UNITED STATES DEPARTMENT OF EDUCATION

GAINFUL EMPLOYMENT NEGOTIATED

RULEMAKING COMMITTEE 2017-2018

SESSION 2 Day 4

Thursday

December 7, 2017

The Negotiated Rulemaking Committee met in Union Center Plaza Learning Center, First Street, N.E., Washington, D.C., at 9:00 a.m., Ramona Buck, Rozmyn Miller, and Javier Ramirez, Facilitators, presiding.

Members Present:

Ramona Buck, Federal Mediation and Conciliation Service, Facilitator

Rozmyn Miller, Federal Mediation and Conciliation Service, Facilitator

Javier Martinez, Federal Mediation and Conciliation Service, Facilitator

Jeff Arthur, Vice President of Regulatory Affairs and CIO, ECPI University

Whitney Barkley-Denney, Senior Policy Counsel, Center for Responsible Lending

Jessica Barry, President, School of Advertising Art

Jennifer Blum, Senior Vice President, External

 Relations and Public Policy, Laureate

 Education

Stephen Chema, Ritzert & Layton, PC

Jennifer Diamond, Policy Associate, Maryland

 Consumer Rights Center

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, President and CEO, Hollywood

 Institute of Beauty Careers

Marc Jerome, President, Monroe College

C. Todd Jones, President, Association of

 Independent Colleges and Universities in Ohio

Roberts Jones, President, Education and Workforce Policy

John Kamin, Assistant Director, The American

 Legion's National Veterans Employment and

 Education Division

Kirsten Keefe, Senior Attorney, Consumer Finance and Housing Unit, Empire Justice Center

Christopher Madaio, Assistant Attorney General, Office of the Attorney General of Maryland

Jordan Matsudaira, Senior Fellow, Urban Institute

Larua Metune, Vice Chancellor of External

 Relations, California Community Colleges

Anthony Mirando, Executive Director, National

 Accrediting Commission of Career Arts and Sciences

Matthew Moore, Director of Financial Aid and

 Scholarships, Sinclair Community College

Kelly Morrissey, Director of Financial Aid,

 Mount Wachusett Community College

Chad Muntz, Director of Institutional Research, Office of Administration and Finance, The University System of Maryland

Tim Powers, Director of Student Aid Policy,

 National Association of Independent

 Colleges and Universities

Sandy Sarge, Sarge Advisors

Ahmad Sawwal, Student, University of Virginia

David Silverman, CFO and Director of Business Affairs, The American Musical and Dramatic Academy

Christina Whitfield, Associate Vice President,

 State Higher Education Executive Officers

 Association

Staff Present:

Amanda Andrade, Office of the General Counsel

Gregory Martin, Office of Postsecondary Education

Kathleen Smith, Acting Assistant Secretary for Postsecondary Education

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Proceedings

(9:00 a.m.)

# Welcome

Ms. Miller: Okay, good morning. Welcome to the last day. We made it.

So Javier talked to you a little bit about switching drivers on a long haul. And he takes in the scenery and Ramona keeps her foot on the gas.

I'm a D.C. driver. My goal is to get home and beat traffic.

So before we begin are there any comments from the negotiators. Chris.

Participant: This is something unrelated to what we're here for today but I'm sure many of us know December 7 is the anniversary of the Pearl Harbor attack in Hawaii in 1941. Obviously over 2,000 people perished on that day and obviously the veterans and service members continue to die in service to our country today. So I just thought a moment of silence might be appropriate for all of those people. Thank you.

(Moment of silence)

Participant: Thank you so much.

Ms. Miller: Thank you. Are there any other comments from the negotiators? Jordan.

Mr. Matsudaira: Good morning, everybody. I just wanted to say that last night and the night before I sent a couple of data requests to the department.

And they were gracious enough to print out some copies for me. I'm going to leave the data requests that I did make just on the table where the paper is outside.

And I thought it might be helpful just so people could see the data requests that different people are making. So that might encourage some chance to coordinate on the kinds of things we're asking the department to run in case there are kind of related requests that people are interested in seeing.

Or maybe I can just pass this around for the people at the table.

And if anybody wants to talk with me about they're interested in something similar and we could coordinate on making a consolidated request I'd be happy to do that. Thanks.

# Public Comment

Ms. Miller: Thank you, Jordan. Anyone else? Negotiators? Okay.

As we did yesterday morning I'm going to open it up for any public comment in the morning. But keep in mind it's going to be a hard 10-minute stop. So are there any public comments at this time? Yes. Please come up to the mike here next to Amanda.

Ms. Yu: Hello, everybody. Thank you for this opportunity to speak. My name is Persis Yu. I'm the director of the student loan borrower assistance project at the National Consumer Law Center.

I'm here today to speak on behalf of my low-income clients. Schools that lure students in with promises of career success and improved earnings but deliver instead unaffordable debt burden shatter the hopes and aspirations of students seeking a higher education.

This is particularly a problem within the for-profit sector. At NCLC student loan borrower assistance project we see the harm to students on a regular basis through our direct client representation work.

We also consult with civil legal aid and other attorneys across the country who represent borrowers many of whom have been harmed by for-profit schools.

As lawyers for low-income clients we agree that there is a need to offer educational programs that meet the needs of many low-income and otherwise quote unquote non-traditional students.

Most of our clients are older. They often have their own children. Many seek career education programs that provide practical job-oriented training that will help them secure a steady job.

For that reason we are keenly aware of the need to hold schools accountable for delivering the kind of education and assistance they promise.

Strong gainful employment rules are essential to ensure that these individuals will be given a real opportunity to succeed if they choose to pursue career education.

The Department of Education has a responsibility to help students distinguish between effective programs that represent a reasonable investment for students and programs that are only a good investment for their shareholders and owners.

Taxpayers should not be used to prop up programs that fail to deliver value to students.

I'm here today to also share two specific stories from clients that I have personally served whose lives I believe would have been better with strong gainful employment rules.

These are their own words though I have taken out personally identifying information.

So my first client in her own words. I'm a single mother of two boys. Several years ago I noticed advertisements on the train and television for a medical assistant program offered by a for-profit school.

I thought going to the school would change my life. It did, but for the worse. I applied to the school and was accepted even though I dropped out of high school and didn't have a GED.

I took out $7,500 in loans to pay for the nine-month program. Although that was a lot of money I thought I would make enough in my new career to pay back the loan.

I did get my certificate and I did get a medical assistant job after graduation. However, the money I earned was not enough to pay my rent, provide for my children and meet the high monthly payments on my loans.

I ended up behind on my loans and then last year lost my job. I am now in default for a total of $9,000.

After I lost my job I found that even though I had the medical assistant certificate no one would hire me without a high school diploma or GED.

So I began attending the GED program at Crittenton Women's Union and I'm proud to say I received my GED last April.

Since attending classes at CWU I have learned that I could have taken the same medical assistant program at Bunker Hill Community College for a total of $3,000.

I have also learned that the median debt for students graduating from the Bunker Hill program is $1,750.

In my old job I could have handled the monthly payments for that amount of debt and my family's living expenses.

And for your reference the recent Department of Education data shows that the median and mean earnings of the program that this client had attended was less than $17,000 a year.

The second client story that I'd like to share with you in her own words said I attended a for-profit school a few years back in Massachusetts and I graduated within two years.

I was looking for a way to get the education and training I needed to get a good job. The school seemed like the answer. However, I later found out I was sadly mistaken.

I signed up under the false pretenses of a guaranteed job after completing the program. The admissions process moved quickly.

Before I even realized what I signed up for I came to discover that I had borrowed thousands of dollars in loans to attend a school that wasn't going to help me get a good job so I could provide for my family.

I'm a young single mother who has taken on various temp jobs to make ends meet and I have thousands of dollars in debt. After graduation there was no placement assistance and employers didn't recognize the degree I received.

The worst part is that when I signed up for the school I shared the news with my young son. I explained to him that I was getting an education and promised that our life was going to change.

I felt like a failure when I couldn't follow through on that promise. But the for-profit school I attended didn't fulfill their promise to me of support in helping me find a job following graduation and the proper education needed to appeal to employers.

This was not fair to me or my son. The school I attended has since changed names and I feel like I was taken advantage of by the school and have nothing to show for my efforts aside from a massive amount of debt.

I haven't paid off my loans because I couldn't afford the steep bill sent to me every month and nobody told me about income-based repayment until it was too late.

I also feel I was conned and received an inadequate education. My loans are in default with late fees and interest piling up. My credit is ruined because of this issue.

I'm also stuck because I cannot further my education and get a good job until this is resolved. I cannot access any federal aid while in default.

There are hundreds if not thousands of men and women dealing with this issue. Something needs to be done.

And then for your reference the recent Department of Education data shows that the mean and median earnings of graduates from the program that acquired the program she attended was just a little bit over $20,000 per year.

Thank you very much for this opportunity to speak and thank you for your efforts.

Ms. Miller: Thank you. Okay, before I turn it over to Greg I just want to congratulate you all on the great work you did, especially yesterday afternoon. I think we got some great feedback for the department and a great conversation going.

We just have this one issue left, issue number 6. So once that's wrapped up you all are free to go.

Our job as facilitators here will help you keep your conversations targeted. So as we talked about yesterday before you answer the questions state your position and then your reason why and give some feedback for the department. And we'll help to make sure that you stay on track.

With that said, Greg, would you introduce issue number 6 for us.

# Overview of the Issues

Mr. Martin: I'd be glad to. This is Greg. Welcome back. And by the way I don't see how we can conclude this in any less than probably 9 or 10 hours. Just kidding. Absolutely kidding. We'll get it done as efficaciously as possible.

Okay. So issue paper 6 is program information disclosures. I do want to point out before I read this that there will be some additional information being handed out to you that we will make reference to. And I'll go over that when Scott has handed it out.

Under 668.412 institutions are required to use a disclosure template that is provided by the department to disclose information about their GE programs to enroll prospective students.

Although the regulations list the number of possible items for disclosure they also provide that the Secretary will identify which disclosure items will be included on the template and conduct consumer testing to make the disclosures as meaningful as possible to students.

If an institution is required to issue warnings to students because of a program's low performance under the DE rates measure the warning must be included on the disclosure template.

Under the regulations institutions must include the disclosure template or a prominent link thereto on their GE program's webpages and in their GE program promotional materials.

In addition we require institutions to distribute the disclosures directly to all prospective students for GE programs -- for all GE programs rather via hand delivery or email and make efforts to receive written confirmation of receipt.

Prospective students must receive a copy of the disclosures before they must sign an enroll agreement, complete registration, or make a financial commitment to the institution.

If the institution is required to issue warnings with respect to a GE program the institution may not enroll, register, or enter into a financial commitment with a prospective student until at least 3 but not more than 30 days after it has provided the prospective student with the warning.

Institutions must also provide enrolled students with the warning.

On March 6, 2017 the department announced it was giving institutions additional time until July 1, 2017 to meet the GE disclosure requirement not including student warning requirements for programs failing the DE rates measure.

On June 30, 2017 the department announced it was giving institutions additional time until July 1, 2018 to meet requirements related to direct distribution of GE disclosures to prospective students and to include the disclosure template or a URL in program marketing materials while the department solicits comments and reevaluates these requirements.

The department would like to ask among other things how to make the disclosures as meaningful as possible and how to best ensure that students receive the disclosures while minimizing the burden to institutions.

With respect to the content of disclosure templates the department conducted two focus groups in 2011 with regard to GE disclosure requirements that preceded the current regulations and two focus groups in 2016.

In both cases one focus group consisted of students who were then enrolled in GE programs and the second was composed of institutional representatives. And the data obtained was used to develop a disclosure template.

In 2011 the students found that the information about job placement, cost and required coursework was most useful. They also showed a strong preference for being able to compare similar programs at multiple institutions.

In 2016 among 10 disclosure items participants including institutional representatives ranked the following as most important - job placement rate, annual earnings rate and completion rate.

In addition, the students indicated that the student warning language is attention grabbing and would likely cause prospective students to seek additional information whereas institutional representatives expressed concern that the warning language would be misunderstood by students and disclosure recipients would interpret it to mean the school is going to close.

Currently schools are required to disclose the following items - percent of students graduating on time, that's the completion rate, program costs, percent of students who borrow money to pay for the program, median debt of borrowers, typical monthly loan repayment, median graduate earnings, job placement rates if required by the state accreditor, fields that employ program graduates and licensing requirements.

Today the department has not conducted consumer testing with respect to the manner of delivery of the disclosure template and the warnings.

However, questions from institutions indicate that schools have had difficulty understanding how to meet the varying requirements with respect to delivery of warnings and delivery of the disclosure template.

In addition, institutions have requested more flexibility in the method of delivery to more easily meet the requirements through existing systems.

Under current requirements prospective students for all GE programs must be given the disclosure template via hand delivery as the only substantive content within the email if it's an email for any program in which they have expressed interest before they may be permitted to sign an enrollment agreement, complete registration, or make a financial commitment to the institution.

Institutions, particularly open enrollment institutions and institutions with distance learning programs have requested the option to incorporate the disclosure information within institutional enrollment systems as a less burdensome alternative to hand delivery and email.

We do have some questions for consideration. I think we should view each of these separately.

And once we've done that I'll introduce our additional element and we'll provide the handouts relevant to that additional item.

So first what types of information should be included in the disclosures.

Participant: And when you respond just remember to put your name towards the facilitator table in clear view. Thank you.

Ms. Miller: So I see Johnson's tag is up first. Johnson. Then Mark Jerome.

Mr. Tyler: Hi, Johnson Tyler from Legal Services.

I'll start by just saying I would defer to the focus group people because they actually spent -- they have some training to do this.

But I looked at some of these disclosures and they have a lot of information. I really think from what little feedback I saw about what the focus groups saw the graduation rate, the job placement rate, median earnings and the program cost, those four things would be most important to my clients.

I would say I think a lot of people look at the loan repayment rate and this is one program they're doing. People take loans year after year after year and $100, $143, I can handle that. Two hundred twenty dollars, I can handle that.

And so I feel like that isn't that meaningful in the life of a student and is in fact probably deceiving because they have more education in front of them.

Ms. Miller: Thank you. Mark Jerome.

Mr. Jerome: So actually I think this will give us a chance to actually talk about a couple of things.

So to begin with I actually believe the disclosures are not basically rigorous enough and that they just don't adequately protect or inform student borrowers.

And I'm going to get to I believe your document that the department gave out has an error and the error kind of goes directly to my point.

So I started with it doesn't protect, but I actually think it ends up actively misleading students. And I'm going to go through why. And part of is to the error.

So I'll start with the error. The department wrote that the schools are required to disclose the median debt of borrowers, but I do not believe that is accurate. I have the statute in front of me and it's 668.412 number 10.

And I believe the disclosure just like the rule looks at the median debt of all completers, not of borrowers. And I believe this is a fatal flaw of the rule but you especially see it with the disclosures because what happens is the disclosures end up giving a totally inappropriate outcome for students about the experience of student borrowers.

And for those who aren't following me let me explain why. At any institution across all sectors where the evidence is clear that student borrowers are suffering, whether it's with cohort default rates, debt to earnings, or they're not graduating as long as half the students at the institution didn't borrow the institution will have a zero median loan rate and that makes the student believe student borrowers are doing very well.

This gets to the heart of the DE metric that any institution where the evidence is clear that student borrowers are suffering but at least 50 percent of the students didn't borrow the DE rate is going to be zero and it's going to give the students the impression that this school or this institution or this program is doing an awesome job for students and it's not.

So I open it for discussion. I'd ask the department to clarify if I'm correct or not. And it almost gets to in trying to do everything I'm not sure the department is ending up doing anything well enough for students.

Ms. Miller: Greg, do you want to respond?

Mr. Martin: This is Greg. We're checking on your -- on the error. Thank you.

Ms. Miller: Yes.

Participant: So I think that's a really interesting point, Mark. And I would just want to be cautious that we don't include programs where there's a very small number of borrowers.

I understand if you think the 50 percent threshold is incorrect, but if there's only 10 borrowers in a program of 200 as is the case in some very well supported community college programs I just want to make sure we're not giving students the idea that this has higher default rates than it does if borrowing isn't necessary particularly with Pell.

But I would definitely be interested in thinking about how that could work.

I want to say one more thing. I did just want to again flag that I would really like to see something about eligibility in certain professions if you have a certain criminal background in these disclosures.

