United States Department of Education

Gainful Employment Negotiated

Rulemaking Committee 2017-2018

Session 1

Tuesday

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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.

Present

Ramona Buck, Federal Mediation and Conciliation

 Service, Facilitator

Rozmyn Miller, Federal Mediation and Conciliation

 Service, Facilitator

Javier Ramirez, Federal Mediation and

 Conciliation Service, Facilitator

Jeff Arthur, Vice President of Regulatory

 Affairs 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

Laura 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 Shawwal, 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

Mr. Ramirez: I was going to start off by saying thanks to everyone for coming back but I see a few alternates sitting up at the table here. So I have to scratch that comment.

But actually let me get started with just a little formality, just in case. And I was corrected that the person that is doing the transcription part is a cart reporter, not a court reporter. I guess there's a difference, you can Google it. But it's a cart reporter. They're not here so let me get a -- it's still being recorded, the audio portion. We're going to have to figure out what happens with that later but let me get a show of thumbs if you all are okay with continuing without the cart reporter present. Let me see a show of thumbs if you are okay with continuing.

Okay, so no thumbs down. So we're going to go ahead and move forward.

And I have a few things that I want to cover with you all before we get rolling. The first one is I really want to thank you all for your hard work yesterday. There were some issues that can spark emotion and I really want to commend your professionalism and I guess remind you all that you can still remain passionate about your position but still be professional.

So let's continue to not target any individuals or organizations. Let's be hard on the issues, not on the person.

So, yesterday as we were reviewing scope and purpose, it's a very broad subject so there were a lot of broad comments. But as we continue on and we get into metrics and calculations, we are going to ask that your comments be more focused on the particular question that we're discussing.

And just doing a little bit of math, with some cushion built in because it doesn't always work the way that we want to as far as time blocking, we estimate about 20 minutes per question for a time block. So that's how we're going to go forward. Every new question that we bring in, we're going to put an automatic 20-minute time block on there and then check the time. We don't have to use the full 20 minutes, right, but if we're running long, if it looks like we have more discussion, we could tack on a few more minutes and still be okay. But just so you all are aware, that's kind of where I'm coming from as far as time check.

So just because you happen to be around that 20-minute time mark, don't think that I'm targeting anyone.

Also, I want to save a little bit of time at the end of the day to see if there are any additional questions on issues that come up because, as we take our breaks or have an opportunity to talk with other people, sometimes additional questions may come up on an issue that we already closed out. So, we'll see if we save a little bit of time at the end of each day to see if there's anything that needs to be revisited on stuff that we've covered.

If you think that there are going to be things you want to revisit, let us know during the break so we can try to a lot the appropriate time at the end of the day for that.

Are there any comments or statements that anyone on the negotiating team would like to make before we get rolling?

Mr. Elkins: I had one question. In our conversations not driven by you but if we want to, are we able to poll the group what their view of something is and ask them? Obviously, it's not for the record or for a formal count and if we have to call caucus to do that, I'm fine. But are we able to poll the group of what they think on things?

Mr. Ramirez: I don't see any problem with that. I mean what we're trying to do is develop an understanding, especially during this first week. We're trying to develop an understanding of where folks -- where the concerns are.

This is not necessarily the negotiation part. This is not the part where we're building consensus at the moment. We're trying to understand the underlying issues.

So, if things like that happen, it doesn't mean that people have to answer it, if it's something that's too uncomfortable, but ask the question, sure.

Okay and then the final point that I wanted to bring up before we get rolling is that at the end of the day we had asked for the plus delta -- what do you like? What could we be doing different? What should we keep doing and what should we do different?

One of the suggestions that came up was could we allow for some time at the beginning of the day for a public comment in addition to at the end of the day so if there are some comments that come from the public that we want to consider during the day, we could hear that.

I don't think there's any problem with that. We're going to do that but I want to put a hard stop of a max of ten minutes. So we'll do a max of ten minutes for any public comment here in the morning and then also we'll still save some time at the end of the day to do that.

Jennifer?

Ms. Blum: I just want to understand what's the purpose of having public comments before we've even discussed any issues for the day, since there was literally public comment last evening. So, there hasn't been anything else new to public comment on and there will be an opportunity at the end of the day.

I'm not objecting, necessarily. I just want to understand why start that way when we haven't actually even discussed anything.

