessions, if we  
18 wanted to have disclosures for all institutions  
19 to be able to compare numbers across the sector.

20 I'm not opposed to that, but I am opposed with  
21 taking away something that would protect students  
22 in the ways that we heard from the student

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1        comments and in ways that my office and multiple  
2        other state attorneys general offices have found  
3        not just the fraud in the sector but the high  
4        debt and poor outcomes, which burdens students,  
5        and thereby also burdening states.

6                    MS. BUCK:        So certainly everyone  
7        doesn't have to speak, so what we'll do is we'll  
8        go around and just ask the people whose tents are  
9        up, so that people don't feel compelled to speak  
10       or no one has to.

11                    Laura.

12                    MS. METUNE:    I, similar to Johnson,  
13        want to thank the Department and the rest of the  
14        negotiators. I also enjoyed the opportunity to  
15        get to know everyone, and I really do understand  
16        the situation that the Department is in. And I  
17        support the role of civil service generally, and  
18        I appreciate your willingness to be here and to  
19        go through this process with us.

20                    I also want to say that we know we  
21        have a problem in this country with bad actors in  
22        the for-profit sector, and the truth is, if we

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1 all admit it to ourselves is that none of us  
2 called those institutions who we can now point to  
3 bad actors before they folded.

4 We all stood up and defended them, or  
5 many of us did, until the day that they folded.  
6 And I think we need to take that into account  
7 when we're trying to design a rule that helps us  
8 identify those bad actors before they shut down.

9 I'm really disappointed that we were  
10 forced into a conversation about applying a  
11 relatively meaningless disclosure to all  
12 institutions, and I understand the concern that  
13 my fellow public and nonprofit institutions have  
14 raised about that.

15 I'm concerned that the Department is  
16 reducing staffing at a time when it's clear that  
17 they are creating a structure that will require  
18 more staffing to use these tools in any sort of  
19 meaningful way. So I'll leave it there, and  
20 thank everyone for this opportunity and the  
21 chance to participate.

22 MS. BUCK: Thank you.

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1 Jennifer?

2 PARTICIPANT: Okay. Sorry, I didn't  
3 think I was going to be next. So I really just  
4 -- I mean, I think we all probably have -- share  
5 -- hopefully have the same sentiment that -- and  
6 I said it this morning, that I actually always  
7 see value in negotiated rulemaking because it  
8 does allow for the opportunity for the community  
9 that doesn't have rare -- very rarely, you know,  
10 has consensus on points of view. But I think  
11 just the sheer process of talking through issues,  
12 I hope it informs the Department in the  
13 negotiation process.

14 There were places where we did, you  
15 know, reach some form of -- I forget what we  
16 called it instead of consensus, but, you know,  
17 some form of common understanding. And so I do  
18 hope that the Department will take those pieces  
19 back. It certainly helped inform me, as I said  
20 earlier today, on what might be helpful during  
21 the comment process, too.

22 So I just want to voice appreciation

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1 for the other negotiators and for the Department.

2 MS. BUCK: Thank you. Jeff?

3 MR. ARTHUR: Yeah. When I started  
4 this process, I saw it as a real exciting  
5 opportunity to be the genesis to start providing  
6 data to the public that they have never seen  
7 before and to help them make better decisions on  
8 higher education.

9 This is really a massive expansion of  
10 accountability across higher ed from what is six  
11 percent of the enrollment in higher ed to the  
12 vast majority of the enrollment in higher  
13 education.

14 The data -- I mean, I don't want to --  
15 when we're -- we don't need to blame the  
16 Department. Or, yeah, when you don't have data  
17 to make decisions, I mean, it's kind of like a  
18 Catch 22. We've got to get the data first before  
19 we start setting metrics.

20 And so I think that's why today it's  
21 important that we err on choosing some guardrails  
22 that may -- that are clearly appropriate, but not

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1 make mistakes that result in unintended  
2 consequences and end up doing something to some  
3 institutions and some populations or particular  
4 programs that we wouldn't have intended.

5 And I also want to clarify that there  
6 has been a lot of talk about who the bad actors  
7 are, and I can tell you -- I can give you  
8 examples of bad acts across all sectors. I could  
9 -- if you want to talk to me afterwards, I'll  
10 list several. It is not -- this is about -- this  
11 whole process is about improving information for  
12 students in higher education, and that's why I  
13 was excited to participate in this.

14 I hope that that's something that  
15 comes out of this, and I would really feel  
16 satisfied if we really transformed the way  
17 students see higher ed and make their enrollment  
18 decisions.

19 MS. BUCK: Tony?

20 MR. MIRANDO: Yes. Tony Mirando. I,  
21 too, want to thank all of my colleagues around  
22 the table. It has been a pleasure meeting and

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1 spending time with you all, getting to know you a  
2 little bit better.

3 I can say walking away this week after  
4 the three sessions that I have a different  
5 perspective on a lot of different topics now, and  
6 I appreciate that. I want to thank the  
7 Department and all of you for all the work that  
8 you do. I know this is not an easy task. I  
9 don't want to be in your shoes, but I know that  
10 it has to be done.

11 The one thing that I hope that -- that  
12 you walk away with today is that the metrics that  
13 you all have proposed, what you have used in the  
14 past, what some -- some individuals have proposed  
15 going forward, doesn't work for all. I have said  
16 this every single time I have been here, and I'll  
17 continue to say it going forward, that you are  
18 trying to fit a round peg into a square hole, and  
19 it just isn't going to work. But I do appreciate  
20 the energy that you are trying to get something  
21 accomplished.

22 I know I speak for everybody in this

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1 room when I say we all are trying to get the bad  
2 actors out of the system. That's what I do every  
3 day, and so I do appreciate at least what we're  
4 heading towards.

5 MS. BUCK: Thank you. Mark?

6 MR. MCKENZIE: Thank you. Mark  
7 McKenzie.

8 Like everybody else, thanks to the  
9 Department and everybody else that is at the  
10 table. This is my first time in negotiated  
11 rulemaking. And, well, when you get into the  
12 weeds it can be a lesson in frustration and  
13 patience at the same time.