I understand, Johnson, what you were saying yesterday about people having a remedy for that which is true. But you also have most people are going to need access to either a great legal services attorney or some other person to walk them through getting that loan discharged.

And so I think protections work best when we have front end protections that hopefully can prevent back end abuses.

So I just want to make sure that I raise that in the disclosure section as well.

Mr. Jerome: And just to comment back. And again someone's going to have to look at the data on this whether -- I appreciate the concern for small programs.

But if all of a sudden the bulk of GE certificate programs in the country are small and aren't getting judged, and on the evidence you can see in the aggregate student borrowers are suffering and their DE rates are zero the rule is not getting to what it's supposed to get to and it's actually not protecting student borrowers.

And it's becoming ineffective and it's becoming misleading.

I can't think of anything worse for a student to see a disclosure that says there's a debt to earnings rate of zero, the best debt to earnings rate, and a median debt of zero and the evidence may show either the default rate is the highest, or no one got a job, no one's actually gainfully employed and the disclosure isn't showing that at all.

So until we solve that misleading part of the actual metric I think there's a question about how we're actually disclosing to students.

Ms. Miller: Thank you, Mark Jerome. Laura then Johnson.

Ms. Metune: On that point I was just looking up some of the disclosures from our colleges and it is true that they aren't disclosing a lot of this information.

And that's because in many of these programs they'll have 10 students with less than 2 percent borrowers.

And really what a student is getting from that information is that the vast majority of students that go into these programs don't have to take out loans or aren't taking out loans to pay for the cost of their program. And that can be a very valuable thing for a student to know.

I do think there might be ways -- I'm open to discussing how we might give students more information when that's true. Maybe more information about the overall institution.

I also wanted to say that I think maybe we want to include to the point that was made yesterday from Robert that something about industry valued certificates I think could be really important.

And also the disclosures about criminal background or other things that would eliminate somebody from eligibility in that field.

If there are a lot of borrowers at an institution it would probably be helpful for students to understand what the outcomes are as you mentioned beyond just those who succeeded in the program including their total cohort default rate on the repayment rate.

Again if you're talking about small community college programs that's going to not really show anything. I think that was everything.

Mr. Jerome: I want to respond back.

Ms. Miller: Johnson, is that okay?

Mr. Jerome: I guess what I want to say to the group is and I'm using -- basing on there's a report from Education Trust called Tough Love that basically says if you just looked at across all institutions the institutions with the lowest completion rates and the highest default rates and you affected them you'd be able to really affect student outcomes positively.

But back to scale. I think again across all sectors you're going to see whether it's a community college, an independent college, or a proprietary college for some reason the way the rule is written the schools with not only the highest default rates but the highest number of defaulters, 8,000, 6,000, 2,000 that every single one of their programs passes.

And I think it's true in all the sectors. And it's the way the rule is written. And there might have been something, a political calculation behind it, but at the end of the day if you care about borrowers there's just no way you would want the institutions where the objective evidence is that student borrowers are suffering to get the best rates on a DE rate. And so that's it for me.

Ms. Miller: Thank you. Johnson.

Mr. Tyler: So my question is really a clarification to Mark which the median debt of borrowers is just the median debt of the people who complete the program.

Mr. Jerome: I have the statute. I'll defer to the professionals. They're there.

Mr. Martin: So first of all. A couple of things here.

You're right, Mark, there is an error on the document. But let me just first of all, I hate to read from regulations because I know people find that really tiresome but here we go.

So again these are things that we can require to be disclosed, not necessarily that we will require you to disclose. So in 10 as Mark referenced.

As calculated by the Secretary the median loan debt is determined under 668.413 for any one or all of the following groups, those students who completed the program during the most recently completed award year, those students who withdrew from the program during the most recently completed award year, or all of those students in either of those groups.

Now, currently I just -- thanks to the wonders of the iPhone which as I get older I'm increasingly -- I'm less able to see I was looking at the actual template itself, the way we have it this year, the actual template you filled out.

So it gives an example here of the 45 students who completed the program in normal time -- who completed the program, it doesn't say borrowers -- who completed the program enter the median cumulative amount of debt for all Title 4 students including private, institutional and federal student loan debt for students who received Title 4 aid at any point during the program. You enter that.

Enter the applicable interest rate and then based upon that it calculates a monthly payment. So that's the way the disclosure template currently works.

So your point, Mark, was correct.

Mr. Jerome: Okay. Mark Jerome. And I just want you to know the reason why I think it's so important, I believe, and it's interesting the department made the error because two things. The score card looks at only the debt of the borrowers.

And I think for the purposes of people that are interested in what's happening to student borrowers you'd want to know the data about student borrowers and you wouldn't want to know the median debt of all the non-borrowers.

I think the other disclosure which is excellent which is very important for the community colleges is the percentage of borrowers. Because I think that's very relevant and students want to know that and there's no doubt it's an absolutely appropriate goal to have a low percentage of students that borrow.

But median debt protects institutions and it absolutely does not protect students. I'll leave it to the public to why the department has that as part of the metric and as part of the disclosure.

Ms. Miller: Thank you, Mark Jerome. We're going to jump back into the queue here. We have Daniel next. But please remember to state your position first, the reason for it and then any options that you have for the department. Thank you.

Mr. Elkins: We feel like that there should be increased disclosures across the board at all institutions.

For example, right now Ashford has four pending lawsuits, one that was settled. DOJ issues and SEC issues.

George Washington University online program, about 15 law schools. UNC is a decade-long scandal.

So I know we don't have data to collect from the private and four-year institutions that we can all agree on, but I think if you look in terms of what lawsuits are currently pending across the board and pretty much most of the states that are represented like Maryland, New York, Florida, California.

And they all have one common theme, the theme that we've been talking about which is high debt and no job. And this is at law schools. This is at public institutions, private institutions, for-profit institutions, online institutions.

And a lot of these cases are being settled in the terms of $10, $15 million. Excelsior is a great example, their nursing program right now, $10 million settlement because of misrepresented job rates.

So we would like to see maybe some checks on what is appropriate job rate and how they're calculated. I think those things inform students.

I don't know to the extent that GE informs students, but students are suing schools across the country in every sector because of job rate misrepresentation.

We agree with Mark's premise. We'd love to find out if he has had any specific students that have come and have felt misrepresented by that very issue that he's bringing up.

Ms. Miller: Okay. Next in the queue we have Chris Madaio, Chad Johnson. Were you up again or is your tent -- okay, so then Johnson, Whitney and Stephen.

Just be careful of actually naming characters and bad actors. We want to keep it focused on the conversation in this room. Thank you so much. Chad. Or Chris Madaio, I'm sorry.

Mr. Madaio: No problem. Thank you, Chris Madaio.

I have two things that I think should be included in the disclosure. So one is job placement rates. Obviously they are included only if required by the state or the accreditor and I think they should be required by all GE programs regardless of whether they're required by the state or accreditor.

Reasons for that I think are somewhat plain. People go to GE programs because they want to get a job. That's what the HEA permits these programs to have Title 4 eligibility for, gainful employment, and the student populations going to these programs are generally very focused on getting jobs and increasing earnings immediately after school.

And these are things that students do want to know, what percentage of people actually get jobs. We kind of heard that from the comments today from some of the student stories.

And the schools that have them advertise them. Certain schools that went bankrupt a few years ago, very large schools, got in a lot of trouble for misrepresenting those job placement rates.

So I think that's a really important metric for students to know is how are other students doing when they graduate in the job market.

And it seems especially for schools that already are doing them because of their accreditor I would think those schools would want everybody to do them. It's almost unfair for those schools to have to do the work to calculate them and do the surveys and the work that's required to determine it if other schools aren't doing that and then perhaps are saying things to students at sales meetings or face to face.

So I think having a published calculated rate for all schools is something that's very important.

And then number two is something I think that should be added to the disclosure is the percent of the school's revenue that goes to instruction of students compared to other things that the school might spend it on, i.e., profit.

I'm going to request, I believe the department has done studies on this before on the ratio of tuition that's put towards instruction across various schools.

So that's some data I'm going to request and hopefully we can look at that the next time we're here and see what studies have been done on this and whether that's something that students would be interested in.

Because I think a student would want to know how much of their tuition is going towards professors and other types of instruction.

Ms. Miller: Thank you, Chris. Chad.

Mr. Muntz: Chad Muntz. So, some interesting discussion. And I have two comments reflecting on Mark's mainly.

Is this the right type of information for disclosure. To answer the question yes, I think it is there. Can we improve it? I think so.

I hear the thing with the score card because you're correct, we do only calculate for those with debt.

So a suggestion that I might have with this is similar to other kinds of first-time, full-time new freshman calculations is should we do 25th and 75th percentile of debt. And that could get at that answer.

Or only look at the typical debt for the borrowers.

The other comment I had is if it doesn't get calculated and you have the n/a on there one of the things I heard from one of our institutions is is there a way to soften that. Because that looks like you're not disclosing something with the n/a and then that looks just as bad.

So there might be a way to talk about how we could better soften that to not look like the institution isn't providing it, but it wasn't required. So that's my comments.

Ms. Miller: Thank you. Johnson then Whitney.

Mr. Tyler: First I'd like to say I think Chris's idea is really good, the ratio of instruction.

I also want to caution. I think too much disclosure just becomes no disclosure. People stop reading it. And I think it's really important.

I think from a competitive world thing having the price of the program is really important, in fact, even maybe more important than the debt. Because it means that you can go from one place to another and say you're charging me 35, you're charging me 22. I'm going to go here unless you can give me a better package, some way to make this better and go back to that other place. So I think that's really important.

But I think also the instruction thing that Chris mentioned is really important because there is the perception that if you're paying more you're getting more. And if you're actually just paying more for marketing and stuff people should know that. I think that's another apples to apples thing that people could compare and make more informed choices with. Thank you.

Ms. Miller: Thank you. Whitney.

Ms. Barkley-Denney: So I have a couple of things. One, I appreciate Chris's call for a job placement rate. And I'm sorry to drive the department insane since this has come up in every GE rulemaking, but if we are to do something like that we obviously have to come up with a standardized job placement rate that is actually meaningful so that people know what they're looking at when they are looking at that rate.

Reporting to the accreditors rate is great if you find what the accreditor means and how the accreditor defined job placement and then are able to apply that to your life.

So I would be happy if we were to decide to do a committee on that to work with a new one on figuring out what a job placement rate would look like. We've come really close both times we've done this and I would love to do it this time.

So the other thing I was going to say is Daniel, I definitely hear you. And Neal, please don't get mad at me but as a representative of the best college basketball program in the country UNC I would just like to point out that lawsuit is about athletics and not necessarily about the things that we're talking about here.

But also I did want to say that we do have disclosures on some of those poorly performing law schools. They do have to report to gainful employment because of their proprietary status.

And finally I just wanted to ask when we're talking about median, I just don't remember how it's reported. So when they report median debt to annualized earnings is that what schools are reporting as well as the monthly loan repayment. Is that how it works?

Ms. Miller: Do you want to answer that, Greg?

Mr. Martin: Yes. Well, I'll just -- and again I'm just going to the -- there's what is in the regulation that we can require and there's what we actually require.

Because remember what it comes down to is the disclosure template. That's what schools are disclosing on. So it's an automated template that they enter information into.

It doesn't go to us. We don't retain the data. It just is meant to -- it generates the disclosure template.

So in this example it asks for the -- it gives the example of 45 students who completed the program in normal time and it says enter the median cumulative amount of debt. That includes private debt, institutional and federal loan debt for students who received Title 4 aid at any point for attendance in the program.

So you're taking the number of students who completed and you're taking that number and then entering the median debt for those students. And that's inclusive of all types of loan debt.

Who received that debt at any time during the program. And then we provided an interest rate which was I believe 6.8 percent.

And then it says -- when you do that it says based on the above -- information entered above, and this is what's going to generate the output that the student sees, the output document that will be the disclosure template that's provided to students.

So based on the information entered above the typical graduate pays X amount of dollars per month in student loans based on the interest rate of X. So it'll tell the students that this is how much the typical student pays per month based on this interest rate. That's what's disclosed ultimately to students.

Ms. Barkley-Denney: Thank you. So in the interest of -- and recognizing that Johnson is correct that sometimes too much disclosure is actually a bad thing when people are processing it I do think we need to have a conversation about non-completers in this.

I think we all know that non-completers struggle the most with repaying their debt. And even more so what we see often -- and mapping student debt has done a great job of showing this is that that's particularly true even when there's low levels of debt for those students.

So it might only be that they've taken out $5,000 but they didn't complete and so they don't have a job to help them deal with that.

So I think completion rates are really important along with what happens to those borrowers who drop out before completing.

Ms. Miller: Thank you, Whitney. Stephen.

Mr. Chema: Steve Chema. Daniel, can I clarify was your suggestion that pending litigation be included as a disclosure piece. Or were you more speaking generally to what causes that.

Mr. Elkins: Yes, I was speaking that pending litigation I think is something that should be disclosed to all students across the board at all institutions.

I definitely agree with Whitney the issue with the UNC thing in my opinion is not necessarily -- if that had to do with the specific topic. It's just there's a lawsuit that's been filed against the institution you're attending. As a student you should have a right to know that.

And I believe that I mentioned probably not as eloquently as the AG from Maryland, but I also felt like I strongly said that job placement rates across the board should be disclosed just because it seems like a lot of institutions across all sectors are getting sued because of misrepresenting those specific rates.

Mr. Chema: Okay. Well, I would be against adding pending litigation as an item. These are issues that are in the public record already.

But the fact of the matter is because a lawsuit is filed doesn't mean that the underlying claims have merit. You literally have your day in court to determine that.

And I think if you were to put any item of pending litigation, and it might be a consumer related complaint, it could be an employment matter, discrimination charge, anything I suppose all of that has an immediate derogatory effect on a disclosure.

I think a very severe consequence we would face if that were to happen would be that the pressure on institutions to settle any kind of claim whether it's serious, frivolous would be really ratcheted up.

You see this in a lot of different industries where there is an active plaintiff's bar that sees opportunity. I think putting a scarlet letter out there on a disclosure just because a claim was filed in court is likely to produce that outcome here. So I would not be in favor of litigation.

Ms. Miller: Steve, having said that, what types of information should be included in the disclosure in your view?

Mr. Chema: Well, I agree that because GE is not -- it's not an anti-fraud rule, it's an affordability rule that the elements that go to affordability ought to be included. So certainly program costs.

And I think Mark has raised really good points about how we're presenting debt. But I think if there's a rational way to get at that we should include it too.

Completion rates as Whitney has said I think are important pieces of information.

But some of these items that get far away from affordability and have more bearing on the reputation of an institution I don't think belong.

Ms. Miller: Thank you. Daniel.

Mr. Chema: I would also add that placement rates which have been brought up, I'd add my voice to the bandwagon of if there is a good way to do a standardized reporting we should because it would solve one problem that a lot of my institutions face which is because they are primarily career colleges that are nationally accredited and held to a standard by their accreditor they are disclosing what that standard is.

Many of them also have a programmatic accreditor that has their own standard. Some of them might also be in a state that requires some placement reporting.

And so you have three methods that you're all trying to disclose and explain. And I can tell you that it is very difficult to make a meaningful explanation of how the sausage is made in terms of how you're classifying the students and who is being excluded or included.

And I think it's very difficult for students, lay people, anyone to look at a three or four-part placement disclosure that comes out with different numbers for the same program and feel like they're being presented something clear or truthful.

So if we can get away from that, that would be wonderful.

Ms. Miller: Thank you, Steve. Daniel.

Mr. Elkins: Steve, you offer some really good points. It's probably just a result of me not being as familiar with higher ed as I am with the VA.

So the current VA GI bill comparison tool, it does that for all of the recipients as well as gives them information as to the FTC's complaint tracking system, how many complaints per school. All that's available to veterans as they decide what school to use.

So this might just be an Ed versus VA thing but it really works well for veterans. So I just thought that maybe other students would benefit from it.

Ms. Miller: Thank you. Christina.

Ms. Whitfield: Thank you. So I wanted to talk a little bit about the pieces of this information that I think are most important to students making decisions about program choice.

So most community college students don't really shop for institutions. They go to the community college that's closest to them. It's about proximity.

But they do make choices about which programs they're enrolling in. And if you look at certificate programs at a given community college and what the employment outcomes, the range of employment outcomes for those programs are you see very significant differences.