Mr. Ramirez: Yes, did you want to comment on that, Daniel?

Mr. Elkins: Yes, Jennifer. We were the ones that requested that. We believe that public comments are written prior to, so they should just be shared in the morning and then the group has the ability to allow those public comments to influence the discussion.

And then, as the proceeding goes on, then they can have additional public comments the following morning.

Yesterday, David made some very, very interesting comments but none of us around the table had a chance to respond to them or allow them to influence the discussion.

Ms. Blum: So I guess my concern, I mean, again, I'm not objecting, I think this is just a good conversation. I guess my concern is that if the point is for us to then comment on those public comments in the morning, I'm a little worried that we would be distracted from actually getting into the issues. And so I'm a little worried about the time dedication to doing that.

Again, I'm not -- I mean I understand the concept but I think one way to address that is to have the comments at the end of the day and the next morning, we could -- anybody who wanted to speak to the comments made the night before could comment during -- because you already asked us, does anybody have anything they want to say before we get started.

Mr. Ramirez: That was for the negotiators, yes.

Ms. Blum: Right and that could be the point in time. But I actually am interested to know the Department's point of view on this as well.

Mr. Elkins: Yes, and I would just add it was not our goal to necessarily comment on the public. It was our goal to just have them be heard and have that then influence the discussion throughout the day.

And I would be completely okay with saying that we would just let them speak and we would not address it directly. We'd just dive right into our subject.

Ms. Blum: Got it. Okay, that helps. That's a good clarification.

Mr. Ramirez: Yes, that's how I was viewing that, just the comment and then continuing with the agenda.

But, Greg, did you have any comment on that or no?

Mr. Martin: No, we don't have a problem with proceeding that way. If it becomes evident that -- I don't think you know if a commenter doesn't have the right to insist that the committee respond to his or her comments. I mean if somebody wanted to -- I mean if it appears that it's interfering with the business of the committee, then we might have to look at it again but I don't have any problem with trying it.

# Public Comment

Mr. Ramirez: Okay. So let's go ahead and open the floor up a hard ten minutes. Any public comments?

We sprung it on you. So that's fine, right? So, maybe tomorrow. And that's fine. If there's no public comment, then we'll just roll forward.

So we're going to pick up where we left off yesterday, then, with Issue 2, which is metrics. And, again, keeping in mind that we're going to put 20 minutes for each question. So, Greg, I'll turn that over to you to tee that up.

# Issue Paper #2: Gainful Employment Metrics

Mr. Martin: Thanks, Javier. This is Greg, for the record.

Let me talk here about the Issue Paper 2 relates to the gainful employment metrics. We discussed the fact that the October 31, 2014 regulations establish the D/E metric to determine the Title IV eligibility of GE programs and that it established sanctions for programs that do not pass the metric.

Two components to the metric: debt and earnings. The debt variable is the annual loan payment, which is calculated by amortizing the median loan debt for a two- or four-year cohort of program completers. And that median debt is based on data from Title IV loans reported to institutions, by institutions, rather, to NSLDS and data on private loans or other debt reported to institutions under the GE regulations. The earnings variable is the higher

of the mean or median annual earnings calculated by the Social Security Administration for students who completed the GE program during the applicable cohort.

For each year and for each program, we calculated a discretionary income rate and an annual earnings rate. And those comprise the D/E rates. A program's D/E rates are considered to be passing if the discretionary rate is less than or equal to 20 percent or its annual earnings rate is less than or equal to eight percent. A GE program's D/E rates are failing if its discretionary income rate is greater than 30 percent, its annual earnings rate is greater than 12 percent, or, in either case, the denominator of the rate is negative for either rate, or zero for the annual earnings rate. A GE program is considered to in the zone if it is not a passing program and if its discretionary income rate is greater than 20 percent but less than or equal to 30 percent, or the annual earnings rate is greater than eight percent but less than or equal to 12 percent.

So, we'll proceed with the questions. The first one being: Are D/E rates an appropriate metric for determining whether a program provides training that prepares students for gainful employment in a recognize occupation?

Mr. Ramirez: We had a few table tents pop up so we're going to start off with Gannon, then I'll just go down the line here.

Mr. Gannon: Yes, so a question for the Department of Ed. Have other metrics been used previously? And if not, are there any other metrics that exist right now that could be used for this that you're aware of?