14 The positive I think is something that  
15 Jeff said. Even though I think everybody is  
16 leaving somewhat unhappy with the potential  
17 outcomes at the end of the day here, the result  
18 is that there is more information available to a  
19 greater number of students about the processes  
20 involved.

21 And so even though it may not be at  
22 the level that I think anybody really wanted, is

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1 that -- is that a positive? I actually think it  
2 is, and that's where I'm going to try and hang it  
3 rather than getting caught up in what could have  
4 happened.

5 I was hoping that this group could  
6 actually come together with a consensus, and I  
7 guess the biggest thing from my perspective,  
8 leaving with the Department to consider, from a  
9 regulatory perspective when you don't have enough  
10 information to be able to understand the  
11 long-term impact of a decision on a metric, there  
12 has to be a way to create a regulatory framework  
13 that allows you to adjust that metric downstream  
14 once you do have that data.

15 And if you could create that, I  
16 actually think you could come to consensus on  
17 metrics if people know that there is a way to  
18 adjust that. So I'm going to leave it there, and  
19 thank you very much.

20 MS. BUCK: Thank you. And you're all  
21 staying very close to the two-minute mark. We're  
22 timing it, and we haven't had to stop anyone.

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1 Whitney?

2 MS. BARKLEY-DENNEY: I'll try to break  
3 that record.

4 (Laughter.)

5 MS. BARKLEY-DENNEY: I'm just kidding.  
6 Thank you, first, to everybody around the table.  
7 I think remarkably sometimes when we are able to  
8 just talk among ourselves or talk offline we make  
9 further progress than we do when other actors are  
10 involved.

11 But I just want to say really quickly  
12 and make really clear why, from a consumer  
13 perspective, disclosures are not enough. Nothing  
14 about a disclosure is going to help someone pay  
15 back \$30,000 in student loans when they can't get  
16 a job that they were supposed to get from that  
17 program.

18 Similarly, in other places I work,  
19 nothing about a disclosure helps somebody pay  
20 back a 400 percent payday loan or get rid of a  
21 car, you know, that they couldn't afford that was  
22 given to them at too high of an interest rate.

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1 So I think we need to be really realistic about  
2 what a disclosure does.

3 Hopefully, for the most sophisticated  
4 borrowers who have parents or colleagues or other  
5 students or family members guiding them, it will  
6 keep them from making a bad decision. But the  
7 ones I'm concerned about are the ones who I  
8 worked with every day when I was in Mississippi  
9 who didn't have that kind of guidance to whom the  
10 disclosures don't really mean anything, and who  
11 find themselves with an education that doesn't  
12 actually help them build the life that they  
13 thought that they were going to build.

14 So in everything that I have done  
15 around this table, I have always kept those  
16 people in my mind, you know, who went to a truck  
17 driving class only to find out when someone told  
18 him because he was illiterate that it was a  
19 chauffeur license, not a truck driver license.

20 Or, you know, people who went into  
21 pharmacy tech with drug felonies on their  
22 records. So those are the people who are always

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1 at the center of my mind, the center of my heart,  
2 and the people who I'm sitting around this  
3 negotiating table for.

4 MS. BUCK: Thank you. Tim.

5 MR. POWERS: So thank you to everybody  
6 around the table, particularly those who had to  
7 travel to get here. For better or worse, I live  
8 here. It was really easy for me to get here, but  
9 I know it wasn't for a lot of you. So, really,  
10 thank you.

11 Thank you to the Department, some of  
12 the guest stars who have made appearances over  
13 the last three weeks, Brian, Sarah, Cynthia. All  
14 of you, thank you.

15 Thank you to the three of you, and  
16 thank you to the public as well. It's I think  
17 really useful when these meetings are open and  
18 transparent. I was sitting out there for the  
19 borrower defense negotiations. I know how brutal  
20 and dry it can be, so thank you to all of you as  
21 well.

22 You know, obviously, we're in a

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1 difficult position here to make policy that we  
2 think is inappropriately targeted towards  
3 bachelor's degree programs. But I also just want  
4 to say philosophically how lucky we are to be  
5 able to have this conversation, because not every  
6 department, and in fact very few departments,  
7 have a process anything near what we have here,  
8 which is the chance to come together and actually  
9 hash these issues out with our different  
10 perspectives.

11 So I'll just very briefly sum up what  
12 the private nonprofit presidents support, which  
13 is accountability, it's transparency, it's useful  
14 data, both quantitative and qualitative. And  
15 then, first and foremost, it's about protecting  
16 students.

17 So if we can walk away from this table  
18 with those principles intact, I think that we  
19 will feel proud to have participated even though  
20 I think, you know, we certainly have our qualms  
21 with where we think this is headed.

22 But the last point I want to make is

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1 just generally -- and several others have talked  
2 about this -- but the difficulty of a  
3 one-size-fits-all model. I think the diversity  
4 of the institutions and the students that we  
5 serve has come out over the last three weeks, and  
6 whenever flexibility and context can be  
7 considered, when the Department looks at data and  
8 when we try to facilitate this information to our  
9 students, I think it's the best for everybody  
10 involved.

11 So, once again, thank you to  
12 everybody. Todd is on a flight back to Ohio.  
13 I'll send his regards as well. And if you ever  
14 want to talk, email me or call me. We're happy  
15 to have these conversations further with all of  
16 you. Thank you.

17 MS. BUCK: Thank you. Jessica.

18 MS. BARRY: Hello. Jessica Barry. I  
19 do -- I'm going to echo the same comments. I  
20 want to thank the Department, and I want to thank  
21 all of you. I really feel like you listened to  
22 the challenges that those of us who have lived

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1 with GE now for I feel like a lifetime -- of what  
2 we have really experienced.

3 I really feel like you listened to us,  
4 and thank you. I think that's very important.  
5 And I think you made a good faith effort to find  
6 ways to resolve some of those issues that led to  
7 so many unintended consequences, which that's  
8 what we're trying to resolve.

9 And, honestly, I don't want to see  
10 those unintended consequences happen in other  
11 sectors where other good programs are eliminated  
12 for the same reasons that we have been dealing  
13 with. I don't think any of us came here to  
14 protect bad schools, and I don't want that to  
15 come across that way.

16 I came here to protect the students  
17 who are enrolled at really good institutions that  
18 were suffering from the unintended consequences  
19 from the GE rule.