So a student going to the same community college in certificate programs their income at the end of those programs may be half what another certificate program's outcome would be.

And so that's a very important decision that students are making about which program they're enrolling in.

So I would like to see the disclosure requirements strengthened. Chad mentioned a number of programs and a couple of other people have that have n/a. They're not really disclosing anything.

I would like to see these disclosures strengthened so that more programs are required to say here's the median earnings of our students because I think that's a really -- the graduates of these programs think that's a really important piece of information.

In some states you can get that information from other sources, but it's very -- it's a very mixed bag in terms of being able to access that information.

And I think again it's a very important tool for students to make decisions about program choice.

I'd also be interested in if Whitney forms her group about placement rates I would be interested in participating in that too.

And I wonder if it's possible to solve some of that administratively. It wouldn't really be a placement rate, but you could -- from the same Social Security Administration data that we're using to come up with the earnings information you could say whether or not a student was employed.

That would perhaps not be as meaningful as saying whether or not they were placed in a job that was related to their field, but it would tell you at least whether or not the students had an employment record.

Ms. Miller: Thank you. Sandy.

Ms. Sarge: I had things I wanted to put my card up that I wanted to say. This is Sandy. And then now I have so many more things. But I'm going to try to stick with where I was originally.

So one of the things I think, Johnson, you mentioned was price. And price to go to school is a published thing I believe. Like when my son looks up stuff.

I think what's been confusing is when you hear things like it costs more to go to X school versus -- and I apologize in advance, I'm going to say Harvard because that was what the quotes have been. It costs more to go to X school than it is to go to Harvard.

I'm like have you guys looked at Harvard because my kid looked at Harvard and their published rate is $57,000 or whatever a year and then higher for out of state.

So there are -- and it was in 2007 or '08 when we looked. In the public schools that's where you see it.

So what I would be interested is maybe the average charged price after institutional scholarship type stuff. Something that gives you like okay, maybe it's a range. But I think that's important information. I agree with you, to know what am I coming out of pocket with. Forget about how I'm going to pay for it.

So there's one thing I get a lot with my clients is guys, you've got to remember that Title 4 is not the charge, it is how you're paying for the charge.

So I agree with you that we need to know what is -- and I don't know whether it's average or median or range, but what is the average charge that a student gets if they take this program with or without some sort of scholarship help. Something like that. I think that would be important.

I agree on placement. I wholeheartedly agree with let's come up with a standard that can be across everything because the way Stephen put it was that it makes students feel like which of these is right. And they're all right technically by the calculation but you have to understand the calculation.

To Chad's point, softening the n/a is also very important. I've looked at smaller schools where literally every single program was n/a. I'm like okay, what is this all about.

The one point that's in here that says typical monthly loan payment. So typical to me has a lot of different meanings.

With the advancements that administrations and the department have made on repayment options to students typical is about actuals, not about calculation. So it would either have to say calculated monthly payments because of all the things that have been mentioned by Jeff and Mark earlier which is -- and Jennifer which was we're using past data rates, or excuse me, interest rates that aren't necessarily relevant to today's borrowers.

So typical to me means that's what students are actually paying, not a calculation. I'd love to see based on repayment plans this is what -- options available, this is what a typical student pays. So I would look to change that wording to make sure that it's clear that this is calculated and that it's not necessarily representative of your situation or the options you have available to you to make that lower.

The thing that I -- on this whole issue of who should be disclosing when a student sees information, I think when a consumer sees information about one institution on their website and then doesn't see similar information on the other they don't necessarily know that it's because of a regulation that you see it on one site and not on the other.

They potentially make an assumption that they're fine. The one that doesn't have that information is okay and good and whatever when as Mark has been eloquently pointing out that's not necessarily the case. It's just that one sector is required to have that information out there and the other isn't.

So I potentially would say we make sure that students know that, that this information is required through regulatory or whatever we want to say, statutorily regulated and is not always required for other institutions that offer similar programs.

Because if I were the student I would then go well, why isn't it -- my first question is why isn't it. It's just a program. They don't always understand all the intricacies.

But the other part would be they could ask the question to the institution that isn't showing that data. Because I think that's the part -- communication has become a lot about assumptions. I'm assuming that school is okay that isn't required to show that information but I don't actually know it and I don't recognize that it's not that, it's just that they're not required to show it.

So, some of the things I'd want to add would be language that would make it a little clearer.

Ms. Miller: Thank you, Sandy. And before we move on -- oh, Greg.

Mr. Martin: I'm going to ask the facilitator that at the end of this when we're finished with this particular question could we take a break, please.

Ms. Miller: Yes. I was going to say we've been at this for 40 minutes now, a little over, so I see a number of tents up. But be sure that you're adding something new and if you agree with what someone says you can just say I agree with that person. So with that, Andrew.

Mr. Hammontree: Andrew Hammontree. I agree that the costs need to be included. That's the main thing that our students want to know. They want to know how much does the program cost.

But then remember my school doesn't participate in any of the loan programs. We don't even certify private loans.

So when we counsel the students up front you're not going to be allowed to borrow money and then you get into this whole disclosure section about borrowing money. And it just muddies the waters. Our students are so confused.

So if we could turn that off for the schools. A lot of community colleges that don't participate in the loan program I think that's just creating a lot of confusion for the students.

We are required to calculate a placement rate and we're very proud of our placement rates because they're high, but they include students that go on to continue their education.

So we see a lot of our programs as a gateway to higher education. So they finish their certificate program. Then they transfer on to a community college.

So to say that this is graduates who got jobs is a little bit misleading when you say our placement rate is 80 percent but 50 percent of them actually just went on to work on an associate's degree. And we don't know what their job placement rate was after they finished at a community college because we're not the community college so we don't track that. So that confuses students a lot.

And the majority -- I have about 100 certificate programs. The majority of them have n/a on just about every field and that is very, very confusing to students.

I know there's footnotes that explain a lot of this, but they're not reading it. They're just seeing a lot of words and they're confused. So if we could soften that I would appreciate that. Thank you.

Ms. Miller: Okay. Tim Powers.

Mr. Powers: So to just start by answering the question yes -- and to sort of answer Sandy's charge at the same time we agree that net versus sticker price is a very important distinction.

A lot of us have been speaking about the score card and one of the things that we have been very complimentary to the folks who developed the score card is that it does display net price rather than sticker price. So if you go on the score card you look up Harvard the net price is $18,000.

People don't believe that and that's one of the problems that our sector faces. But I'd also add that the college navigator site breaks it down by income group as well in terms of the net price expected.

So if you're in a family from zero to $30,000 you can expect that you'll be paying X. If you're from a family from I think $30,000 to $50,000 you'd pay Y. So on and so forth.

I'd also add that each institution by statute as mandated by Congress has to have what's called a net price calculator which is something that I think a lot of our institutions, and I won't speak for the publics, but I think a lot of publics have really used this tool as a useful thing for a lot of students to sort of say okay, you come from a middle income family, your parents might make $60,000 or $70,000. Don't be dissuaded in our sector by what might appear to be a sticker price which is out of reach.

And I think that reasonable people can disagree on the differences in the pricing model. The low tuition versus low aid model versus the high tuition/high aid model.

But we agree that there should be some sort of distinction between net versus sticker because we worry that some students might see that sticker price, get scared away and not realize that oh, this is an affordable program that might get me a really good outcome but right now might be scared away by the price.

Again I just wanted to add that there is some stuff in current law and some current disclosure requirements by the department that we all have to abide by. I just wanted to put that out there.

It's something that we deal with and we try to educate folks on every day because it's a really confusing pricing model. But we don't get state aid in the vast majority of cases so it's the way that our institutions can kind of funnel institutional aid in such a way that it targets.

Like I said reasonable people can agree or disagree whether that's the right thing to do.

Ms. Miller: Thank you, Tim. Jordan. And before Jordan goes I want to take a check. Is it time for a one-function break or can we just keep going? Because we have a number of people in the queue. Okay.

Mr. Martin: I'm inclined to go till we finish this particular question.

Ms. Miller: Okay. Jordan.

Mr. Matsudaira: Thanks. I just wanted to bring up a couple of things.

So forgive me if somebody said this directly already and I just didn't hear, but just to the point about capturing outcomes for non-completers and completers together.

It seems like adding things that have been contemplated in the past for accountability but we could add them here just on the disclosure side. Things like a repayment rate. The fraction of the full borrowing cohort's balance that remains after say three years of the original loan balance or program cohort default rates which would capture outcomes for all borrowers.

The other thing that I think Jessica had brought up yesterday that I thought would be a good idea is just adding more context. And this is the kind of thing that maybe is just about having some kind of review panel or consumer testing or whatever that works to figure out the best way of communicating the information to students so that they understand things like where does the median earnings of a particular program fit in some distribution of outcomes across other programs in the sector or things like that.

The kinds of things that are tweaked -- primed in the score card where you see something like a national median. Just so students can put the information in context.

Ms. Miller: Thank you, Jordan. Next we have John Kamin, then Jessica, Jeff, Whitney, Kelly and Johnson. So John Kamin.

Mr. Kamin: Yes, just two comments on some of the points that I think Daniel brought up that I thought were really important.

First on the lawsuits portion we're coming from a place where we see it prominently featured on the GI bill comparison tool where FTC actions and other lawsuits are listed there.

That's viewed to us as our view of disclosure but I see no reason why it couldn't also be through the means that go on here.

Now granted that doesn't mean that every lawsuit needs to be listed for a disclosure form. I think the Supreme Court's looking at something with the University of Texas. I don't know that every student applying to the University of Texas needs to see oh look, the Supreme Court's looking at them for a diversity issue.

The second issue in terms of the schools that need to report debt and the n/a and potential students being misled by this I think that leaves us with a lot to reflect on and think about.

But I don't want to let us forget that generally when we're looking at misled students we work off of empirical data, actual students who have professed to actual issues and cases. We've heard plenty of them since this started.

So I think there are plenty of ways we could look at the potential but I just ask if there are students who have been affected where are they. Because as much as we want to look at this methodology and see there's the potential we cannot work off potential when we know that there are students who are affected right now.

So if they are there who are they and what are their stories.

Ms. Miller: Jessica.

Ms. Barry: Jessica Barry. Actually kind of playing off what Jordan said and a little bit about what I talked about yesterday I think that most students when they're looking at a disclosure really have nothing to compare it to when they start their college search.

I think that's one of the problems that we see with students. And many students by the time they're reading a disclosure in their mind they've already made that emotional decision that this is where they want to go.

So I think finding a way to communicate this data a little clearer. For example, for the completion rate I think it's important to list the completion rate but then give some context. And maybe we do use the national median or the national rates that are used by the score card but it would say percentage of students graduating on time would have the 66 percent. And then it would say above average.

So if a student is quickly looking at this they could go okay, above average, below average, above average, above average. I think it would be easier for them to look at at a glance.

I think there have been a lot of really great ideas this morning about metrics and data to add, but I would hope that the department is cautious in doing that because I think the more that you add to this that you may water down the overall content. So thank you.

Ms. Miller: Thank you. Jeff.

Mr. Arthur: So I think one of the biggest factors, or certainly the biggest factor in the total cost of higher education and therefore the amount that borrowers borrow to pay for an education is clearly the time to completion.

And I believe when we're disclosing a percent of students that complete on time it really leaves the question unanswered so how long does it take. And I think we need to answer that question.

I think most people consider an associate degree or figure that's a two-year program. Bachelor degree, that's a four-year program.

But what few realize, especially those entering higher ed for the first time is that that actually is not representative at all of the time it's going to take to complete a program for many programs.

So I think that consumers should be well aware of how long it likely will take to complete a program rather than just the percent that complete on time.

Ms. Miller: Thank you, Jeff. Kelly.

Ms. Morrissey: Kelly Morrissey. I just want to comment on some of the metrics that have already been discussed.

I think that the conversation about net price is an important one. Currently we do have net price calculators on all of our websites but not at the programmatic level.

I think it would be important to indicate net price because it would reflect as I've mentioned over the past few days a reduced tuition for those colleges that participate in the new Promise programs, for students who are funding their education through grants and scholarships.

It would show a truer cost of the program that they're attending.

However, I do teach a first year experience class at my college and I spend an entire time teaching my students how to read net price calculators because they really are not a one to one comparison.

So for example, at a college that does not have on-campus housing but includes the off-campus room and board costs many students don't understand that that's not necessarily an out of pocket cost.

And some colleges artificially reduce their overall cost of attendance by putting in an unrealistic housing cost into the net price calculator.

So I think there really needs to be some kind of uniform costs that are used especially within a certain geographic area if we're looking at off-campus room and board costs in a net price calculation.

I also want to speak about program cohort default rates and how those may not always be meaningful at colleges that have low participation rates in terms of loan borrowing.

At community colleges in particular the majority of defaulters have borrowed less than $5,000 in total and a significant number of those borrowers actually default on very small dollars, $250 or less.

And in many cases some of the certificate programs they're attending have only a couple of borrowers within them. So you could possibly have 100 percent programmatic cohort default rate but you only have one individual within that program who has actually borrowed a loan.

So sometimes I think those rates could actually lead to a very misleading outcome when students are looking at those rates.

And then finally I would just like to echo what my colleague Andrew explained in terms of completion rates, particularly at a community college. Many students, the reason they are not completing an individual program is that they have opted instead to attain a higher credential and transfer directly into an associate degree program or continue to a four-year program.

And I would just encourage us to include within completion rates those students who continue to pursue a higher credential.

Ms. Miller: Thank you, Kelly. Johnson.

Mr. Tyler: Thank you. With respect to Tim and Sandy's position on talking about the net costs rather than the actual costs I would be very much against that.

We have clients who come in over and over again. They said I was entitled to a scholarship, actually it was a loan they signed.

In addition, I appreciate the non-profit private schools having huge endowments. They can attract these people and then have the net be nothing because they have an endowment.

The for-profit industry does not have an endowment. They have a different business model and they have shareholders they have to satisfy.

So I do not think if they're competing between one another and I'm in New York City, there are many for-profit schools here. Someone could go to Brooklyn, someone could go to Manhattan. It's only a subway ride away.

Having that real number this is how much this program is going to cost is a much better starting point.

And the last thing I would add, if you take in -- in New York State there's a state grant called the Tap grant and we also have the Pell grant. That's not a loan.

If you start taking that out because most of your students are low-income it's actually not going to cost you $35,000 because we can get $10,000 worth of real grants you don't have to repay that also muddies the water.

Because you're not then able to go to another place and say well look, this is the package they're giving me. I think I'm entitled to something better given the actual price you're doing.

So I think it would be more confusing. I think it would be more -- that's what I have to say about that.

Ms. Miller: Thank you. Daniel, Jeff, Todd, Sandy and then I think we should take a break. Daniel.

Mr. Elkins: This is Daniel. I think something to take into consideration for at least the veteran population, they typically statistically persist at a higher rate than other students but it's not in the four-year or the two-year time frame for the traditional degrees.

So I do think as we do have a conversation for graduation rates and so forth that's something to take I think into consideration.

From the research that we've seen that also can be applied to non-traditional students. So institutions that are servicing veterans or are servicing non-traditional students primarily, that grad rate if it's based on the standard normal time frame to completed degree might be off.

Ms. Miller: Thank you. Jeff.

Mr. Arthur: Just real quick. I wanted to second Kelly's comment about cost of attendance and just point out that the department also rewards institutions that lowball their cost of education by including them on the annual low-cost institution list.

Ms. Miller: Todd.

Mr. Jones: I just need to get out there I think the discussion here on net price is getting a little off base.

First, for the record folks the average endowment of a non-profit college in the United States is about $29 million. If you do the 5 percent distribution of that as required by the IRS or the maximum expected you're going to be down in a level of funding that is nowhere near how you pay for college.

There are a few elite Ivies and liberal arts colleges that have the resources to offer that kind of financial aid but most of the financial aid that goes to net price comes from a variety of other outside sources including scholarships, including work study, including aid.

And the reason we're talking about this is if we're talking about what net price is we have to understand it's not -- this is not like negotiating for a car. Part of what you pay goes to the nature of the program you're engaged to. In non-profit colleges it will go to the financial position you were in. And in some cases it could be your ability to hold or throw a ball with great speed.

It could go to that you happen to live in a particular locale for which there was scholarship money outside the institution available. Colorado is a good example, the Venture scholarship that is offered to Colorado residents.