Mr. Martin: No, we've used that metrics under these rules. Obviously, there have been other metrics considered in previous negotiations. We don't -- at this point, we're not proposing anything at this point. We're getting a feel of the committee. So we're presenting the metric as it exists and just asking for comments on whether or not this is the appropriate metric or whether there should be another one.

But no, right now, this is what we've used and we don't have anything proposed right now.

Mr. Ramirez: All right, let me get Bob, Sandy, David, Jeff, Jennifer, and Daniel.

Bob.

Mr. Roberts Jones: Yes, Bob Jones. Yesterday I made the point that I think we have a lack of information on quality of programs up front, meaning demand occupations, legitimate certifications, licensures, degrees, whatever. And those issues are far more important than a metric at the end as to whether or not people immediately took a job or not, particularly when the data is as old and inappropriate as this data is.

So essentially, the question that you've posed is: Is this a legitimate, appropriate metric? And the answer is no. By itself, it doesn't stand up and it doesn't really reflect the quality of the programming that's going on across the system.

Mr. Ramirez: Thank you.

Sandy.

Ms. Sarge: I'm going to let David go first.

Mr. Silverman: Thank you. My name is David Silverman.

I agree with Bob. A blanket one-fits-all debt-to-earnings calculation is not a fair way to measure all schools, performing arts, culinary, social work. That was mentioned yesterday.

I work in performing arts. Students that train in performing art schools do not work full-time right after college. They'll work nights and then they have their days to audition. And they'll work at night waiting tables, working at Starbucks, taking tip jobs with the waiting, while they're waiting for either their first acting gig or their next job. The jobs start and stop.

This debt-to-earnings calculation could put a good -- I work for a not-for-profit performing arts college, 53 years in business with degree programs and certificate programs and I don't think the gainful employment debt calculation was put into effect to put a little gem school like ours out of business. We own real estate. We're in New York City. We're in Hollywood.

This effort to weed out the bad actors would put actually our good actors out of business and our school.

Trying to track down their earnings for our students is a little difficult. Our students, some do W-2 work, you know get work on W-2, others have tips. And many of our students will take -- will have a day job, will have a gig, they will have an extra work. And there will be a 1099. That 1099 may not be reported. They may make $500 from one employer, they may make $500 from another employer. That income does not get sent to Social Security.

And you know this is not the only profession. Social work come out of school with low salaries. Culinary, they come out of school with low salaries.

And performing arts is really number one in my book because after two or three years, these salaries aren't going to be measurable to people that come out of school with an accounting major or a finance major.

Thank you.

Mr. Ramirez: Okay, thank you, David.

Sandy.

Ms. Sarge: I have two points, if that's okay. The first one actually it just dawned on me today, as you were reading through the paragraph, Greg, that we also, obviously I know this, we collect on private loan debt.

I guess my question is from that perspective on why we -- why does the Department of Ed, which is technically one of potentially many lenders for a student, care what's happening with the lender-borrower relationship for another entity?

So for example, I'm pretty sure that B of A or Chase Manhattan -- I mean Case -- JPMorgan Chase are capable on their own, without any influence from you guys, of determining whether or not the borrower and the debt that that borrower took out is in good standing. And they're comfortable with that or they wouldn't have made the loan, just like you guys.

So my first question and, honestly, it literally dawned on me today for the first time is: Why do we care? If you're concerned about your debt, I'm okay with that but leave the private stuff out of it.

My other comment is on your question: Are the D/E rates an appropriate metric? I thought about this and said no. So many other factors go into determining whether a program provides adequate training, things beyond the institution, such as student effort; the academic readiness of students; the support structure within a school, such as tutoring and peer advocacy; quality of externships; clinical rotation experiences can all influence the outcomes of students' success in gainful employment because there are so many factors. And that's just on that one little piece on student effort.

There are so many influencing factors, there's no easy way to determine which one quote, unquote, causes the, quote, lack of preparedness. So from my perspective, because of that, the convolutedness of it and the inability to actually determine what the correlation is mathematically, I would say that I stand on the side of no, this isn't appropriate.

Thank you.

Mr. Ramirez: All right. One thing that -- Greg, before I see if you have any comment, one thing that I want to ask of you all is that I know that the line is somewhat blurry when it comes to debt or loans between this negotiation and the other one that's going on. So I'm going to ask you all to police that. So if this is not the appropriate forum for the loans or the debt piece and it's better in the other one, I'm going to ask for you all to -- because that line is too blurry for me.