20 I applaud the Department in finally  
21 viewing us on the same plane as other sectors.  
22 That's very, very frustrating to me, that we are

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1 always kind of seen as I think what was called  
2 the stepchild a few times. I really feel like we  
3 have been viewed in that same light, which has  
4 been refreshing.

5 And just the last thing I want to say  
6 is, you know, even if you totally disagree with  
7 the Department's direction right now, we are  
8 about to give students more data on debt, on  
9 earnings, than they have ever had before. And I  
10 don't know how that could ever be a bad thing.

11 So I hope you're all proud of the work  
12 that you've done here, and, again, thank you so  
13 much for just listening to our concerns.

14 MS. BUCK: Thank you. Neal?

15 MR. HELLER: Couldn't let this last  
16 opportunity go.

17 (Laughter.)

18 MR. HELLER: Anyway, no, it was -- it  
19 really is a pleasure to work with everybody  
20 around the table. There are some very smart  
21 people who have some great ideas in this room,  
22 and it's very much appreciated. So to hear

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1 different perspectives is always enlightening,  
2 and I hope that others feel the same way.

3 The Department -- I want to thank the  
4 Department because, honestly, it is the first  
5 time in a long time that there has been an  
6 open-minded and sort of pragmatic approach, and a  
7 real look at what gainful employment meant to a  
8 lot of schools that got caught up in it,  
9 inadvertently in many cases.

10 And I hope that that open-mindedness  
11 will remain as you draft your final proposals,  
12 and that we remember those little old certificate  
13 programs that everybody wants to throw dirt on.  
14 Only kidding.

15 But, seriously, that -- we do remember  
16 that, you know, we were not the reason that we're  
17 here, and I'm glad that we were able to  
18 participate, and I think we did open some minds  
19 and get people thinking a little bit more about  
20 the types of programs that the cosmetology and  
21 the beauty world provides and the students that  
22 we serve.

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1                   But thank you very much, and go  
2 'Canes.

3                   (Laughter.)

4                   MS. BUCK: Chris Gannon.

5                   MR. GANNON: First of all, I just  
6 wanted to say that Ahmad couldn't be here today,  
7 but Ahmad and myself are very thankful for this  
8 opportunity and thankful for -- to the Department  
9 for giving it to us.

10                   And we're in our early twenties, so a  
11 lot of stuff we're hearing for the first time at  
12 this table, but it was really enlightening and  
13 really special to hear all the different input  
14 that everybody gave at the table. And I  
15 appreciate also everybody that came to public  
16 comment and spoke on every side of the issue and  
17 participated in that.

18                   I think it's really important to  
19 mention that the loss of Title 4 funding is the  
20 only reasonable sanction. That's the only  
21 sanction that is really going to protect students  
22 in this, and I want the Department to know that

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1 if we really do want to protect students we have  
2 to include loss of Title 4 funding. There is no  
3 way to do that without including the loss of  
4 Title 4 funding.

5 And disclosures aren't enough, and  
6 also, I think I heard earlier that this is  
7 expanding the accountability for everyone. And  
8 this isn't expanding accountability, what we've  
9 seen so far. It's dismantling it, and it's not  
10 protecting students.

11 So just I thank everybody for their  
12 input and for meeting all of you, and thank the  
13 Department for this opportunity, and I hope that  
14 they take some of what I have said and some of  
15 the other consumer negotiators, what they have  
16 said, and take it back and implement it in the  
17 rule once they write it.

18 Thank you.

19 MS. BUCK: Thank you, Chris.

20 Kelly?

21 MS. MORRISSEY: Kelly, for the record.

22 And like my colleagues before me, I really

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1 appreciate having had this opportunity to have a  
2 voice at the table and my voice being that of  
3 financial aid administrators.

4 Going into this when I was selected  
5 last year, I was eager to represent all of us in  
6 demonstrating that the former gainful employment  
7 rule we felt really placed an undue  
8 administrative burden on colleges and financial  
9 aid administrators in particular.

10 I am very happy to see that most of  
11 that administrative burden has been removed in  
12 the elimination of reporting, but I do feel that  
13 has happened at the expense of losing some  
14 important data, namely that of private loan debt  
15 and direct costs that were covered by federal  
16 borrowing because I feel that that information is  
17 very meaningful for students, especially as we're  
18 moving towards a disclosure-only regime.

19 So I'm kind of not sure if that was a  
20 win, to give up that administrative burden. I  
21 also feel that at the same time expanding  
22 disclosures to all higher education programs will

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1 result in additional burden at all of our  
2 institutions and providing all of those metrics  
3 for all programs.

4 And I'm not sure that I feel it's  
5 appropriate to be viewing all higher education  
6 programs through the lens that was formerly known  
7 as gainful employment. Where we've seen in some  
8 of the small amounts of data that we were  
9 provided, we see that there are certain programs,  
10 certain institutions that have very high  
11 repayment rates.

12 So I'm not sure how the students that  
13 are enrolled in those programs who already are  
14 savvy enough to seek data and to seek information  
15 about the programs and the institutions where  
16 they're enrolling, I'm not sure what benefit  
17 we're providing them by doing disclosures at  
18 those institutions and at those programs.

19 And this will indirectly result in  
20 higher costs to those students at those  
21 institutions because of the administrative burden  
22 that results in doing that additional reporting.

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1 MS. BUCK: So it has been two and a  
2 half --

3 MS. MORRISSEY: Okay. Done.

4 (Laughter.)

5 MS. BUCK: Andrew?

6 MR. HAMMONTREE: Well, Kelly said most  
7 of what I was going to say, so I won't belabor  
8 all of it. But I do -- my biggest concern when I  
9 came here was the administrative burden on  
10 financial aid administrators. I think there were  
11 a lot of innocent schools that were good schools.  
12 I'm thinking primarily community colleges and  
13 low-cost schools that were impacted by the  
14 current GE rules that I really was sympathetic to  
15 because I saw them spending way too many  
16 resources on administrative burden that I think  
17 that you guys have recognized.

18 And I do appreciate you taking away  
19 the reporting requirements, especially when you  
20 can get most of that information through NSLDS,  
21 and taking out the direct distribution and active  
22 confirmation and programs that were passing and

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1 clearly weren't in any danger of putting the  
2 students in a bad situation.