So all of these things combined. It's not like average price and you shouldn't pay more than this. That's not what it is. But it's a rough guideline that's been constructed to give people an idea that what you pay is not necessarily going to be full pay.

In Ohio, and my association publishes a college guide that you can go through, the percentage of students who are receiving aid of some form, either institutional aid, government aid, or otherwise is 99 and 100 percent at a lot of colleges that might surprise you of that. But that is the reality.

I think we have to remember not to try and conceive of net price and conceive of net price calculators as something that they're not. They are a tool. They have certain values, but they are not something -- they're a tool in the sense of being a model. They are not a tool in the sense of being a map to construct how you're going to finance college.

Ms. Miller: So Todd, do you have any information that should be included in the disclosure?

Mr. Jones: I look at the disclosure and think that the department is providing useful information with college navigator.

I think what we have now is good and useful information. I don't think we need to be struggling to identify more and better ways. For all the talk of the disclosure is not enough and too much disclosure is overwhelming that is absolutely true.

But what we're also talking about here is government compliance and that's different than securing the ends desired from a policy standpoint. You can't push the rope. You have to assume the regulations cannot detail out everything that is going to be necessary to make everyone have the correct decision.

Instead it is to take a more modest approach and understand that whatever is put forward is imperfect. As long as it's somewhat useful then there's a benefit.

Ms. Miller: Thank you, Todd. And Sandy.

Ms. Sarge: This is Sandy. You guys bring up some really good points, all of you. And Johnson, I'm always a component of show me the math. I'm a math gal and I like to figure the math out myself because you're exactly right.

You get a number and if you don't know how it was derived then it can be misleading, absolutely. So I would modify what I was trying to get to, so thank you for helping me get to a better place, is I would be in favor of knowing here's what the published rate is. Here's what options are available. I don't know but I would pull it apart so that there would be enough information that somebody could make an informed decision. So thank you.

The other thing I started to think about because I experienced this in Colorado as a parent of students going to school. And I know this may be dreaming, but I'd like to understand what the last so many years of tuition rate increases there have been.

Colorado with the Great Recession and the state of higher education funding in the State of Colorado in particular we had double-digit increases in '08, '09, '10 and it took public outcry I think it was in '10 or '11 when we finally said enough is enough. Like for the love of God these kids were dealing with 10 plus percentage points of increase every year simply because the state hadn't done its job to properly fund higher education for a downturn in the economy.

So I would like to see potentially what's been the last three years of rate increases for all schools.

Ms. Miller: So we've been talking for about an hour now and we had two new cards go up. Okay. Very briefly, Mark.

Mr. Jerome: A specific request to add. We haven't talked about this.

The first rule included non-Title 4 students. The current rule does not. I'd make a formal request on median debt and maybe even debt to earnings that institutions in order to give a full picture are permitted to include non-Title 4 not identified so as to -- with the president's certification that it's accurate so as to be able to avoid the legal issue brought up in one of the litigations.

But I think it would more accurately reflect the program.

Ms. Miller: Okay. Jennifer and then the break.

Ms. Blum: Good morning, everybody. I'll keep it really short especially because I'm a latecomer to the table this morning.

But I assume that nobody has talked about the difficulties. This is not to say again that there shouldn't be disclosures, but the difficulties for graduate programs particularly at things like the doctoral level or even at the master's level on completion.

The way the department redefined completion is a bit odd and inconsistent with other templates that you use in other places like the score card on completion. And so the revisiting of that.

And then I do have a couple of technical comments, but I didn't know if this was the -- things like the text boxes and ability to be able to explain yourself as an institution. I don't know if that was covered or not.

And then the CIP code which presents itself pretty heavily in disclosures but I can discuss that whenever.

Ms. Miller: Okay. So Greg have we completed this question?

Mr. Martin: I think so. And I think Sandy, some of the points you want to make you might be able to make under the other -- I'm sorry, Jennifer. I'm not good with names as you've probably figured out. It's terrible when I have to introduce somebody to somebody whom I should know and I don't know that person's name. Soon I'll forget my own.

So I think we'll have opportunity to go into that, what you think about the format of it later on.

Before we break I will be passing out three documents to you sort of like the ghost of regulations past, present and perhaps future.

What you're going to be receiving is current 668.412, current 668.413 and you'll be receiving the changes to 668.41 which if you're not familiar with that is disclosures in general that are from the borrower defense final rule from 2016.

I'll explain why you have those three things when we come back, but I just want to make sure that you know those are the three things you're going to be receiving at your desk. So go ahead and take a break.

Ms. Miller: Okay. Be back at 10:45.

(Whereupon, the above-entitled matter went off the record and resumed at 10:45 a.m.)

Ms. Miller: So some information is being passed out and then we'll get started once you all have gotten that and had a chance to brief it.

Let's bring it back into the room here as we work on getting the information. And Greg, they're making more copies?

Mr. Martin: Yes. Before we start we have every intention of giving everybody at the table a copy of each document. But we ran a little short so we are in the process. Scott's making more but they'll be down momentarily. But I think we should get started.

If people could just indulge me and look off their neighbor for a little while till they get their own copy.

Ms. Miller: Okay. Before Greg introduces the next bullet point on our issue I just want to commend you for the tone of the conversation on the last question.

I know that it may feel that we as facilitators are beating up on you a little bit and pushing you to speak faster or make it more concise. But our job is to make sure you have a productive conversation.

So by no means are we trying to cut you off or keep you from making your point. But if we see some overlap, or if we notice that the conversation is going a little tit for tat we will try to target your conversations more.

But if you have to get something out please by all means let us know because it's not our intention to cut off your very important points. Okay. So I will turn it over to Greg to introduce bullet point number 2.

Mr. Martin: Thank you. This is Greg. Before we introduce bullet point number 2 I want to reference the documents we handed out. And this has to do with what I discussed yesterday evening before we left.

We have been tasked as a committee to look at disclosures not only with reference to gainful employment but also borrower defense. And you're probably thinking oh my God, really? I should have prepared for that.

The reason why was they wanted to control for redundancy so that we're talking about disclosures that have to be issued to prospective students and enrolled. And they wanted to control again for redundancy.

So we've been asked to consider those disclosures in 668.41 that were put there as a result of the final rules for borrower defense which were published November 1, 2016.

And as we've already stated those rules are not in effect. They were delayed. So although those rules are final they are not in effect.

But bear in mind that our sister committee with borrower defense is considering these things as we are. So we've been the ones tasked with looking at the disclosures.

And I think that's because they knew we would do such an excellent job of looking at disclosures.

So to wit, three documents in front of you. What I want to do is not make this a separate bullet point that we have to belabor especially since many of you probably -- well I'm pretty certain you weren't aware we'd be doing this until about 15 seconds ago.

But there was a reference when we put out the notice announcing that we'd be doing these negotiations. We did reference 668.41.

Just a little awkward because obviously there are two things we could be referring to with 668.41. Current 668.41 it does not include those changes from the borrower defense rule because they were delayed or the changes that the borrower defense rule made.

We're going to be looking at the latter, the changes the borrower defense rule made.

So the three things you have in front of you. First off is 668.412. And this is current 668.412 taken from the current regulations.

For the people in the audience if you want to pull this up the easiest way to do it is just to Google 34 CFR 668.412 and it will bring that up for you.

The other one we're going to be looking at is 668.413 also from the current GE rules. And you'll note that whereas 412 is disclosure requirements 413 is calculating, issuing and challenging completion rates, withdrawal rates, repayment rates, median loan debt, mean and median earnings, and program cohort default rate.

We're going to look at this specifically with reference to repayment rates.

And finally this one looks a little bit different. The last document you have was not taken from the Code of Federal Regulations. This was taken from the final rule for borrower defense. So it was pulled from that.

This shows the relevant changes to 668.41 that occurred as a result of that final rule.

So what I'll do is just go over it a little bit and then what you can do -- as we work through these other bullet points give some consideration to this. I would like to hear your comments on this if you have any. And I would be willing to entertain those comments anytime throughout the rest of the process.

So just if we look at the document that reflects the changes to 668.41 that came as a result of the borrower defense final rule you'll note it starts with loan repayment warning for proprietary institutions. Important to keep that in mind.

And it talks about for each year the Secretary calculates proprietary institution's loan repayment rate.

And what I want you to note there is using the methodology in 668.413(b)(3) which of course is from our current gainful employment regulations.

With this loan repayment rate there are potentially warnings that have to be issued. And you can see here it talks about issuing and appealing loan repayment rates. It also talks about the warnings and exceptions to those warnings.

We don't need to talk about that so much. I'm not interested in -- we're not going to look at what BD did with regard to that. I just specifically want to look at the disclosure itself and what you think about the disclosure, meaningfulness of that disclosure, whether you think it's something which is good for students.

The other thing I want to point out is under financial protection disclosures. You'll note that an institution must deliver a disclosure to enrolled or prospective students in the form or manner described and posted on its website within 30 days of any of the financial triggering events under borrower defense.

I'm aware that maybe to do this fully we would have to take some time to go into what all those triggering events are. I'm not going to do that. Amanda made an important point. Those are under consideration by the borrower defense committee. If we were to review these we'd be reviewing the ones in place now anyway and that committee is reviewing those for what's going to happen in the upcoming regulations.

So we're just looking at this with an eye towards the disclosure itself.

What I also handed out to you was under 668.412 you'll note that it talks about the disclosure template. We've been talking about that.

I'll just say that the repayment rate methodology is contained in 13 but disclosure of the repayment rate is included in 412. And if you recall the way 412 is set up it includes a list of things that the Secretary can require to be disclosed or not and it also gives us the latitude to require other disclosures that are not mentioned in here.

But just bear in mind that repayment rate is one of those things that we could potentially ask to be disclosed. A repayment rate as calculated by us, by the department.

We have not calculated repayment rates since 2011 but it is in there and we could do it according to the methodology in 413.

So just thinking about as we go through the rest of these and we don't currently require a disclosure of repayment rate with the current disclosure template.

So as we go through the rest of these just keep in mind what we talked about. And if you have any comments about the repayment rate in general or the disclosure of that repayment rate just please make those known.

And just to summarize. Big picture here. We're focused on trying to make those disclosures better. What are the optimal disclosures for students.

And I think one of the most important points we made here earlier, I think we all agree with this that you don't want too many of them because they become meaningless if there are too many.

But you do want those that really get at what students need to know. So let's keep that in mind as we move on.

And with that I'll go to question number 2 and that is how should data be collected for the disclosures, what information should be entered by schools and what information should the department calculate. And again bear in mind what we just talked about as we talk about the rest of these questions.

Ms. Miller: Okay. I will start with Mark Jerome and then Johnson.

Mr. Jerome: So this morning it brings up the adage maybe sometimes when you hang around for a long time it helps out with policy.

So I was unaware that the BDR group was looking at the loan repayment rate. But I think this issue brings up for the whole negotiating committee and the department the problems associated with having separate metrics for the same issue in different formats.

And so when the department first issued its loan repayment language in the first proposal it was based on score card data. And I notified the department that it was my belief the score card data was inaccurate and therefore the loan repayment warning was inappropriate.

And like debt to earnings my comment was that if you look at the score card data almost all institutions that serve low-income students in the country would fail this loan repayment rate. Therefore it was irrational to apply it only to one sector.

After a lot of back and forth, back and forth, after the loan repayment rate warning was proposed in the rule the department then admitted the score card repayment rates were wrong by over 20 percent.

I was very unpopular because it ended up changing all institution's loan repayment rates down by 20 percent including my institution.

And I guess it gets to the issue we're talking about and it's something Todd's been talking about that whatever we do with disclosures the data underlying it has to be correct.

And in this case I am absolutely confident the data underlying this loan repayment warning is not correct. And there's plenty of public evidence. This was looked at by the media.

And I guess what I would do is -- and this gets back to the disclosures. Could the department give us the data on what percentage of GE programs there are no disclosures because there are no rates calculated.

Because it gets to the heart of all the disclosures effective if they're not reaching the majority of programs.

Mr. Martin: Again you can submit the data request. I'm not going to make a guarantee of what we can do or can't. But I welcome you to submit the request to Scott.

Mr. Jerome: I guess my question is do you prefer we have someone run it from the external and we hand it out or do you prefer the department runs it. This is not hard data to run.

Mr. Martin: We're not averse to you running data and handing it out to the group if you want to. If you'd rather have us do it that's fine as well, but we're not prohibiting anybody from doing their own.

Mr. Jerome: But just to be clear on the loan repayment warning it is a perfect example of I think the department issuing a rule based on data that objectively was not correct and then the rule went out with the warning in place even though I think the department had knowledge that it wasn't correct. And I'd ask you just to consider that.

Mr. Martin: One thing I will ask as you talk, I'd also be interested in obviously opinions about the rate itself and how it's calculated, but the usefulness of a repayment rate in general to students.

Ms. Miller: Okay. Johnson, then Jennifer Blum, and then Sandy.

Mr. Tyler: Johnson Tyler. I apologize, I missed the first two days of this so I don't understand what the repayment rate metric is. Would you mind explaining it?

Mr. Martin: The repayment rate metric. Okay.

Mr. Tyler: I would say if you all went through this and everyone understands it we don't need to do it again.

Mr. Martin: Okay. Under 668.413(b)(3) and that's on page 712 if it makes it any easier for you. Sometimes it's best not to be too complicated and try to show off what you know and just say it's on 712 before you get involved with romanettes and all kinds of things like that. So let's just say 712.

There we see that -- so it says loan repayment rate. For an award year the Secretary calculates a loan repayment rate for a borrower -- there's some exclusions -- of this section who enrolled in a GE program as follows.

So it's the number of borrowers paid in full plus the number of borrowers in active repayment. I'm going to go out on a limb here, I might need some help from the back. What is active repayment.

Completed repayment sufficient to reduce by at least one dollar the outstanding balance of each of the borrower's FFEL or direct loans received for enrollment in the program.

So that's your numerator and then the denominator is the number of borrowers entering repayment. So the total number of borrowers who enter repayment during the two-year cohort on FFEL or direct loans received for enrollment in the program.

And that's the -- basically -- I didn't want to go back and talk about the previous regs, but the intent was to show students actually paying down, either paying off or paying down the principal balance of their loan. Does that help?

Mr. Tyler: Yes.

Mr. Martin: I haven't heard anybody from the table screaming no Greg, you're wrong, so hopefully that off the cuff explanation was sufficient.

Mr. Ramirez: Jennifer.

Ms. Blum: Okay. So I actually wasn't expecting all this but this is good.

So I have a quick question for Greg though. I sat through borrower defense and I don't remember there being an issue paper that even referenced loan repayment.

Mr. Martin: Right. One thing I want to point out is that -- the reason why is that as I stated earlier it's not -- they're not considering this disclosure under borrower defense. It's been punted to us so we're considering it.

Ms. Blum: Okay. I think that -- I mean I don't want to speak for those negotiators.

Mr. Martin: I want to clarify something. We're to consider disclosures holistically. That's an important point I need to make.

Ms. Blum: Okay.

Mr. Martin: We're not here to discuss necessarily the metrics of repayment calculation. Though I'm not precluding that. We're talking about the disclosures in general.

We read those two to you earlier.

Ms. Blum: That's fine. I just wanted to -- just because I didn't remember seeing any form of --

Mr. Martin: No, it's --

Ms. Blum: -- so I just was confused about wow, I thought because to be honest with you since it wasn't discussed during that negotiation it was -- I thought I didn't know how the department was handling it.

Mr. Martin: Well, now you know how we're going to handle it because here you are and we're talking about it here.

Ms. Blum: Yes, I guess so. And that's good because this is an area that I've spent a lot of time on.

So I guess I have -- I made a little list of points to make.

First is I guess I am sitting in the council seat and I will say that the questionableness of this particular type of rate applied only to one sector in the manner in which it's being done if we're looking at the section 413 which does seem arbitrarily different than the score card methodology I do think raises some legal issues that aren't -- and I recognize that the court case on GE was related to Title 4 eligibility.

But I would still say that there's -- I'm not sure that there's going to be an argument for legitimacy around this type of rate in the format that it's been done. So I'm just going to put that on the table.

But to get to the substance of the questions itself. The calculation, and again I've definitely beaten this drum this week but as it applies to graduate level programs loan repayment rate takes on a different form of meaning.