But Greg, I'll let you comment on that.

Mr. Martin: Yes, with respect to Sandy's question, I think it's a good point for me to clarify something. I don't have any problem with the question if it's asked rhetorically why does the Department care about private debt.

As far as responding to those kinds of questions, I can respond to questions if we have questions about operationally how the current rule works but I am not going to respond to questions about why we did what we did.

If anybody has any questions about why we did what we did, we have a fairly exhaustive final rule we published with a preamble that goes into great detail explaining why we took those actions. Not to suggest that everybody will agree with our explanations for that but they're there and I'm not going to reiterate them at this table because we're looking forward to getting a feel for what people want to do going forward. So I'm not going to go back and talk about how to justify those regulations or what we did at the time, since it's all on the public record.

Mr. Ramirez: All right, so we have Jeff and then Jennifer next. And then I'll call the other Jennifer Diamond, if that's all right.

Okay.

Mr. Arthur: The first point I want to make is what we consider debt in this calculation, or what is considered debt in this calculation is not what most people would typically consider debt. Most institutions set up payment plans for cash-paying students. And there was, in the process, if a particular payment plan, if you just used an instrument that there was a regulation that applied to that and somebody can identify what that is, but you had to count every payment plan, the gross amount of all payment plans is debt in the calculation.

And that is, if you had more than three payments, if you have more than a certain amount, there was a requirement -- there is a federal requirement that you have to use this instrument to set up a payment plan.

So a student makes her payments, they are a cash-paying student but yet the gross amount of those loans are counted as debt in the calculation.

 Maybe I could get a nod from Greg to confirm that.

Mr. Martin: That's correct. Under the current rule, yes, we do use institutional debt.

Mr. Arthur: Right and I think most every private institution has a practice of setting up those payment plans and probably most public colleges. And so that is one serious, serious fault to where we're not even doing a debt during these calculations, the way I see it.

The next point I'd like to make is the calculation is subjecting or the ratio is using a 6.8 percent interest rate for the first two years for associate's degrees, the first four years for bachelor degrees and it scales down over nine years. It takes nine years before we get to a cohort where the interest rate of 3.67 percent would apply, which is the current interest rate.

And when you analyze that, you will see the dramatic impact on the debt service that occurs. So just simply because of the process of implementing the current interest rates, I mean institutions that are subject or have programs impacted by this are effectively subjected to usury, what some would consider usury interest rates in the calculation. And that also is not fair.

And then when you take a look at the College Scorecard Database and you analyze, you just take -- there is a field for the typical debt of students that borrow on the College Scorecard and there is also wage information for a variety of years after graduating. But if you look at the one that is presented front and center on the scorecard and you take the debt service for the typical debt of the borrowers of persons that borrowed from that scorecard and you analyze that, you will find that there are 257 public institutions where the entire institution's debt service to salary after completing is greater than eight percent. You've got 35 where it's greater than a 12 percent debt-to-earnings ratio.

For private not-for-profit institutions, you've 616 institutions where the ratio is greater than 8 percent and you've got 13 where it's greater than 12 percent. And this is just federal student loan debt. This does not include when you add in the private debt and institutional debt.

And then additionally, there is another 760 for-profit institutions that exceed 8 percent and 250 that exceed 12 percent.

How many students does that represent? When you look at the total number of students impacted at the 8 percent or greater across the public and non-for-profit institutions, that represents 2.99 million students. When you look at the number of the students that are represented in the for-profit sector for greater than 8 percent, it's 600,000.

And I would certainly invite anybody to analyze the Scorecard Database and verify those results but that is the analysis that we've come up with.

Mr. Ramirez: So we have quite a queue here so I'm going to put a time check. Chris is at the end of it. I'm going to put a time check after Chris.

But right now we have Jennifer.

Ms. Blum: Thanks. I'll try to keep it brief.

I do want to second -- I have sort of two points. I do want to second what David and Jeff said. We do, although we are mostly at the graduate level, we do have actually an institution that does a lot in culinary and so I completely share the concerns that David raised. And actually we also have an architecture program and apprenticeships after you get your bachelor's degree and before you license is very relevant. And so the salary levels are definitely challenged early out after graduation. So I do support that.