3 So I appreciate you guys listening to  
4 that. I think that's very, very helpful. I  
5 think this whole conversation is going to shift  
6 dramatically now that we're opening it up to all  
7 sectors. I think there is still going to be a  
8 lot of administrative burden placed on schools,  
9 and I'm concerned about that, and I just hope  
10 that you will continue to think about how this  
11 impacts the financial aid office.

12 Our jobs are so complicated, and we  
13 have so many complicated things that we have to  
14 explain to students. The more complicated you  
15 make our lives, the more complicated you make it  
16 for the students, too.

17 They are already confused enough. So  
18 I just hope that you will keep that in mind as  
19 you develop these new regulations.

20 Thank you.

21 MS. BUCK: Thank you.

22 Jordan?

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1           MR. MATSUDAIRA: Thank you. So I also  
2 wanted to thank everybody around the table and  
3 especially give thanks to the career staff at Ed  
4 for handling this issue and just express my  
5 gratitude and admiration for all of you, many of  
6 whom were former colleagues during a previous  
7 stint in government.

8           So I wanted to make three points. One  
9 was that from my position at the Council of  
10 Economic Advisors, I was involved in the last  
11 rulemaking around gainful employment. And I just  
12 wanted to stress something that I've raised  
13 before but that a lot of the changes that are  
14 being made here, most of the key changes that are  
15 being made here really are contrary to all the  
16 additional evidence that have come out since that  
17 rulemaking. So I wish that when we were kind of  
18 crafting the rule that was being made back in  
19 2013, 2014, that we had access to the information  
20 that we do now.

21           I think the most important things are,  
22 you know, the elimination of sanctions in the

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1 rule, the elimination of the consequence of the  
2 loss of Title 4 eligibility, when we have so much  
3 information in the literature that disclosures  
4 alone are not sufficient. They have a small  
5 impact on student choices, but the benefits tend  
6 to be concentrated among students who are  
7 relatively affluent and have access to a lot of  
8 resources to help them process that information.

9 And the removal of the graduate  
10 programs from the scope of the rule I think is  
11 also really contradicted by a lot of recent  
12 evidence that suggests growing and growing shares  
13 of loan balances, and especially loan balances in  
14 default, are accounted for by graduate schools,  
15 many of which are in the gainful -- current  
16 gainful employment scope.

17 Now, that research is not perfect.  
18 The Department, in many cases, has much better  
19 information than is available to researchers.

20 So if the Department had the interest  
21 in making its case, it could do so with a lot of  
22 the data that are available right now, and I

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1 really encourage the Department to use the  
2 infrastructure, to use its own administrative  
3 data, to produce relevant analyses for this kind  
4 of policymaking that a lot of people, some of  
5 whom are in the room, worked very hard to  
6 accomplish, you know, only a few years ago.

7 So things like estimating repayment  
8 rates is something that is trivial for the  
9 Department to do. You know, I welcome somebody  
10 to change my mind about that, but I insist that  
11 it can be done --

12 MS. BUCK: Okay. So that is --

13 MR. MATSUDAIRA: -- in very finite --  
14 I'll close in a second -- in very finite time.  
15 So I'd just ask you to use the data that you have  
16 in making the rule.

17 And the last thing is just the one  
18 thing that I think really can be done that is  
19 consistent with the spirit of the change here is  
20 something that others have mentioned. But just  
21 if we're going to rely on getting this  
22 information and having that be the way that we

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1 help students in this rule, given the removal of  
2 sanctions, really invest in putting that  
3 information in the hands of students by making it  
4 available through tools like the scorecard, and  
5 so on, and reach out for help in thinking about  
6 how you're going to do that.

7 For example, how are you going to have  
8 a repayment rate for non-completers? What  
9 programs are you going to assign them to? There  
10 are tricky issues like that that need to be waded  
11 through, and I hope the Department reaches out  
12 for help on things like that.

13 And my offer to bring a bus of  
14 graduate students stands.

15 MS. BUCK: David?

16 MR. SILVERMAN: David Silverman, for  
17 the record. I want to thank the Department. You  
18 all did some great listening. I want to thank  
19 everyone at the table. You did some good  
20 listening. And everyone else did some good  
21 listening I hope.

22 To remind everyone else, this is not a

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1 for-profit rule. The newspapers say it's a  
2 for-profit rule. The representative said it's a  
3 for-profit rule. I'm a not-for-profit. I'm part  
4 of this.

5 You know, we felt threatened by  
6 especially the original GE regulations, and, you  
7 know, moving forward it's not -- this is for  
8 not-for-profits, too. So just want to remind  
9 everybody.

10 I met -- I didn't know too many  
11 for-profit owners, schools, before I got here. I  
12 met a number of them. We have third generation.

13 We have a former student that is now running her  
14 own school. We have Neal and --

15 (Laughter.)

16 MR. SILVERMAN: He wasn't -- he wasn't  
17 as cranky before GE, I have a feeling.

18 (Laughter.)

19 MR. SILVERMAN: So these are good  
20 people. I mean, these are -- these are good  
21 people. You're portrayed a robber barons in the  
22 newspapers, and you're not. And, you know, you

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1 care about your programs. Not-for-profits care  
2 about our programs. You're good people.

3 So, I mean, you know, the public  
4 should realize when -- when you see the newspaper  
5 and it's all these robber baron for-profits, it's  
6 not. They're good people, and there's  
7 not-for-profits as well.

8 Lastly, you know, it's very easy to  
9 say take away Title 4, close these schools, close  
10 down -- I don't know if you realize what you're  
11 doing when you're saying that is, you know, you  
12 take away my students and I can't pay -- I can't  
13 pay my employees and my employees can't pay their  
14 mortgage. They can't pay their rent.

15 I said this, how would you like to  
16 come home and say -- for the people that don't  
17 run a school, you come home to your spouse and  
18 say, you know, "We achieved an 8.01 on this  
19 metric instead of 7.99. And, by the way, kids  
20 can't go to camp this summer. We can't pay our  
21 mortgage this week -- this month."