And I'm not suggesting that it's not irrelevant, it's just that the calculation makes absolutely very little sense for the borrower at the graduate level. And here's a couple of reasons why although I could go on and on.

And in general a loan repayment rate, the sensitivity I think around a loan repayment rate that's based on a dollar down is that it doesn't account at all for the tools -- and I said this earlier in a different reference.

The loan system is structured to have multiple different types of repayment plans. There's your standard repayment and then there are the myriad of income-based repayment plans. And then there are the deferments, the forbearances and all of those different tools which by the way the institutions have really very little control or relationship with the borrower when the borrower leaves.

That's between the servicer and the borrower. And actually I would hold servicers to some degree accountable for what the situation of the borrower is in this world because it's not a pleasant situation.

But to suggest that a dollar down on principal is a form of a repayment that makes sense, it's nonsensical. And at the graduate level or really even not at the graduate level but if you have situations around consolidation of loans, if you have situations where you're borrowing as an undergrad and then as a graduate you're going to have built up interest. We don't have subsidized loans anymore at the graduate level. So you're going to have some forms of built up interest.

And then servicers, not us, have often require and I think it's part of the DOE's agreements with servicers too but don't quote me on that that the treatment of the amount that a borrower pays every month. So a borrower will think that they're fully in repayment, they'll be paying their monthly amount required, and the servicer will treat that towards a payment of interest, not principal.

Now why that should reflect on the institution is very tangential to me. So I would ask that there be some strong consideration about this metric and what its relationship to the institution is.

And then I guess I'll just say as a final point you asked about the -- well, two final points. On the usefulness piece I don't -- again this goes back to I don't think it's very useful at the programmatic level and outside of the score card if there's no comparability to institutions as a whole.

And again I'm not suggesting that this means that it should apply to all institutions. I'm just saying it doesn't make sense.

And then my only other final comment is that there is a House bill now that does have a loan repayment rate in it. And I expect that we'll see Senate legislation around loan repayment as well at some point.

The House definition is way different because they do try to contemplate the various different repayment systems in place. And so I would ask the department to be considering what else, how this has moved along since the last time you guys tried to do this.

Ms. Miller: Thank you. Sandy.

Ms. Sarge: Thank you. This is Sandy. I'm interested in knowing what Christopher Gannon and Ahmad think is appropriate for students and what information they find most useful from the consumer side or the student side. Thank you.

Ms. Miller: Would you like a minute? Okay. With that said we'll go to Jordan, Whitney and then Johnson.

Mr. Matsudaira: I just wanted to note one of the research papers that I submitted to the department that you can look up -- I think the name of it is referenced in the set of data requests that I put out earlier today -- looks at repayment rates in particular and looks at how well they correlate with other measures of institutional performance that we care about. So things like earnings, other measures of loan performance and so on.

So this is a paper that was done by a group of Treasury economists at the time and finds that repayment rates are pretty predictive of those other measures that we care about.

So I think the repayment rate is a pretty good metric overall and pretty useful for both accountability and student information, and kind of addresses some of the things that we've talked about before by giving you a holistic sense for both what's happening to non-completers and completers in a way that's not reflected elsewhere in some of the other metrics in the rule.

Ms. Miller: Thank you, Jordan. Whitney.

Ms. Barkley-Denney: Thank you. This is Whitney. This has been a very informative discussion and I am really happy to see the agreement that we have problems with servicing. And I'll be happy to reach out to everybody who says it and say let's do something about this.

I also wanted to just note that I do understand and I am sympathetic Jennifer, particularly in graduate programs why someone might need an income-based or ICR program to take longer to pay.

And I think we see that in the thresholds that we were talking about yesterday or the day before with figuring out how long we should amortize.

My concern is with people who are in shorter term programs where I think that being in an income-based repayment program shows more financial distress.

And I do prefer a repayment rate to a CDR because I think that it better captures what's happening with the borrower.

And I also just wanted to note I don't know if this is even possible but if there's a way to particularly pull out people who are forbearing or in deferral for longer periods of time I think, a) it helps address the servicer question if those are the appropriate things that they should be in.

But it also shows possibly a little bit more borrower distress than an income-based or income contingent repayment program.

Ms. Miller: Johnson.

Mr. Tyler: Thank you. So I have a clarification question to begin with which is the repayment warning would be independent of a gainful employment warning if that was adopted. Is that correct?

Mr. Martin: Yes. With regard to the repayment rate and what's required in the final BD rules that are not in effect.

That's not the same warning we're talking about with GE. With GE it's the warning is if the program is in danger of losing eligibility.

Mr. Tyler: So I have a comment on this.

Mr. Martin: I should point out on advice of counsel they potentially could be. Because remember that we have the borrower defense committee currently going and us as well. So I can't preclude that, some combination of that. So I just want to point that out. Not currently. I should have prefaced my remarks by saying that.

Mr. Tyler: So I'm fairly sure there's a very high correlation between the repayment rate, failing that and the GE. I'm pretty sure about that.

And the reason I'm sure is we spend a lot of time in New York trying to figure out how to take Tap money away from failing for-profits. And this was a metric we took out of the score card. And we looked at that.

And you see the same people who fall in that category having -- are the same people who fail the GE metric.

So I think if you had two warnings that's more of a warning and I think that's a really good thing.

And just to address Jennifer's concern. And I understand why should my institution be stuck with this if I wasn't responsible for it.

So I'm not really sure how to answer that question, but I would just like to illustrate the problem I had with one of my clients which is she went to a city college, public school, came out with very little debt and then went to a graduate school online and now has an astronomical amount of debt.

And she's in an income-based repayment plan because I got her into that and she's not paying any money down.

So I think my understanding is both of them would get this warning because she went to both of these schools. Is that correct?

Mr. Martin: Currently the borrower defense rules are not in effect. They were delayed. So currently she would not get a warning under the borrower defense.

Mr. Tyler: I understand. But the proposal if we put in the repayment warning it applies to the institution and the program, correct?

Mr. Martin: If the new rules for BD are adopted yes, there is a potential to receive both. Yes.

Ms. Miller: Johnson, did you say everything you wanted to say? Okay. So Jennifer Blum, you are next.

Ms. Blum: So just to be clear about what I was saying is I wasn't saying that we had no accountability. I was saying that you need to get the metric right. So just to clarify I wasn't saying that a loan repayment rate -- in fact I referenced the House bill for an example -- I wasn't saying that we didn't feel like institutions should be accountable at all. It's just that you have to get the metric to correlate with the types of repayment plans and the types of tools that borrowers have.

So to reflect a rate that is consistent with their compliance, the borrower's compliance. So I just want to be really clear that I'm not suggesting -- actually it's an area that we've spent a lot of time on so I'm not suggesting that there not be one. I'm suggesting that the metric needs to align with the realities of the borrower's behavior.

And it is related to debt so I'm not suggesting that it's not related to debt.

I did want to reference something that Jordan said referencing Treasury. I actually spent a fair bit of time with Treasury as well over the last few years over this issue and they have told me that they were quite confounded by their own math because things like extracting out consolidation loans and figuring out exactly how to treat repayment between different institutions and different programs even at the same institution is quite problematic.

And so I would say that I think both the Department of Treasury and Department of Education would probably concede that the data to get it right in terms of attribution of loans and how the payments get attributed to programs and to institutions is actually pretty complex.

So while there may be Treasury Department data we have found it to be unreliable.

Ms. Miller: Thank you. Mark.

Mr. Jerome: So actually Johnson, you actually raise an excellent point and it underlines I think the major data issues the department has.

So repayment rates actually should be perfectly aligned or somewhat aligned with gainful employment debt to earnings rates. But for this group and for the public and for the department currently the repayment rates are 100 percent inversely related to DE rates.

And the reason is, and this is from my community college colleagues, because repayment rates perfectly reflect student demographics. I think the data is clear.

Currently 100 percent of community colleges pass the gainful employment DE rates. I've actually run the data on these repayment rates. There's about 1,000 public institutions that I think would fail this.

And so I think it's basically irrational for the department to have a disclosure metric where the institutions that would be having very low repayment rates -- and this is also true I think of some proprietary institutions would perfectly pass the debt to earnings rate.

You're starting to see the irrationality in the data underlining both the gainful employment reg and the repayment reg. And I invite someone who knows a little more than me about the data to really look at this.

Ms. Miller: Christopher Gannon.

Mr. Gannon: Yes, so we're just trying to take everything in and give the best advice possible. But would it be possible for you to repeat your question, Sandy, one more time.

Ms. Sarge: Sure. Yes. I'm just curious, a lot of people are saying this is what students need or use or whatever.

And I'm just curious from you guys' perspective -- that was a terrible use of the English language. I apologize. Youse guys.

I just really want to understand your perspective on what if anything that is currently disclosed is helpful in your opinion to your constituency and then also what isn't and what would be more helpful.

Mr. Gannon: Thank you, yes, that clarifies it.

Ms. Miller: Okay, Daniel.

Mr. Elkins: I don't know if this is 100 percent germane to this topic. We think it is but we haven't seen it come up anywhere else and it's specifically what exceptions should be made to kind of carve outs for extenuating circumstances not to be collected from institutions or not to be factored in.

So there is a carve out for loans in military deferment. Get some technical details on how military deferment works and what type of orders that you have to provide from the Department of Defense or from the National Guard Bureau to qualify for those military deferments.

So I would just ask or we would ask the department to consider that all full-time orders regardless of what title, whether that's Title 10 or Title 32 be considered for military deferment because there are current soldiers and sailors in the National Guard or the Reserves that are actually operating at a full-time capacity but are unable to apply for all of the loan deferments if they were on an active duty counterpart. Does that make sense?

Ms. Miller: Thank you. Jennifer Blum.

Ms. Blum: Jennifer. Whitney, you mentioned CDRs and I did just want to mention that CDR versus -- and it's not really a versus at all loan repayment rate.

I did want to point out that I agree that loan repayment rate again if done in the right way where it makes sense has value if we can get there with the data that we have today which is my big question mark.

But I will caution that my view or the view I think in general is I know a lot of people speak negatively about the cohort default rate but I will say that it shows worst case scenario.

And the discussion about not having cohort default rates. And I do think that understanding the worst case scenario and not burying it in a loan repayment rate is still of value. So I just wanted to make sure that we were.

Ms. Barkley-Denney: I just want to respond real quickly. We would definitely be in agreement on that. I wouldn't want to see it eliminated.

Ms. Miller: Jordan and then Laura.

Mr. Matsudaira: I just wanted to quickly say again about the repayment rate. Repayment rates are correlated with debt to earnings. The paper that I was mentioning, so it's a National Bureau of Economic Research working paper. It's cited in the one I submitted by Tiffany Chu, Adam Looney and Tara Watson finds that in the bottom decile of institutions by repayment rate 70 percent of the institutions are proprietary.

So just to disagree with Mark's characterization of that data. The people who have used it and kind of looked at it aren't finding what you're suggesting.

Mr. Jerome: Just to respond. The department has a particular metric it put out and the metric requires a punitive warning.

And I find it from a policy perspective not rational that the institutions that would deserve that warning whether it's a community college or in another sector would pass debt to earnings.

And I actually believe the data is going to show they're actually not -- it's the opposite result of what you just said.

Ms. Miller: Hang on. Let's get Laura and then I'll come back to you, Jordan. Laura.

Ms. Metune: One of the benefits of having this live tweeted and streamed is that people send us information that may be valuable to our conversation.

So I just got something that I'll share with the department that maybe can be shared with the rest of this group that shows the three-year repayment rates by college type and completion status.

And just really quickly I would say public two-years overall 36 percent, for-profit 26 percent. That bears out also when you look at completers and non-completers.

But anyway I'll email this so that everyone can see it. Thank you.

Participant: What were the two comparison groups?

Ms. Metune: I just compared the ones that were compared. Community colleges and for-profits.

Ms. Blum: And what's the source?

Ms. Metune: It's based on the score card data.

Ms. Blum: Okay, then I'm going to keep my card up.

Ms. Miller: Okay. So Mark Jerome you were next but did you want Jordan to respond to you first?

Mr. Jerome: I just have a specific suggestion for the department and this is on repayment rates and on cohort default rates.

The Department of Education in New York City puts out a performance metric for its high schools that takes data like this, completion data, but it disaggregates it by income.

I would suggest the department consider doing that for both cohort default rates and for repayment rates so that there would be a way for the public to view institutions who serve low-income students.

And I find the New York City Department of Ed template to be very helpful because it lets you compare apples to apples at institutions. And I think it would be something the community colleges would welcome as well.

Ms. Miller: Jordan are you good or did you want to make your point before we go to Johnson? Okay, Johnson.

Mr. Tyler: So I have a clarification again. So the repayment rate warning would apply to all institutions, not just proprietary if it went through.

Ms. Andrade: This is Amanda. So as the final BD rule stands right now it would apply only to proprietary institutions.

But keep in mind that it never went into effect and it's now up for consideration by this committee.

Mr. Tyler: Okay, so just another clarifying question. So the defense against repayment rules that this is part of as well, that applies only to proprietary institutions or also to non-proprietary.

Ms. Andrade: The entire borrower defense rule you're talking about?

Mr. Tyler: Yes.

Ms. Andrade: That applies generally.

Mr. Tyler: Generally. So this warning would go out to Harvard if Harvard --

Mr. Jerome: This is Mark. The warning was the one section of BDR that was proprietary college specific.

Mr. Tyler: Okay.

Ms. Andrade: I don't want to get too in the weeds about the borrower defense rule. The reason we're considering it here is because we don't want to have two different committees looking at disclosures and coming up with two different proposals.

We have very robust disclosures under the GE rule and we want this committee to come up with the best disclosures possible for students.

Mr. Tyler: Okay, so the thing I would like to say is I'm not sure having -- I'm not sure for my clients at least what this would mean if they had this warning. I'm not sure it would mean the same thing as gainful employment.

I think a gainful employment warning would be a much more -- I mean it says something about an institution that's more specific than this general enough people aren't paying a dollar of their debt.

I'm not sure if that means anything to people. It's a technical thing you have to think about for awhile. It's an economic principle. You have understand interest rates and amortization, that word. No one even knows that word.

So I think if this -- I guess I'm saying for my clients this is less important of a warning than a gainful employment warning which is a really important warning. Because that is identifying -- they need to know something about that. Those are the worst apples. Those really are the bad apples.

Ms. Miller: Whitney.

Ms. Barkley-Denney: This is Whitney. I just had a clarifying question for Mark.

So obviously when New York City schools does this by income it's pretty easy because the kids are under 18 and a lot of them, not all of them but most of them are living in a household with parental income.

So if you were applying that to this just so I can think it through more would you apply it to income prior to entering or income post graduation.

Mr. Jerome: I think the way I would suggest and I would welcome comment from my community college colleagues would be to say by institution and by how students who receive the Pell grant, what their repayment rate is and what their cohort default rate is, and what their graduation rate is compared to the national norm for that.

I think it would provide nationally apples to apples and we'd get out of the issue of institutions that serve primarily high-income students that have excellent outcomes with everything but you don't get to see the experience of a low-income student at that institution.

And so I'm a great believer in disaggregating outcomes for Pell students. I'll just start with that. Because it gives an accurate barometer of information to the public and to low-income students how they do at that college.

Default rates is a perfect example. There are institutions with very low default rates that serve primarily well to do students.

If you looked at the default rates of low-income students at those institutions they're doing terribly and no one knows because the information is not available.

So it's something I'm passionate about. And I think I would ask the department to look at that for any disclosure because I believe generally low-income students are the most at risk and you want information to know about their experience wherever they go.

And this is true at proprietary colleges. If the institution serves high-income students the experience of low-income students may be hidden behind the data coming out on high-income students.

So I generally care most about the most vulnerable students and I believe the department could do a better job and improve the way it reports on that group.

And I think a lot of policy people generally agree with that.

Ms. Barkley-Denney: So when we look at things we definitely disaggregate by Pell, by all sorts of demographic factors when our research team is doing things.

I just wanted to think about it in the function of a repayment rate which, and maybe I'm wrong about this, in my opinion is more of an income measure than a wealth measure. If that's really getting to what's happening post graduation if you're looking at their financial situation before graduation.

But I think that's way too much of something I need to think about before we address it at this table.

Ms. Miller: Christopher Gannon.

Mr. Gannon: Yes. So responding to Sandy's question, looking through the list and thinking about it we think that all of the current items that schools are required to disclose are helpful to students.