22 So go after the bad actors, but, you

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1 know, a lot of good actors got sucked up into  
2 this, and it could affect -- it could affect  
3 people's lives. So when -- it's very easy to say  
4 close people's doors, take away their funding,  
5 but, you know, you've really got to think deeply  
6 into what it could do to schools and to people.

7 MS. BUCK: Thank you. Sandy?

8 MS. SARGE: This is Sandy, for the  
9 record.

10 Thank you to everybody. I want my  
11 whole two minutes. I appreciate everything that  
12 I've gotten to learn here. I came here  
13 relatively young in this world of higher  
14 education. I had a whole other career, two of  
15 them, before I got into this.

16 So this was my first exploration into  
17 the policy-making side of things, and I learned a  
18 lot, probably learned more of what I shouldn't do  
19 than what I should do. But with that being said,  
20 I came here from the perspective of CFOs and  
21 business officers because I think that finance  
22 people feel very strongly about consistency.

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1           We feel strongly about metrics that  
2           make sense and can't be pulled apart, and I  
3           wanted to make sure that some of those got on the  
4           record.

5           So with that, I also believe in good  
6           math. And so rah, rah, to Sarah back there.

7           I feel that -- I feel the same way  
8           that David does. There are a lot of schools out  
9           there that are not -- do not get always -- they  
10          do sometimes, they don't always get the student  
11          that was the straight A student. I was  
12          valedictorian of my high school. I wasn't going  
13          to be a cosmetologist or a graphic designer. I  
14          was going to go off and do great things, at least  
15          according to my counselor.

16          So our schools oftentimes are the ones  
17          that are dealing with the students in the back of  
18          the room that are a little bit bored in high  
19          school, that are scratching in the next comic-con  
20          game that is going to make a billion dollars.

21          They're not your traditional learner  
22          or your traditional student, and they're not

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1 guided oftentimes by parents who have had that  
2 direct experience. These are -- they don't know  
3 what borrowing is.

4 And, quite frankly, in this country we  
5 don't talk about money in our families. It's a  
6 taboo. It's up there with religion, politics,  
7 sex, and money. You don't talk about it in  
8 families. So it's hard for students and their  
9 parents to understand what's going on.

10 So all of us are trying I think, quite  
11 frankly, to do the right things, but not just for  
12 the elite students but for all students. And,  
13 yes, we're not going to get it right.

14 And believe it or not, there are  
15 parties out there on all sides of this equation  
16 that are gaming the system. All sides. And it's  
17 tough. So with that being said, I'm going to try  
18 my best to respect Ramona. And thank you guys  
19 for listening. But at the same time, let's not  
20 vilify. Let's look for really good, weighted on  
21 both sides, issues. Not just one sided; let's  
22 look at the whole thing.

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1 Thank you.

2 MS. BUCK: Thank you.

3 John?

4 MR. KAMIN: Yes. I'd like to just  
5 echo what a couple people have said before, and  
6 that's, number one, to thank the Department of  
7 Education for hosting this. I don't think it  
8 should be lost upon us what other agencies are  
9 going through right now.

10 And the fact that we are at the table  
11 discussing this in a nuanced matter is really  
12 impressive, and that's contingent on the people  
13 at the table bringing their A game. And I think  
14 that's what everybody did here today in terms of  
15 coming forth and discussing in practical -- a  
16 practical matter what the problems are and what  
17 proposals are for solutions.

18 I came into this pretty cynical based  
19 on what I believe to be a way to maneuver gainful  
20 that effectively killed the rule. That was our  
21 big concern going in, and the only thing that we  
22 really wanted was to keep the ember alive and for

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1 -- to keep the intent of gainful.

2 And I am -- I have to say that I am  
3 encouraged to see that we weren't alone in  
4 thinking that this rule matters, and that it does  
5 need to -- there does need to be an  
6 accountability piece to it. What that is and how  
7 it gets corrected, I think that people gave a lot  
8 of feedback to talk about what the proper way of  
9 doing that is, and I think -- I'm encouraged that  
10 the Department of Education is receptive in terms  
11 of the guidelines they gave of how that could  
12 happen.

13 Certainly not -- can't say we're  
14 leaving happy with it, obviously, but it --  
15 again, it's keeping the spirit and the intent  
16 alive. And I think that goes far above what  
17 --some of the actions we have seen.

18 I know Daniel is going to talk a  
19 little bit about some external factors that we're  
20 also kind of considering right now in the field.

21 So really appreciate learning from everybody on  
22 this, and look forward to seeing what the next

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1 steps for this are, and we're always here to  
2 provide background support in ways that the  
3 lessons we learn on the military side or from the  
4 Title 38 side, from the GI Bill, how that can be  
5 applied for any of them.

6 So thank you guys again.

7 MS. BUCK: Thank you.

8 Daniel?

9 MR. ELKINS: I wanted to thank the  
10 Department, specifically Greg, Steve, thank you  
11 so much. You guys have done an amazing job.  
12 Department staff, thank you.

13 I don't believe anyone has thanked our  
14 negotiators yet, but I wanted to thank you guys  
15 as well for keeping this process ongoing. We  
16 appreciate it.

17 The sound guy in the back, thank you  
18 for letting us be heard as well as our -- I  
19 believe the people -- yeah, taking notes in the  
20 back. So I think that -- and for the public for  
21 coming as well.

22 Two or three things that we wanted to

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1 say. I echo the comments of my colleague, John,  
2 from a veteran's perspective. We're very, very  
3 glad to hear and to participate in these  
4 negotiations and to hear that the Department has  
5 taken the feedback.

6 And we have generally kept the idea  
7 that this -- this rule, the idea of gainful  
8 employment, is important, and it's being expanded  
9 to all schools at all institutions, and I think  
10 it's going to be fascinating to see the data  
11 moving forward, and then to continue to work with  
12 all of the groups at this table moving forward.

13 We do know that HEA is coming up. And  
14 although you guys do not comment on Congress and  
15 what they're doing, I have the ability to comment  
16 on that, and I think that that provides an  
17 interesting backdrop that this is still a  
18 relevant topic to be discussed to protect  
19 students across all institutions.

20 And then I will -- I will close with  
21 the idea that there are some within the community  
22 that have stood up and specifically named names

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1 and discussed schools. And I know we're not  
2 technically supposed to name a school, but I  
3 think I'll be as transparent as possible.

4 We know that there are some schools  
5 that have recently decided to transfer from  
6 for-profit status to nonprofit status, and we  
7 would encourage the Department to strongly look  
8 at the implications of that. And that being  
9 said, thank you very much for allowing us to  
10 participate in this gainful NAG-reg.

11 Thank you.

12 MS. BUCK: Thank you.

13 Chad?

14 MR. MUNTZ: I'm afraid to get too  
15 close. Okay. There it is.

16 Thank you, guys. Thank you,  
17 everybody, the Department of Ed. I especially  
18 enjoyed meeting almost everybody. I think I  
19 talked to almost everybody in this room at some  
20 point. It's been fun working with you, getting  
21 to know a little bit about your background, your  
22 struggles.

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1 I appreciate those with gainful  
2 employment regulations already explaining the  
3 pitfalls and the areas that we need to consider  
4 when revising. I think that's one thing I would  
5 have for the Department of Ed is that the  
6 previous rule wasn't perfect. There was pitfalls  
7 to applying it to everyone. It also means there  
8 is going to be unintended consequences.

9 So two things -- data and time. I  
10 don't think we had enough time. We didn't have  
11 enough data, and that's why I don't think we're  
12 quite there. The scope for us -- for everybody  
13 to be included, we're more than happy to have  
14 gainful employment programs in.

15 But for everybody to be in without  
16 seeing the data and having enough time to work  
17 out where the key points are to get the bad  
18 actors in all sectors makes it very hard to  
19 implement a one-size-fits-all rule.

20 As the universe gets bigger, you have  
21 to also be -- have a more nuanced approach to it,  
22 and you have to be very careful, especially if

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1 you're going to apply sanctions with an unknown  
2 rule without knowing the consequences.

3 So I think even though some -- if  
4 something doesn't get settled here today, it  
5 doesn't mean we don't want to protect students.  
6 It just means we don't want to unintentionally  
7 kill institutions without realizing the effect  
8 that an arbitrary standard might have.

9 So I like the points that we have  
10 already talked about -- guiderails. I like  
11 having more data. We are about accountability.  
12 We are about more public information available.  
13 And we like it at the program level.

14 So I think those pursuits and being  
15 able to come together and look at the data and  
16 determine exactly where in our analysis with the  
17 expertise, who have been working on this for, you  
18 know, 10, 20 years, we can pinpoint that exactly.

19 So, again, thank you. And I'll save  
20 the best for last.

21 (Laughter.)

22 MS. BUCK: Thelma?

1 MS. ROSS: (Inaudible.)

2 (Laughter.)

3 MS. ROSS: Mark would not allow me to  
4 be last.

5 (Laughter.)

6 MS. ROSS: This is Thelma, for the  
7 record. Thank you to the Department, and  
8 specifically Steve and my, yeah, friend still,  
9 Greg. Sarah, for your generosity, thank you.  
10 Cynthia and Scott, thank you both. And to the  
11 public for being in this process with us for four  
12 days.

13 I'm not sure -- I'm not sure where  
14 we're going to land before we leave here. But  
15 what I would hope is that the Department -- and I  
16 know that -- and I know that you will take --  
17 take a very, very careful look and listen at  
18 everything that was put on the table over the  
19 past three sessions.

20 There have been some really good  
21 suggestions from the consumer, from financial aid  
22 administrators, from all types of institutions

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1 that are being served. But most importantly,  
2 there have been some really good feedback from  
3 the student representatives.

4 And at the heart of all of what we all  
5 do are students. And if we just take the time to  
6 think of this from a student's perspective -- and  
7 I know we all have a diverse population of  
8 students, we do. But if we keep them at the  
9 center of the decisions that are going to be made  
10 and the rule that you would ultimately write, I  
11 think that we may do something that could be  
12 meaningful to them, or for them.

13 But having said that, I also know that  
14 by including all institutions in this  
15 one-size-fits-all kind of model is going to open  
16 up in the disclosure world something that could  
17 be very problematic for those students.

18 And so there has to be I want to say a  
19 careful consideration of what is in the final  
20 rule that you write. And I'm going to leave it  
21 at that. Just keep in mind that at the center of  
22 it all it is all of our students that will

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1 benefit or not from what ends up being put out  
2 for the final regulation.

3 Thank you.

4 MS. BUCK: Thank you.

5 Kirsten?

6 MS. KEEFE: So I just want to add to  
7 the thanks to everyone. Really thankful for  
8 meeting folks in the proprietary schools.  
9 Jessica and I shared a cab over during the first  
10 session. I've had great conversations with Neal  
11 and Mark, and I have really -- it has been very  
12 helpful for me to hear from you and to hear from  
13 the non-robber-baron proprietary schools, which I  
14 certainly agree that you guys are.

15 I also want to thank Greg. I actually  
16 really appreciate your humor. You might not hear  
17 that a lot, so I want to put it on the record for  
18 you.

19 (Laughter.)

20 MS. KEEFE: But I really appreciate it  
21 in the back row.

22 One thing that I want to just say is

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1 the data that Sarah presented this morning, the  
2 biggest message to me was that I really felt like  
3 that data showed that the deck is so stacked  
4 against low-income students.

5 And I certainly agree with you,  
6 Thelma, that I think the focus needs to, you  
7 know, remain the students, and I would go a step  
8 further to say that I would really hope, in  
9 considering whatever incarnation of the gainful  
10 employment rule you come up with, that you keep  
11 low-income students at the heart of it, because  
12 although the students that are scammed and go to  
13 the bad schools are certainly a minority of all  
14 the students out there.

15 The low-income students are a majority  
16 of those folks, and, you know, education has  
17 always been the key way in the United States to  
18 have upward mobility and to get ahead. And my  
19 fear is that -- not even my fear, it's an  
20 acknowledgement already -- my fear is that it is  
21 just going to get worse and worse.

22 I work in a lot of different consumer

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1 issues. You know, Whitney mentioned a couple  
2 others as well, and the profits are being made  
3 off of the backs of the lowest income people.  
4 And my fear is that education -- that is just  
5 going to become worse and worse.