The only thing that we think that we would suggest that the loan payments also be provided annually for easier comparison of earnings.

Ms. Miller: Jordan.

Mr. Matsudaira: Thanks. This is Jordan and I remembered what I was going to say.

So just to Mark's point I think Mark's brought up a few times just the idea that there are some programs that are probably very bad that are not going to be covered by the gainful employment rule.

And I have no doubt that that's true. But I really want to push back strongly against the idea that the sectors are kind of similar in some sense and the idea that the problems that we're talking about aren't much more concentrated in the for-profit sector.

There's just no serious evidence that that's true and there's really a very large amount of evidence to suggest that the problems are really concentrated in the sector. And so there's a good reason to pay attention.

And I just urge us all to kind of reject the idea that just because we can't kind of shut down or monitor every bad program through this rule that's an argument for the department not to try to help where it -- not to help students where it has the authority to do so.

On the issue of student characteristics I think for transparency's sake I think it would be great to be able to break down metrics by student family background and so on. I think that's a great transparency idea.

But again I want to really strongly push back against the idea that that would dramatically alter the ordering of institutional performance that we get from this metric. That's something that the department put a fair amount of effort into addressing. That's something that I helped the department with when I was at the Council of Economic Advisors in trying to get a sense for how much differences in student characteristics across gainful employment programs affects these measures.

And the answer is that it has a tiny bit of effect on it, but the effect is very, very small. This is something that I believe the department could speak to with analyses that it's done so far.

And again I'll point to the department's kind of current efforts to do predictive analytics around likely default risk where it takes into account student characteristics and the sector in which students are enrolling.

I'm pretty sure, the last I heard of those efforts those analyses show that the default risk is much higher for students who are attending for-profit institutions even after you condition on -- after you statistically control for things like differences in family income and so on.

Mr. Martin: I think at this point we've got both sides of that issue pretty well fairly fleshed out by people who are very knowledgeable on each side.

So I think at this point the argument's going to become rather circular. So I invite each party to present their data and when the committee looks at it they can make determinations based on that.

So I'd like to move on if we can, just in the interest of completing our task before the end of the day.

Ms. Miller: Okay. Jennifer has a question. Go ahead.

Ms. Blum: Well, I had two -- they're both sort of questions. But you didn't ask actually about loan repayment over what period of time. So the three-year versus a five-year versus a seven-year rate. So that to me is a relevant question so I just wanted to make sure that that was not yet discussed and I do think that it is a relevant thing for you to contemplate.

The shortest amount of a repayment plan we have in this country is 10 years. And so how a borrower spends its time through those first 10 years and then even afterwards because that's the shortest one is relevant.

And so I would say that the department buries on its score card the fact that it does have data on 5 and 7 years and I don't know if you have 10 years or not.

But I do think it's a relevant question. And if we're talking about disclosure and just disclosure and you're not making it accountable to an institution there's no need to stick with a three-year which is very -- on the three-year you're really talking about a bunch of students who are -- might be in in-school deferment and completely excluded from the metric.

And then my second question really is for the department. I just have to ask given the back and forth on the loan repayment rate on the score card this year at the institutional level thanks to Mark's good work. And we had definitely spotted some of the similar issues that he highlighted for you.

Does the department have confidence to be able to do this at the programmatic level which takes even more data work?

Mr. Martin: I think that we have -- as far as confidence to be able to do things yes. I don't know that -- right now we're just getting suggestions as to where you want to go.

If you have an idea you want to put out there as something that should be different we're willing to accept that. I don't think we have the time right now to get into -- to argue the merits of each number of years.

But certainly if you have an idea of what you think would be better I'm willing to entertain that.

Ms. Blum: If you're going to go down this route you need to look at lengths.

Ms. Miller: So Neal, are you providing some new information or suggestions for the department? Okay.

Mr. Heller: Neal. I think that what Greg said before is we've kind of beat this to death. But I do think that everybody should kind of just consider a lot of this data is great data for the department to have and possibly some people around this table to have.

But going back to what Johnson spoke about much earlier in this conversation at what point are we just destroying the student or potential student with data. I mean, to talk about distinctions between a three-year loan, a five-year loan, a seven-year loan, it's insane.

Nobody's going to read this. Nobody's going to understand it. This needs to be distilled down to a level where a student and/or their parents can easily understand it, digest it, and make a sound, informed decision.

Ms. Miller: Thank you, Neal. And Sandy, to round us out on this question.

Ms. Sarge: Thanks. And I apologize but I am up front I'm going to kick the horse. I'm sorry.

Because there's a point that wasn't between what these guys were talking about. I get it, but Jordan to be honest with you I feel that part of what happens in our world is we assume that people don't want to see the other side of the story.

And regardless of whether the information is minimal impact or whatever it's me as the consumer, it's my choice to know that data.

And what I was saying earlier is that there's this assumption that oh, you should -- if I put out this data about one school and it isn't there on the other school it's an assumption that there's no impact or anything that would be going wrong.

I don't like the position of saying just because it's not correlated. Correlation is a very sophisticated word but it's not -- you can also put many, many other things into data. You're only looking at usually two things at the same time. You can put it in and also say that blue-eyed students are also correlated to that. It depends on what you're looking at.

So I wouldn't want you guys to eliminate information assuming I don't want it or need it and can't make that comparison on my own.

I feel the same way that our student advocate said yesterday is we do read and write. I don't need you to make that choice. I want to see all the data.

Ms. Miller: Thank you, Sandy. Greg.

Mr. Martin: We had this idea about this question so it's clarification only that in the final rule for BD which again as Amanda pointed out is not in effect. We shouldn't be thinking about taking that rule and moving it over because remember that committee is discussing a different rule.

But just remember that the loan repayment rate that when they incorporated the methodology for 413(b) which is the GE methodology note that at the top -- under (h)(i) it says the reference to program in 668.413(b)(3) is to refer to an institution when you're doing it for -- the way they did it under the BD rate. So just clarifying that.

Secondly as we move on here what I'd like to do is if you go to the bottom of our questions, the last one. Because I think we need to keep this in mind as we discuss the rest of these.

Should disclosure requirements be limited to GE programs or expanded to all Title 4 programs. So that is on the table. So we want to have everybody bear that in mind as they think about these questions. Don't necessarily think of each one as if it's only going to be applicable to GE programs.

What if, or hypothetically they were applicable to all programs as you answer these questions.

Ms. Miller: So Greg, are we comfortable to move on to 3 or are we lumping 3, 4 and 5?

Mr. Martin: I think we can move on to 3.

Ms. Miller: Okay. So it is 11:41. So we are moving on to question 3. Are there any suggestions, comments, questions.

Mr. Martin: I'll read question 3. How should the disclosures be provided to prospective and enrolled students. Should the current requirements for direct distribution of disclosures be maintained and those are explained in the issue paper or limited to failing programs.

What methods of direct distribution should be considered compliant.

Ms. Miller: Sandy, was yours up to answer this one? Okay, Johnson and then Kelly.

Mr. Tyler: I'll be quick here. So I looked at one of the failing schools and their disclosure today regarding a program, one of the GE programs that failed in New York.

And it took me quite awhile on the web to find it. You go to the program, the first thing that comes up do you want to chat about enrolling in class. Do you want to take a tour of the thing.

And credit to Mark it was very easy to find the disclosure on his school's website.

So I think there needs to be some uniformity because it gets buried. It gets buried. And you're not even going to get to that disclosure until you've probably spoken to someone.

So I think the disclosure, how it gets disclosed is very important. I think a lot of people do not get the disclosure unless there's more direction from the agency on what they have to do.

Ms. Miller: Thank you. Kelly.

Ms. Morrissey: Kelly Morrissey. I would like to comment on how the information should be disclosed.

We certainly are in full agreement that disclosures are important, but at open enrollment institutions it becomes overly burdensome to make a determination that the information has been disclosed.

And how we obtain positive confirmation that the student was disclosed the information can be problematic.

Especially when the touch points that happen with students happen over disparate time frames it really becomes really kind of like splitting hairs as to when we would obtain the disclosures.

So I think that we really need to be a little bit open-minded in terms of what we would determine and having some kind of information that's deployed through our information systems I think would make perfect sense, especially when many of the students are accessing the information electronically in methods that do not require a positive confirmation that they've reviewed that information.

Ms. Miller: Thank you, Kelly. Greg, did you want to respond? Okay. Pamela.

Ms. Fowler: Those who have spoken before or after these negotiations I heard one word consistently about the students that they said had problems and it was told. I was told this, I was told that.

At the time they're doing the telling why can't they tell these students these other things. Why can't they give them these disclosures then. That would open up an entirely different type of conversation I would think from some students as well you're telling me this but this says this.

You have to tell people something when they're ready to listen, not just what you want them to know but what they need to know.

And so if we're going to do all this telling and we're going to advertise all of this stuff that's when we need to make sure that they get this type of information so that they can at least, even if they don't understand it they can say well, wait a minute you said this but now you're giving me this.

Ms. Miller: Thank you. Daniel, Jennifer and then Kirsten.

Mr. Elkins: So I don't know if everyone can read the words on this but I'm just going to hold it up. So the example is a disclosure with a warning, an example of a warning disclosure and an example of a disclosure that doesn't have a warning.

So although there might not be necessarily Title 4 requirements that are attached to this the disclosure with a warning is very effective. I won't name the school in the spirit of everything.

We think that those disclosures are very effective. You can just see the differences in color.

Participant: The whole point is for the people across the room you don't have to read it. You can see it just based on looking from far away to identify is something up with the disclosure.

Ms. Miller: So Daniel that was how the disclosures should be provided to enroll students. What about the other parts of the question? Should the current requirements for direct distribution of disclosures be maintained or limited to failing programs and what method.

Mr. Elkins: We were just commenting on the first part of the question.

Ms. Miller: Okay. Jennifer.

Ms. Blum: Jennifer. So I just wanted to -- this goes back to what I said earlier this morning when I wasn't sure whether I was coming in in the middle or whatever.

The CIP code is -- so this is a technical just how it should be disclosed. There is a CIP code issue because we do have programs that roll into one another and so you're reporting on things like completion and earning on multiple -- it's very awkward.

Because you can have different programs with the same CIP. But you're merging the two for disclosure purposes so you're actually not accurately -- you're requiring us to not accurately portray the data for each program.

So I just want to point that out. So there is a technical issue there.

And then the other two technical issues is we would be very, very grateful to have a bigger text box because there is a lot of information that does need explanation. And it's sort of this one box that's character limited and you can't even -- I mean it's quite something.

So even on the sort of standard. So that's another technical.

And then the completion which is kind of an interesting issue. As I mentioned before and I don't really want to go into it, but the department did change from one year to another how it defines the time to completion.

It's extremely complex right now and again not consistent with other tools that the department already uses for completion. And I think there needs to be an alignment with how the department looks at completion. Just pick.

And maybe we can help you figure out which one to pick, but there needs to be some consistency.

And in that regard the score card is kind of funny because it literally technically doesn't anticipate, and maybe this argues for my case, but it does not anticipate doctoral. So our doctoral programs are largely listed as n/a because there is no such thing.

I mean, I guess some people could finish doctorals within four years. The national average I think across higher ed is something like it depends on the profession but it's long.

So you literally -- and again like I said maybe this argues for my point in general.

Ms. Miller: Thank you. Kirsten.

Ms. Keefe: Thank you. Kirsten Keefe. So this comment might actually go towards the next bullet regarding how should the information be provided.

But I just wanted to note because the issue paper talked about the disclosures being provided physically or by email. And I looked up. There's a report from the U.S. Census Bureau from 2015 data, the report just came out this past September on computer and internet use in the United States.

And just over 50 percent of the lowest income homes, folks making $25,000 or less have desktop computers. And surprisingly the number is actually slightly lower for handhelds. And it's the same sort of just over 50 percent for folks who have internet access and even lower obviously for broadband.

The numbers go up slightly higher income ranges of $25,000 to just under $50,000 but only to around 70 percent for all the different categories.

So it's a real issue for our clients, clients that we see. In one of our offices where there was a closed school, notorious school the Department of Education was actually sending information to homeowners -- or I'm sorry, to borrowers by email only.

And it's really hard to see disclosure information on a handheld and to be able to read all the fine print.

And then the other issue that the report from the Census Bureau brings out that we also see is internet access for municipalities and they say non-municipalities.

But in upstate New York real issues as I'm sure it is in every rural area of states across the country internet access and broadband access is a real issue.

So I would just ask the department to really keep that in mind. Just providing especially something like disclosures either online or by email is really insufficient.

And I would ask everybody here to keep it in mind in terms of there's a lot of information out there that students can access via the internet but not all students are like probably our children who have computers at home and have the time to sit there and do that. Thank you.

Ms. Miller: Andrew.

Mr. Hammontree: This is Andrew Hammontree and I wanted to mainly respond to the second question under bullet 3.

Ms. Miller: Andrew, I'm sorry, it's a little hard to hear you.

Mr. Hammontree: I mainly wanted to respond to the second question under bullet 3 should the current requirements for direct distribution of disclosures be maintained or limited to failing programs.

For failing programs, yes, I think students do need to know that. I'm fine with them being directly distributed to them.

I think it creates a huge administrative burden though for a lot of schools such as mine. We have a lot of students that applied for schools years ago and they started out as high school students and now they're going to continue on as adults. I think it would be very hard for us to get active confirmation from those students that they've seen the disclosure.

We know that they have. We're very up front about our costs. We're not hiding anything. We just didn't know how we would be able to comply with that requirement where we get active confirmation that every student did see that.

Again we don't do student loans. We're not hiding anything. We're very proud of the information. We want them to see it. But I think it would be an administrative burden that's maybe unrealistic for our institution to require us to get active confirmation that every student did see that we don't cost anything and we don't have any debt. Thank you.

Ms. Miller: Chris Madaio.

Mr. Madaio: Thank you. Chris Madaio. So we've talked a lot about wanting to make sure the disclosures are right, make sure that we have the right disclosures in there.

And so I think if we're doing all the work to make sure these disclosures are accurate and they're telling someone something it doesn't seem to me appropriate that then we should only have them ensured that students get them at failing schools.

I think it should be something across the board. Students need to get these disclosures and just having it on a website which certainly some schools are doing their best to hide this in the deepest darkest corner of a website.

So that's a big problem. I really don't think that having disclosures on the website alone is sufficient and that the two areas of the current rule that are currently being delayed, the disclosures to students pre-enrollment and disclosures in marketing materials are things that should be retained because those are the ways that students are going to see it.

We know students see marketing materials. Schools spend a lot of money on them so that tells me in our capitalistic world that must be effective. They wouldn't keep doing it if it wasn't effective.

And we know that students when they're about to sign an enrollment agreement, that's the time that they're probably really thinking about these things in a different way than when they maybe are shopping much earlier along.

So I think it's very important that students do get the disclosures and it's confirmed that they've gotten them, they've gotten them at an email address, or they've gotten them in some fashion that they're sure to read them.

So I'm hesitant in certain ways that it could be made more difficult when instead we should make it as easy and as clear as possible for students to get them.

Ms. Miller: Thank you, Chris. In the queue we have Jeff, Chad, Thelma, Sandy and then Chris Gannon. So Jeff.

Mr. Arthur: I've got my IT hat on so hopefully this makes sense.

Anybody that's attended a session on consumer disclosure requirements has probably left that session questioning whether they're doing everything they're supposed to on disclosures because it's so confusing.

I really believe in a one-stop source for all of the required disclosures which easily could be the college score card. And that would include gainful employment disclosures.

Now, that does not mean that you wouldn't have data available on your website. Data on a score card or anywhere else can be considered an object that can be embedded on any website.

So just because it's warehoused in a score card doesn't mean that it can't be leveraged or used or embedded anywhere else that you would be required to or linked to.

So I don't want to give the impression I'm saying I want to push it there and not have it readily available where it needs to be.

The point is that we can have it all there, reduce the burden, ensure that we've got everything that we're supposed to and not only that but it would be easy for the Department of Education to track usage of all this information and figure out what is helpful, what are students looking at. How much time did they spend on that object.

You don't need to do focus groups or surveys. Put the data there and measure it using technology.

Ms. Miller: Thank you. Chad.

Mr. Muntz: Chad Muntz. So I agree with some of these comments so far about how burdensome it is. Appreciate your IT insight. I did understand a little bit of that and that would be helpful.