6 And so, you know, I asked the  
7 Department to keep in mind the lowest income  
8 consumers out there, both when you're considering  
9 big things like getting rid of sanctions and  
10 small pieces of the rule like changing  
11 disclosures to an only online, which just like  
12 further stacks the deck against the lowest income  
13 people.

14 So that's all I have to say. Thank  
15 you.

16 MS. BUCK: Thank you.

17 I think we're over now to Steve?

18 MR. CHEMA: Like so many others, I  
19 want to express my gratitude to the Department,  
20 all of you who have participated in this, Greg,  
21 Steve, and Cynthia, Sarah, Brian, as well as --  
22 Scott -- as well as those who are sitting and

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1 listening, as well as those who accompanied me up  
2 and down elevators, especially if I was running a  
3 little late.

4 I want to thank my colleagues here for  
5 the passion and the energy and commitment to this  
6 that you have all shown, and also express my  
7 gratitude to the FMCS for shepherding us through  
8 this process.

9 Everybody who came here today to  
10 participate in this answered a challenge to  
11 tackle a pretty difficult problem. And it's one  
12 that I don't think is limited to just abuse in  
13 the federal student aid programs. I think the  
14 problem is affordability in higher ed.

15 And I have some reservations about the  
16 means chosen, a debt-to-earnings income I think  
17 -- or a debt-to-earnings comparison doesn't fully  
18 give you a picture of what the return on  
19 investment in an educational program is, or even  
20 help you understand how to decide if that return  
21 is adequate.

22 But, you know, I understand, you know,

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1 the necessity for understanding cost. And I  
2 think certainly at the extremes it is easy to see  
3 when a program is very good and when a program is  
4 very bad, but there is all those grades in  
5 between, and all of the different factors we have  
6 talked about over these three weeks that  
7 influenced that, that make this such a difficult  
8 project to take on.

9 And so, you know, in closing, to the  
10 Department, thank you, again, and I would urge  
11 you, Greg and Steve, as you, you know, go forward  
12 on this project to continue down a path that you  
13 have been on that is, you know, deliberate, that  
14 is aware of the need to balance good policy with  
15 minimizing burden on institutions, on emphasizing  
16 the need for consistency and fairness.

17 And I think if you stay true to those  
18 approaches that you have demonstrated so far, you  
19 know, we may come up with a much better result.

20 MS. BUCK: Thank you.

21 And, finally, Marc.

22 MR. JEROME: It was the last week of

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1 November in Orlando, Florida. I was at the FSA  
2 Conference, and I was introduced to -- the first  
3 time to a man named Greg Martin, who they told me  
4 was going to be leading the gainful employment  
5 negotiation.

6 I just told him I would be with him,  
7 and I looked forward to it. I'll never forget  
8 this. He looked at me and said, "I'm actually  
9 very nervous about it." And I want you to know,  
10 because it's now my second time through this,  
11 along with Whitney -- and John did it last time  
12 -- Greg has the hardest job of everybody because  
13 he has all of us coming to him at all sides.

14 He has the career staff behind us and  
15 the political staff who have pressures on him.  
16 And if you noticed, during part of it, he was  
17 sick. And so I'd like us to thank him for  
18 leading us in a dignified way. I'm going to give  
19 you a little round of applause.

20 (Applause.)

21 MR. JEROME: And with a sense of humor.

22 I also just -- I do want to thank all

1 of you for your professionalism and collegiality.

2 I learned a lot from you. I especially want to  
3 thank the career staff. And, Sarah, I hope you  
4 took all of my data submissions in the spirit of  
5 collegiality that they were given to you. So I  
6 thank you for dealing with that.

7 And then, lastly, I guess echoing  
8 Thelma and Kirsten, I always want us to focus on  
9 our first generation lower income students. And  
10 if all of us, including the Department, can keep  
11 focusing on completion, lowering student debt,  
12 lowering default, and just keep our eyes on those  
13 balls, on that -- those balls, we will be in  
14 better shape.

15 Thank you very much.

16 MS. BUCK: Thank you. And thank you  
17 to everyone for your thoughtful comments.

18 It seems like it would be a good time  
19 for a break. It's a little earlier than we  
20 usually take a break. So how about if we take 10  
21 minutes? Would that be okay?

22 PARTICIPANT: I'm willing to do that.

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1 We are just going to call the vote. Does  
2 anybody have a problem with calling the vote? I  
3 call the question. I know we're not using  
4 Robert's Rules, but it's -- I always wanted to  
5 say that.

6 (Laughter.)

7 PARTICIPANT: Yes.

8 PARTICIPANT: (Inaudible) taking a  
9 break.

10 PARTICIPANT: Yeah. There is  
11 consensus on that, right? All right. I'm not  
12 imposing it arbitrarily. Okay.

13 PARTICIPANT: Wonderful.

14 PARTICIPANT: I think we can just --  
15 I think we can just proceed, Ramona.

16 MS. BUCK: Okay. So go ahead and  
17 propose it to us, then.

18 PARTICIPANT: Okay. We are just going  
19 to -- we are taking a vote on -- this is on  
20 consensus, not -- this is not a temperature  
21 check. It is a formality that we have to do at  
22 the end of these to take a -- we'll take a vote

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1 on whether or not to approve the package as  
2 presented to you.

3 The position papers you received and  
4 the -- and the clean copy of the regulations, we  
5 had a lot of discussion, but we failed to reach  
6 consensus on any individual -- on anything here  
7 that would -- so that would lead us to change  
8 those rules.

9 We did make those minor revisions we  
10 talked about, so we are voting on the rule with  
11 the revisions you saw this afternoon. So it's a  
12 strict up or down vote. I just want to make  
13 certain that you all understand that the version  
14 you're voting on is the version that you were  
15 presented with at the beginning of the week with  
16 those minor changes we made.

17 MS. BUCK: So can we have our vote?  
18 Thumbs up? Thumbs down? Thumbs to the side?

19 One, two, three, four, five, six,  
20 seven, eight, nine, 10, 11, 12, 13. I think it  
21 was about 13 thumbs down.

22 PARTICIPANT: Yeah. I saw three to

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1 the side. The rest were down. Almost a  
2 consensus at the end.

3 (Laughter.)