But the current -- I know they're on hold I think. I don't do the disclosures specifically myself, I'm just passing on information from others.

But it needs to be more flexible to allow for multiple options. Trying to track down a student and make sure confirm receipt might work with a very small institution but when you have five figure digits of students that are looking at the different kinds of programs this is very onerous.

And trying to confirm receipt email does not allow for that to do confirm receipt as well as mailing it to everyone. This can be very costly.

So some way to try and do that. And then there's also some consensus to agree with you about a one source kind of place to store all these disclosures and have them available for comparison purposes either at that institution or in general across the board.

So to answer those questions I think that was under the bullet how it should be provided I think more flexibility is needed. It's definitely important so we're not saying don't disclose it, but the direct distribution is the part that's very difficult to ensure compliance. Thanks.

Ms. Miller: Thank you. Thelma.

Ms. Ross: Good morning, Thelma. I agree with I think in part Jeff. I'd like to hear a little bit more about the technology piece in terms of being able to confirm that someone has actually read information or has seen the information.

But Chad has actually captured what I was going to say. But I do want to indicate the support that I have for the continued distribution.

It is administratively burden to confirm receipt, to catch a student so to speak. Pam mentioned about students being told at different points.

There are different opportunities where students can be told. We have some places where we've required mandatory orientation for any type of program that a student is going to participate in in that particular institution.

So be creative about the information that you give them at that time as well as it relates to gainful employment and the disclosures that are associated with those types of programs.

I by no means want it to just be associated with a link on a website because again back to Kirsten's comment about students access to technology.

Yes, they may have access to the technology if they come to your campus but why should I have to come to your campus to get disclosure information that is that important to my program that I'm planning to participate in on your campus.

Ms. Miller: Thank you. Sandy.

Ms. Sarge: This is Sandy. Again I have to go back three pages to my point.

So one of the things that we haven't talked about -- well, two points. One, I'm a huge proponent of putting some of this stuff in layman terms.

I'll give you an example. The master promissory note is called a master promissory note and unless you've studied finance and know that a note is a loan as opposed to like a thank you card or a note. What does promissory mean.

I mean I've said this before. I've had students come to me and say I don't have loans. I got financial aid. And they don't understand.

Even though they were required to do entrance counseling, were required to have them sign the promissory note which is in itself a whole 'nother disclosure thing.

These are very complicated legal and financial documents that are already hard enough for somebody who's educated in that field to understand sometimes if you don't work in it every day.

So my suggestion would be that amortization period or somebody mentioned -- I'm not sure I even know what an amortization period is. Well that's true. And it's a very technical term.

And I think we use a lot of technical accounting and finance terms because this is a financial relationship, I get that. But without something that says what that means is the period over which you will be paying back that loan, how many years you're agreeing it will take you to pay back that loan.

Put it into terms that are understandable for the non-sophisticated and new borrowers for one thing.

So the other thing I would say, and I'm tired today so I'm not being as succinct so I apologize.

I also want to bring up the point that we put out a lot of these disclosures but every year we hear big stories that say students will start in many degrees today that by the time they finish their four-year degree these will be obsolete, these degrees will be obsolete.

So there's a lot of things that influence beyond the student and beyond the institution. Let's assume both of those were well dedicated and of the highest quality and all free and everybody was going there.

The economy. The global advancements. Changes in demand for that position. Efforts. So those are all things we can't control.

And then let's put it into things that you can control. Student effort. School effort. Co-curricular services that are offered and not offered in some situations.

So to some degree I think it's appropriate to have reminders, and I hate to use the word disclaimer because I don't want it to be viewed as I'm trying to get anybody out of anything.

But to say please consider the fact that your decisions today will be influenced by -- the results will be influenced by what is going on in the economy, the job market and the demand for this career in the future. I don't know how to do that but I think it would be important.

And I agree with everybody about the burying of data. It drives me crazy. When I try to go and find data and someone says can you go check my GE data and it takes me a half an hour to find it. I'm like I'd love to help you out there but I can't find it.

So I think putting it somewhere, making it be somewhere within two clicks or something would be very helpful.

Ms. Miller: Thank you. Christopher Gannon.

Mr. Gannon: So ultimately we want everybody to do everything that we can to make sure that students are getting these disclosures.

I really liked Pam's point about the active confirmation. I understand that that can be burdensome to have to do that but this is something that's so important I think that it definitely deserves a little bit more investigation. We don't just outright dismiss it.

And I know that from our perspective just seeing a link and having to click some link included in an email, most students aren't going to get access to the information that way and it creates a barrier to them. So we'd really advise against just putting it in some link and having students click it because they're not going to get the information that way.

But I did like Thelma's point and also what Pamela said.

Ms. Miller: Thank you. John Kamin.

Mr. Kamin: Yes, I'll keep my remarks brief because I've heard a chorus of stomach rumblings so far.

But I just want to say that I think it's great that I think we're all kind of in agreement that however we decide to split the hairs on what should be included with the disclosure the goal and the intent should be to provide the student with the best information, the most pertinent information that they need.

And to that end I also appreciate the conversations we've had over aesthetically and visually how do we do that in a way that they're going to read it.

And to the extent that the medium is the message of this to bring McLuhan into this I think it's important that we don't reinvent the wheel in that the FTC has done a lot of work defining value in the Web 2.0 generation and captivating attention.

And I would encourage or perhaps even request that Department of Education to seek consultation with the FTC on the proper best ways to do disclosure guidelines for web and social media.

Ms. Miller: Whitney, was your card up? Okay, well before you it's Jeff and then Jen Diamond.

Mr. Arthur: Okay, now I've got my data science hat on.

So if we centralize the disclosure platform it could evolve from there. I'm not a big fan of medians because technically that identifies one person.

Imagine if we could allow somebody to complete a FAFSA and check a box and say send me to disclosure information on the institutions I've identified.

And now that platform will allow some customization based on the information that they have. Their program of interest, maybe you collect the program of interest on the FAFSA. Maybe not. Maybe you identify that on the score card.

But you could then see data tailored to you instead of one person that was in the middle of the entire set of data.

Ms. Miller: Jennifer Diamond and then Ahmad.

Ms. Diamond: Jen Diamond. I was just going to say I noticed in the two papers it says that the department hasn't conducted consumer testing on the delivery methods yet so I'm sure that will be informative of how students are actually getting information and what's effective for them.

And I'm sure students at the table probably have some of that information as well.

And I wanted to just also agree with Kirsten's point about the online issue versus hand delivery. And for people who aren't always able to access the online resources.

But I know for-profit schools and a lot of GE programs, proprietary programs know a lot about marketing so I would also think there could be some ranking system. I'm sure marketing departments have done extensive research about what is reaching the students that you're actually focusing on.

So looking at those top marketing successes and using that as a way to deliver this message within that I think could be useful.

And just wanting to go back to the -- we want to make sure we're not just talking about disclosure only but that we're making sure the warning piece is in there as well since there is a distinction.

Ms. Miller: Thank you, Jen. And I think Ahmad will take us into the last point on this.

Mr. Shawwal: Ahmad here. The students believe that Jeff's idea is definitely worth exploring. We are living in the digital age and I think we ought to keep up with the times.

I really do feel that accessibility is very important. So the engineer and user interface designer in me kind of wants to help out with that. So I'm offering my services.

Ms. Miller: Thank you, Ahmad. Greg, have we heard enough -- has the department heard enough information on question number 3?

Mr. Martin: I think so. So if we move on to 4. I asked that we keep in mind that last question. Why don't we entertain comments on both the last two.

So how should information be provided to prospective students regarding low-performing schools. So I think what we want to look at here is would there be anything different required with these disclosures if the school is identified as low-performing however we wind up identifying it. Whatever parameters we use to identify it as such.

And finally should the disclosure requirements be limited to GE programs as is currently the case or expanded to all Title 4 programs. So I want to look at those.

Ms. Miller: So, can I take a sort of temperature check around the room. Do we want to go forward or do we want to break for lunch?

Mr. Martin: I think go forward has it.

Ms. Miller: Okay, I got mixed signals here. Go for it. Do you want to take a one function?

Mr. Martin: Why don't we take a short break for those who need to.

Ms. Miller: Okay. Then let's push through it. All right. Let's do it.

(Whereupon, the above-entitled matter went off the record and resumed)

Ms. Miller: Okay, everyone. Why don't we go ahead and get started. I just want to commend you on the conversation that's happening. I think you're one, providing good information for the department and you're also listening to each other while still holding onto your positions and I think that's great.

So let's continue that as Greg introduces bullet number four.

Mr. Martin: This is Greg for the record. How should information be provided to prospective and enrolled students regarding low-performing programs.

I think what we really mean there is how should it be different than if the program were not low-performing.

And then finally as I've been asking you to keep in the back of your mind should disclosure requirements be limited to GE programs or expanded to all Title 4 programs.

Ms. Miller: Okay. Sandy.

Ms. Sarge: Sandy. I would say to all. I think this information caveating with getting it right data, what's the right measure and all that stuff, I think these disclosures are good information for any part of the industry.

As I said earlier when we assume -- when as a consumer I see information at one school or one product and not on the other people can make the assumption that there's no issues as opposed to understanding that it's not required, that that's why I'm not giving you that information is because it's not required.

It's not whether or not I'm not telling you it's good or bad, it's not required. So I would say for all schools. Thank you.

I don't yet have an opinion on four.

Ms. Miller: Johnson and then Jeff.

Mr. Tyler: So I'll answer number five which is yes, I think all schools should do it. We have many clients who go to private non-profits and have an incredible amount of debt. I think it would be useful if they could compare it with what the cost would have been to go to a public school.

Ms. Miller: Jeff, Daniel and then Tony or Anthony. Tony.

Mr. Arthur: Regarding the distribution of any kind of information most colleges now are using electronic processes and what we call an enrollment center.

And we're not talking about displaying information like terms of use service on an iPhone where it means absolutely nothing. There are ways to break up and deliver information in a way that gives it in small bites and chunks so people actually do read and digest and acknowledge maybe even like a docusign. Everybody is doing everything electronically now, obligating themselves with contracts and mortgages and whatever it might be.

I use docusign as an example of an e-sign platform. But there are ways to deliver that information efficiently and effectively in an enrollment process.

We've got to use technology to distribute this information in an efficient and effective manner. Handing out pieces of paper and having people sign it and then pulling it back from them is actually even less effective because you've got to retain that as a document.

So I think there are ways to execute these processes efficiently and effectively using technology is my point.

Ms. Miller: Thank you. Daniel.

Mr. Elkins: We think that veterans would be better protected and better informed to have disclosures at all institutions for any Title 4 eligible school.

As the discussion about this topic goes back and forth I'd be interested to hear from anyone around the table a good reason why we shouldn't do it as opposed to trying to argue for it.

If anyone can offer a really sensible logical reasons why, especially if the department provides such information why wouldn't we want to protect all students.

Ms. Miller: Anthony.

Mr. Mirando: Anthony Mirando. At risk of being redundant it sounds like the others before me kind of took a little bit of what I wanted to say.

We're all here because we want to ensure that students are making informed decisions. And that's a very high threshold to meet.

As a teacher and I believe an advocate for students I think we need to just continually be aware that students learn differently, they absorb information differently.

And so again I just urge that we don't try to find one way to inform students of information that it's really important for them to understand before they sign on the dotted line.

So this is a hard job for the department. I'm excited that you want to know this information but on the other hand this is going to be a really hard job which is why I'm sure you have us here.

But this is not an easy thing. And so to ask the question and expect that someone is going to come up with a perfect answer I think is going to be really hard.

But my answer to the question if I have to answer it is any way that is necessary to ensure that every student who signs or reads or gathers this information actually understands it. Because if they don't understand it you've defeated the purpose.

So whatever it takes for them to understand it I think is the important piece.

With respect to who should receive this -- I mean who should have to put out this information I've been listening and I think a lot of people have been giving very good thoughtful answers and I think I understand them all coming from the different sides of this equation.

I think if students are going to be looking at what their options are, and that's what's nice about this country is lots of people have lots of options.

In order for them to ensure that they're looking at schools in a way that's apples to apples I think the only answer you can come to at the end of the day is that everybody should be giving out disclosures. Everyone. In a way that every student understands.

Whether they're a good school or a bad apple shouldn't be the determining factor because let's bring it down to something that most of us understand. We have good car manufacturers and medium car manufacturers and maybe not so good car manufacturers.

If you're in a good state there's a lemon law regardless of what brand of car you have. And whether or not people who are doing the research determine it's a great car or not a great car the bottom line here is they all have manufacturers, bumper to bumper warranties for a reason because no matter how good you try you're going to get some good schools, in this case good cars or bad cars. So we have good schools and bad schools.

And disclosures are to inform students of everything from A to Z. So I absolutely believe to be fair to students and that's what this is really about, to be fair to students they should be given the whole spectrum from A to Z.

Ms. Miller: Thank you. Laura and then Tim.

Ms. Metune: In regards to the first question that focuses on disclosure to students at low-performing programs I think that I don't know if I have more to add to the questions and comments that were raised earlier.

It is really important that when you're talking about a low-performing program that students get that information in a way that really helps them avoid high risk.

In regards to the question about whether or not the disclosure requirements should be limited just to GE or expanded to all I think we need to take into consideration the amount of data that's currently available at the state and federal level and the differences between what policy makers need to know, and what colleges need to know to improve their programs, and what researchers need to know to do research, and then what students really need to know to make an informed decision.

And I think those are very different things. And when I look at what we talked about today I can find almost every one of those data points somewhere on either one of our community college websites or one of the federal websites that are available.

So I'm fine with expanding disclosure to all students in all institutions. I think a lot of this is already available to them.

And I think that we really need to focus our limited oversight resources and the real stringent requirements about the timing of disclosures to those institutions that pose the greatest risk to students.

And then finally I would just say that I would not want to require disclosures across the board if that meant undermining the ability of the department to have a true accountability structure and sanction structure.

Ms. Miller: Thank you. Tim and then Whitney.

Mr. Powers: I think Laura's comments are spot on. Most of the things that are potentially going to be disclosed should the scheme be upheld is data that's already out there.

For us it's at the institution level rather than the program level. And I understand that people have prerogatives for wanting to publish it at the program level.

So I do have a quick question for the department because you just have to remind me. So my understanding is that at some point the score card -- the department has been collecting CIP code level data for awhile and that at some point soon the score card is planning on publishing program level earnings data.

I remember just from various conversations. If you could just remind me.

Ms. Miller: We'll give the department a second.

Mr. Martin: I'm going to wait for our expert on that Cynthia Hammond.

Mr. Powers: Okay, great. And then I have another point just after that.

Ms. Hammond: We have been collecting as part of enrollment reporting CIP codes for all programs since 2014 but there are no current plans to add program level to the score card.

Mr. Powers: Okay, thanks. To just take a stab at Daniel's I think very good question in terms of what would be the argument against I don't think there's necessarily any argument against disclosure being a good thing for students.

I really don't think there's any great arguments against that point.

Where we sort of look at the statutory authority granted to the department though I think that all of us around this table at least at the institutional level have a vested interest in keeping the department's mandate as limited to statutory authority as possible.

Now, sometimes the department is going to go and do things that the statute might be a little bit unclear on and that's okay. But in certain cases when Congress I think has sort of explicitly created this bifurcation between degree programs at public and non-profit programs versus other programs we just get uncomfortable with the department sort of using other mandates to sort of lump that on top of programs that they're not intended to be lumped on top of.

So again that said I think that we are in full support of disclosures. I think our position has been clear about where our programs at the degree level stand.

And so I think we'd be uncomfortable with the notion of just allowing the department to kind of take metrics for one group of programs and just sort of apply them to another group of programs that we don't think Congress necessarily intended those metrics to be applied on. So that's my attempt at answering the question.

Ms. Miller: Thank you. Whitney.

Ms. Barkley-Denney: Yes, just to follow up a little bit on what Laura was saying. Both to say I agree and I know we're not supposed to do this but I so strongly agree I wanted to make sure that the consumers were on record as well.

We have no problem with extending disclosures as long as it includes sanctions. That really is our bottom line.

Ms. Miller: Thank you. Jennifer.

Ms. Blum: So we support disclosures. I would say that as you go up the -- and I've said this, but as you go up the degree levels how you define things becomes -- so it's very difficult to do a one size fits all on completion.