4 MS. BUCK: So I guess we are ready to  
5 do the closing aspects of the meeting, right? Is  
6 that right? Rather than take a break, do you  
7 want to just -- or --

8 PARTICIPANT: Yes.

9 MS. BUCK: Yes. Very good. Then,  
10 first, we just want to ask if there are any  
11 participant comments before we get to the public  
12 comments, and then we'll have closeout from us  
13 and from you.

14 PARTICIPANT: But we have participant  
15 comments, I believe.

16 MS. BUCK: All right. Daniel?

17 MR. ELKINS: Neal had conveniently  
18 gotten up to -- to take a moment when I was  
19 commenting, but I wanted to say that I believe  
20 many of us around the table think that you have  
21 gotten the VIP negotiator. You are many of our  
22 favorite negotiators with your antics, so I

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1 thought that --

2 (Laughter.)

3 MS. BUCK: Chris Gannon?

4 MR. GANNON: I think I saw online that  
5 we have -- the first session's transcripts are  
6 out, but I don't think we have the second  
7 session's transcripts yet. I just want to know  
8 like when we're possibly going to have those, and  
9 also for the third session, when those  
10 transcripts might be available.

11 PARTICIPANT: Let me check with my --  
12 my people back here about that, please. I'll let  
13 you know, but I just want to make sure I -- I  
14 don't want to give you a made-up answer, so --

15 MS. BUCK: And, Thelma, your name is  
16 up, but I don't think you meant it to be. Okay.

17 Any -- I'm sorry? Yeah, I know.

18 So no more participant comments,  
19 right?

20 PARTICIPANT: Can I say one thing?  
21 Sorry.

22 MS. BUCK: Okay.

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1 PARTICIPANT: Ramona?

2 MS. BUCK: Yes.

3 PARTICIPANT: Behind you.

4 MS. BUCK: Oh.

5 (Laughter.)

6 PARTICIPANT: The transcripts from the  
7 second session are up on the website. The audio  
8 recordings are not yet. We're working on those  
9 due to some technical difficulties. The third  
10 one will be up in a couple weeks.

11 PARTICIPANT: Thank you, Amy.

12 MS. BUCK: So, Ahmad, you wanted to  
13 make a comment?

14 MR. SHAWWAL: Ahmad. I propose that  
15 we keep the gainful employment regulations as  
16 defined under the Obama administration. I was  
17 hoping to get a consensus check on that.

18 (Laughter.)

19 PARTICIPANT: Yeah. You're going to  
20 take that hope with you.

21 (Laughter.)

22 MS. BUCK: Okay. I forgot to say at

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1 the beginning that Christina had to leave, so for  
2 the record she wasn't here after lunch. But she  
3 knew we were going to go forward.

4 Now, let's go to public comment. Is  
5 there any public comment?

6 (No response.)

7 MS. BUCK: Okay. Then we will just  
8 say very brief remarks as facilitators, and then  
9 give Greg the last word. I just want to thank  
10 you for all your hard work and participation. I  
11 know it's not easy.

12 I think you made a lot of good  
13 suggestions, and I think the Department of  
14 Education heard you. And even though you didn't  
15 reach consensus here, I think some of your ideas  
16 are going to appear. And this is a wonderful  
17 forum for them to hear from such different  
18 perspectives. So I appreciate that.

19 Do you want to say --

20 MR. RAMIREZ: All right. So I would  
21 say to the public, although I know that there has  
22 been some frustrating moments, I do -- and it was

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1 said here, but I want to remind everyone that  
2 these regulatory negotiation processes, they're  
3 not mandatory things, right? And so the fact  
4 that the Department actually put this forward and  
5 gave the folks an opportunity to hear this thing,  
6 I really commend them for that.

7 And although there was no agreement,  
8 it was still very informative. And although  
9 there was no agreement, that doesn't mean that  
10 it's any less work. It's a lot of work, and so I  
11 really want to thank Greg and Steve as well.

12 I don't want to say any of the  
13 Department names because I -- I have worked with  
14 a lot of them, and I know how much they're all  
15 putting in.

16 Tony, for the reasonable accommodation  
17 efforts over there, it is pretty impressive  
18 seeing what he does there. And as well as Bill  
19 on the audio. Apart from a few ear-piercing  
20 wakeup feedbacks, a fantastic job.

21 (Laughter.)

22 MR. RAMIREZ: Thank you. We really

1 appreciate everything you did there, Bill.

2 For the negotiators, your expertise  
3 and your time, just fantastic. What a great  
4 group. And just as -- being up here and having  
5 to work with you all, I really appreciate your  
6 professionalism.

7 And as far as the group as a whole, I  
8 really hope that this not the end of the  
9 discussion but the beginning. So keep that up.

10 Thank you, all.

11 MS. BUCK: So I think, Greg, it's over  
12 to you to close us out.

13 MR. MARTIN: I'll confine my remarks  
14 to an hour, no more than -- no.

15 (Laughter.)

16 MR. MARTIN: First of all, I want to  
17 say that, though we didn't reach consensus, I  
18 think we had a very fruitful discussion here at  
19 the table. You certainly all kept me very  
20 intellectually honest and not allowed me to be  
21 lazy in any regard.

22 So I want to say it has been my

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1 privilege to be the negotiator here for the  
2 Department, and I want to thank my management for  
3 having the confidence in me to put me in this  
4 position. And I want to thank all of those who  
5 came to the table to assist me -- Steve, Sarah,  
6 Brian Foo (phonetic), Amanda, Cynthia Hammond,  
7 and so all those people. Without -- and Scott,  
8 my able -- Scott, he is just scott.filter@ed.gov.  
9 That's the way --

10 (Laughter.)

11 MR. MARTIN: But so I just -- I just  
12 want to say thank you to all. And thank all of  
13 my colleagues behind the scenes who you may not  
14 -- whom you may not have met, but whose efforts  
15 are just as important as all of ours up here.

16 So, in closing, I just want to wish  
17 you all a safe trip home and say, again, that it  
18 has been -- it has been my pleasure to be up  
19 here.

20 Take care. Good-bye.

21 PARTICIPANT: Okay. Thank you.

22 (Whereupon, the proceedings in the

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1 above-entitled matter went off the record.)