So how you frame the template becomes I think increasingly complex when you get beyond frankly what was meant to be the gainful employment program which I view as vocational and job entry level.

And so sort of following along Tim's I would say that it's really important for the department to think about what the statutory authority was meant to be around gainful employment and its applicability to what types of programs and what their authority is there.

I will say that I have done some of the research and of course when you get into the world of disclosure and you take it outside of gainful employment so we're no longer talking about the metric but we're talking about disclosure of earnings and things like that, you know, cost and all of the other data points that are on the GE disclosure page the department definitely has broad authority within the PPA sections to do disclosures across all programs if it should choose to do that.

But I'm actually cautioning that I think there's a complexity to that. But we support disclosure. I'm just pointing out that there's complexity to how you construct it.

Ms. Miller: Christina.

Ms. Whitfield: Thanks. There have been a number of references to the score card today and yesterday about its current utility and the possibility that it might form a solution going forward for more kinds of disclosures.

I just want to caution the group that the score card doesn't actually exist in statute so there's no guarantee that it will remain in existence in its current or any form.

So I think we should be cautious about making that a basis for a possible solution.

Ms. Miller: Chris Madaio.

Mr. Madaio: Thank you. Chris Madaio. On question 4 I guess I don't really understand what it's getting at. It's just that if -- we have a way to determine and warn prospective and enrolled students about low-performing programs. To me that's the debt to earnings rate.

So I guess to the extent that was not going to be there and there was going to be no accountability aspect to it I would have a problem because I feel like we already kind of have a way to do that.

And as far as the fifth question I just want to say certainly I join what many of the others here are saying. I'm certainly not opposed to disclosures at all programs.

I mean obviously from an AG perspective we get complaints from students and we get them from essentially the for-profit sector. So I think the reason is that there is something different and that's the reason that the HEA lays out a difference between for-profit programs and non-degree programs at other schools versus other programs.

So I think it's important and I'm sure my compatriot back here from Texas would agree. We don't want to be legislating in the regulatory process.

And the HEA has language. And that's why -- I mean I get why the rule before limited it. But again not saying I'm opposing that. AGs think disclosures are great. So I think I agree with what was said before and don't need to repeat it.

Ms. Miller: Chris Gannon.

Mr. Gannon: Yes, we also just wanted to go on the record and say that we're in favor of disclosures for all schools. We have no problem with that.

We just want to make sure that there's accountability and sanctions that accompany those disclosures and ensure that that's in there.

Ms. Miller: Thelma and then Mark McKenzie.

Ms. Ross: Thelma. I want to be on record as well from minority-serving institutions that while we do support disclosures we do not necessarily support it being extended beyond the statutory reference to gainful employment programs as it's written.

Ms. Miller: Mark McKenzie.

Mr. McKenzie: Mark McKenzie. We also or I also support disclosures. I'm going back to Daniel's question when would you not do this.

I would not do it anytime when the disclosure is not representing accurate information. So I'm going back to the calculation issue.

This has huge consequences when you put out something that is inaccurate.

Ms. Miller: Jeff and then Daniel.

Mr. Arthur: Just of course I'm for disclosures for all institutions. But I think we also should consider that we put a tremendous amount of resources into this and while there are certain statutory limits for sanctions, you could debate that too.

We put a lot of resources into this and if we don't seize this opportunity to try to impact the success of students across all of higher ed we've missed a tremendous opportunity.

And it seems a waste of time to have done this to try to impact less than 10 percent of the students in higher ed.

Ms. Miller: Daniel.

Mr. Elkins: Thank you everyone for responding to that. That was overwhelmingly beneficial for me. I think it really shows that there is a lot of consensus on this topic.

I did have one follow-up question for you, Ms. Ross. You went on record as saying that you wouldn't support the expansion to non-Title 4 schools. Would you mind if possible just clarifying the reason as to why?

Tim did give some very interesting reasons around statute. If it's the same that makes sense.

But I was just curious as to why.

Ms. Ross: Thelma. Actually just for a point of clarification it was not for non-Title 4 schools. I just wanted to be clear on that. That's okay.

My point of reference was specific to the statute.

Ms. Miller: Thank you. I think at this point I'll turn it back over to Greg. Have you heard all of the information?

Mr. Martin: Yes, I think that concludes our issue papers. And I'll turn it back over to you to see if there are any final comments from public comments.

Mr. Ramirez: All right so before we do any public comments let me ask the committee folks are there any additional comments that you all would like to make before we go to public comment.

Ms. Blum: This is Jennifer. I just never handed out the -- I got it yesterday afternoon and it's been sitting here in my bag.

Mr. Ramirez: You can pass it around.

Participant: When can we expect the transcript to be produced and to us?

Mr. Ramirez: Greg?

Mr. Martin: We don't control that. I'm told that three and a half weeks is a reasonable time frame. Is that correct or will the holiday affect that? Does anybody in the back want to?

Mr. Ramirez: I know that we're kind of at the mercy because there's two different things going on here. We have the court reporter which isn't -- that's for reasonable accommodation. And we have to get the audio transcribed. So for that reason it takes a little bit of time as well as the review from Department of Ed. But I don't know if you have a time frame for us, Greg.

Mr. Martin: This is Greg again. Scott's telling me that it's two weeks to get it transcribed and then we need another week and a half after that. So three and a half to four weeks roughly is what I can say but I'm not going to give any guarantees on that.

Mr. Ramirez: All right. Let me get Pamela first and then Sandy.

Ms. Fowler: For two days we talked about debt to earnings, how most of us didn't like that measure, and then we talked about how we don't like the sanctions that go with that measure.

And I just want to ask the department why was that the only measure that we decided to look at.

Mr. Martin: Well, when we're talking about the debt to earnings we're talking about the -- that has to do with the metrics that we're using to determine the DE metric which under the current regulations determines whether a program is passing, failing, or in the zone.

So that is the only metric for that purpose. Currently. Currently.

And Scott makes the point that we did ask if anybody had any ideas about other metrics that they might propose. We talked about the one we currently have in effect.

At this point we haven't put anything on the table. We've asked you if you want to propose any other metrics. But currently that is the metric.

Mr. Ramirez: Okay, thank you. Sandy.

Ms. Sarge: This is Sandy. I'm just throwing it out there. I don't know what next steps would be so I'm sure you're going to go over that. So just throwing it out there.

Mr. Ramirez: Yes. Chris G.

Mr. Gannon: Question for the department. I don't think this has been distributed yet but is there a way that we can get a list of all the data requests that were made?

Mr. Martin: Pardon my -- I just want to check with the person who's doing our data coordination.

Scott is collating the data requests currently and when the data requests are -- when we have determined what we can reasonably provide you with we'll do that. We are not going to issue a list of all the requests.

I want to point out that Jordan and Mark's information is out there on the table if you haven't picked that up yet.

Mr. Ramirez: Okay. Let me get Diamond.

Ms. Diamond: Just quickly I wanted to let you know the public comments that were made yesterday from students are also out on the table.

Mr. Ramirez: Thank you. And Johnson.

Mr. Tyler: I'm going to have to apologize because I missed the beginning of the conversation the first two days.

But I was intrigued by Mark's statement about Pell recipients being a way to actually focus on them.

My clients are Pell recipients. They are the most vulnerable financially. That's why they're getting a Pell grant. And they often come from educationally deprived backgrounds in their households.

And I've heard a lot of people talking about why the for-profit industry is serving a group and I feel like it's other than that group. I'm concerned about that.

So there may be more people who have more means, more sophistication, are willing to spend more money to get an education quickly and they perceive it's a good education.

And some of the GE data shows that people are getting educated and are being able to repay their loans.

But I'm very concerned about the low-income people. When you look at the bad apples, the people who have failed the GE regulations those are the schools that my clients fall risk to. Those are the schools over and over again.

And I'm concerned that if there's so much pushback from the industry here because they see a different group of students they're serving that my constituents who are really vulnerable are going to get nothing out of this.

So I want to just float that idea. A lot of student loan recipients do get Pell grants but a lot don't qualify for them and they come from a different background, a different level of sophistication.

So I'm not sure how it would be but Mark mentioned people had studied it. I'm not sure if Jordan has studied this thing or not.

We have a lot of people with various expertise here. But I do -- I just want to throw that out. Because the metric I'm hearing you guys don't like it.

But still there's an industry problem here that is affecting how you guys are perceived by the rest of the world. And if you walk away from it you're still going to be painted by that brush by the schools that go out of business, that don't care who comes through the door as long as they have a pulse and they can get federal money from them.

So I'm sorry to prolong this conversation but I think it was a great question Pam raised.

I also get a sense that there's a lack of -- we're divided on this issue. And I feel like maybe this is a way to think about it differently.

Mr. Ramirez: Thank you. Jennifer.

Ms. Blum: I actually think in some regards there's more commonality than -- I know you missed the first, but I do -- Johnson, I want to make sure that it's clear that getting the metric, getting a metric and getting a metric right and handling it how we handle the disclosures is really, really important.

And so I just want to make sure that it's clear that part of this is literally sort of mathematical and getting the right metric and making sure.

And then I do think that I can totally support the concept, in fact I think we feel very strongly about entry level. The folks who are entering in not just education but they are entering into the borrowing market for the first time. Those are the students who need the most attention.

Making sure that there's consistency across those programs for consistency purposes is really, really important.

And again I think it is my council hat, but I do think if you look back at what things looked like when Congress wrote the words gainful employment it was very much focused on the vocational job entry-level student.

And I think their focus then still rings true today. And if we can get to a point where there's a focus that's on that I think there's much more common ground.

Mr. Ramirez: Sandy, did you have something?

Ms. Sarge: Yes. So the other thing too I would add, Johnson, is that when there are bad actors out there it's irrelevant where the socioeconomic position is of the people that are being affected by that.

Pell recipients have other dynamics that would correlate to it being even more impactful. But I only went to two colleges with my degrees. I'm not experienced in all kinds of other degrees.

So I wasn't necessarily able to offer my children an expansive amount of insight into how to select colleges. There's actually people out there that have a whole profession in helping those that have the money to do it their children get into colleges.

So I just want to make sure that we -- bad actors are bad actors. And we want to get to bad actors. And I think we're all in agreement with that in this room.

And that includes across all institutions and it includes those impacted from all socioeconomic parameters. And just because you're wealthy, because your dad's a really cool IT gadget guy and could make a lot of money doesn't mean he's very sophisticated or that family is any more sophisticated on how to look at colleges. That's maybe not their experience.

So let's not classify Pell as the poor people who are going to get duped. Everybody has an opportunity to get duped when it's deceptive.

Mr. Ramirez: I was looking to see if there were any other additional issues that we needed to raise before we close down. So I don't want to rehash the entire discussion again. But Pamela. Oh I'm sorry, Chad.

Mr. Muntz: It's Chad. I know we're all trying to get to lunch. But I think to go with Johnson's comments and our work as I've enjoyed learning from every institution's perspective is to think about something I know about from Beijing reasoning and think about a life-threatening test.

So if you have a life-threatening illness and you design a test to try and capture 100 percent of that the problem is sometimes you have a high false negative rate as well.

But you prefer that so that way you can catch the one instance of where it is. And what we've heard a lot is we have some false negatives that got caught in this test.

And we have to create in our measure a way to have a secondary test to help us move through and actually catch the issues that are at hand and protect the students 100 percent without sacrificing other people and give them chemotherapy that don't need it.

I think that that's kind of the gist of what I got with all this. And we get into the nuances of a CIP code, or a metric, or a percent and we miss the goal of trying to have a high level, least amount of debt as possible with the best earning outcomes.

And I think if we focus on that we protect the students, we protect our customers and we protect good acting institutions.

Mr. Ramirez: Thank you. Whitney, close us out.

Ms. Barkley-Denney: Oh yes, I'm happy to have the last word. This is Whitney and I just wanted to say Sandy I understand where you're coming from and I hear it. I just wanted to put one more thing to consider on the table which is that while you're right that people across economic backgrounds are equally scammed when they're scammed they're not equitably scammed.

So if I have more resources to fall back on then I have a better chance of being able to ask my parents or my grandparents or whomever it is to help me go through the next level of education.

Whereas if I'm Pell reliant or if I'm financial aid reliant often those come -- they do come with maxes.

So if I am a student who is a Pell student who is maxed out what they're eligible for and my school has treated me poorly I can't necessarily just go to another institution and repeat. And that's I think the problem that we see when we are working with low-income populations is the cushion in order to make up for bad practices is much thinner than the cushion than the people who are otherwise.

Mr. Ramirez: Okay. Thanks everyone. So public comment. I would ask that if anyone has any public comments that you keep them brief. If you have a statement if you could summarize what the statement is and you could submit the actual statement for the record. So go to the mike and please state your name.

Mr. Shrade: My name's Jeff Shrade and I represent Paul Mitchell The School association. We have approximately 112 schools across the United States. Most of those are individually owned by people like you and me who went out and borrowed against their home or got money put together. They started their own business.

They're mom and pop type operations. They're very fortunate to have a good partner in the corporation that during the appeals process the schools that were in the low categories, failing or in the zone spent approximately $600,000 to comply, to interview their students.

They took a lot of time away from learning how to -- teaching students. And that's for an association of people who are tied into a good corporate citizen.

There have been a lot of other schools that are mom and pop operations that are just individually owned that have gone out of business.

And when I sit here and listen to those that are concerned about getting the proper data together. You're an economist, you like data, we all like that.

But when you're the person on the ground who's trying to run a business and you've got a limited staff the ability to stay in business and collect data and do all of this becomes overwhelming.

And so I would just caution this group to really think about how to simplify this process for -- so that we can get the bad actors out. We don't want bad actors. We want to protect students. I have kids. I don't want them getting ripped off. I'm a taxpayer. I don't want to be ripped off.

But it's got to be done in an economical way.

And just one other point. We had a doctor that used to live next to my parents. He started his practice in the nineteen sixties. He said when he got out of school and got his own shingle it was him, a nurse and somebody that did the accounting.

By the time he went to retire it was him, a nurse and about 20 people on his staff who complied with government documents and insurance forms.

And he said I've got to see six patients an hour because I'm the one guy who pays for everybody else. And if you wonder why your costs have gone up that's what drives it.

So please keep this in mind. Please keep it simple. Drive for simplicity.

And also one last thought, and I'll have this in a written letter, but I was looking at our cohort default rates. We actually have one of the best default rates in the business and yet we still had schools that are in the zone.

So the students are not borrowing a lot of money to get into our program and it takes a long and involved process. But anyway, their loan repayment rates are better than almost every institution across the country.

So they're not borrowing a lot and that should be factored in. If kids have the ability to repay the loan we're clearly not charging too much.

# Closing Remarks

Mr. Ramirez: Great. Thank you. Any other public comment. All right.

So as far as next steps go our next meetings are scheduled for February 5th through the 8th. That's going to be at 400 Maryland SW in the Barnard Auditorium.

And what we're going to be doing is Department of Ed is taking in all the information that you all contributed, and thank you so much for all your hard work over these last few days, and they're going to start a point for us to begin the negotiations.

And those are the documents that they're going to prepare and distribute at least one week prior to the next meeting so you get a chance to review them and come prepared.

The one thing that I would ask you to do though is that when you do receive those papers keep in mind the consensus continuum. I heard it once that a sign of a good negotiations is when both sides walk away equally dissatisfied.

It may be that that would be a good outcome for us. I don't think that any side is going to come out of here with the pom poms raised and everything.

But think of options and alternate options, not positions. You're probably not going to get your ideal position. So come prepared to compromise, to discuss, to problem solve.

And then as far as for us as the facilitators email us with any keep doings or do different. We'll take that under advisement.

I want to give a big thanks to Bill Parker on the A/V. I think he did a fantastic job making sure that everyone was heard.

(Applause)

Mr. Ramirez: Tony Trujillo for the court reporting. And that's a new term that I learned. Fantastic job.

(Applause)

Mr. Ramirez: And as you could see Greg cannot do this alone. You can see how many times he's kind of looking around at the different support staff. It really does take a village in this. So I want to thank all the Ed support folks that have really been doing a fantastic job.

(Applause)

Mr. Ramirez: And again thanks to you all for all your hard work and safe travels to everyone. We'll see you on February 5th.

Participant: Thanks to you guys.

(Whereupon, the above-entitled matter went off the record.)