I do want to and, again, this is sort of harking on some points and a little bit of the exchange between Todd and I yesterday, with regard to the language, I appreciate the way the Department framed the question because they included, and I get a little tired of actually just the term gainful employment, and I appreciate that the Department put in the entire phraseology of the statute in effect by talking about provides training that prepares students for gainful employment in a recognized occupation. It implies that, and if you look the statute, implicit in it and in some regard we need to look at that legislative history on explicit, it implies entry-level job training and not necessarily graduate-level applicability.

And so I do want to point that out that you know at our major institution in the U.S., you know 97 percent, approximately 97 percent of our students are already gainfully employed. So the issue of whether we're preparing students for gainful employment is not really our purpose. We are focused on career advancement more than gainful employment.

So I do want to point out that the applicability of any metric beyond what the core meaning of the statute is does seem a bit typical. And so that was my other major point.

Mr. Ramirez: Thank you. So we have Daniel, Neal, and Jessica.

Daniel.

Mr. Elkins: Thank you. To the first point: Are D/E rates an appropriate metric for determining whether a program provides training that prepares students for gainful employment in a recognized occupation? Not for veterans at any institution, under any sector, currently. The reason why, at a very high level, is regardless of what sector a veteran would go to currently, the average debt associated with the graduate or undergraduate degree would not meet GE standards for the pay scale of E-1 through E-4 under any Service branch. That's something that is very, very interesting.

Does that mean all institutions everywhere are not providing good education for veterans? Absolutely not. Does that mean the metrics possibly needs to be looked at?

Furthermore, it is interesting to note my wife's alma mater, St. John's University, that arguably offers one of the best liberal arts degrees in the nation, Barmak Nassirian, a very fierce debater, it's his alma mater as well. They would not pass GE rates. And we can check because currently the Department collects institutional data.

Does that mean that St. John's University is not offering a good education to those that attend? Absolutely not. I don't think anyone around the table could argue that they have a bad education.

So as the rates currently stand, liberal arts degrees, teaching, music, dance, culinary, veterans, it's not passing the standard for what they were originally set up to do.

So if it's not good, then we probably need to not push it forward the way it is, look at how we need to change it, definitely not apply it to all schools, and perhaps we need to not apply it to the ones it's currently applied to.

Mr. Ramirez: Did you want to comment on that, Greg?

Mr. Martin: Yes, just in general with the comments. What I would like to ask people to do, moving forward, the comments on this particular question is where your comment is not supportive of the current metrics, if you could think about is there another metric you would propose. I would like to hear -- well, the Department would like to hear any ideas or suggestions you have for something in lieu of this, if you do not agree that this metric works.

Mr. Elkins: Thank you, yes, I could follow-up with that. And I will be brief and let everyone go because it looks like every card is up around the table.

Yes, so the 8 percent in the zone don't make any sense. So our recommendation would be to do away with the zone. I would start it at a 12 percent, possibly 14 percent. I think 2011's GE, I think that was must more suitable across the board, if I have to put a finger to things. And then I would also say do away with the debt over discretionary earning.

Mr. Ramirez: All right, so as far as time checks go, that was a fast 20 minutes. So, yes, let's keep the comments targeted. Obviously, we're going to extend the time here. We're going to keep it going. We have still a pretty long queue here but Neal is next.

Mr. Heller: Neal Heller.

I don't think there's another group of schools more affected by this gainful employment rule and the debt-to-earnings ratio than cosmetology and cosmetology-related schools -- cosmetology and barber programs, in particular.

The Department is well aware of the major, major concerns that our sector of higher education has with gainful employment, starting with, first of all, the debt, where most of or the vast majority of our students are receiving monies above and beyond direct costs. So as an alternative, we would urge the Department to look at the debt as direct cost: tuition, books, kits, uniform, minus the Pell Grant. And that would be the debt that would be used in the calculation. It would not include stipends or extra money that students ask for and we have no discretion in refusing their request.

Secondly, and everybody has heard about the earnings issue for cosmetology schools. In fact, the American Association of Cosmetology Schools did, in fact, sue the Department of Education and the judge did have major concerns with the earnings. And the Department's own words in the preamble to gainful employment spoke directly to the fact that there were certain professions, cosmetology and barber in particular, that they knew there was an issue with the issues as far as underreported and unreported income. I'm not going to get into the fact that obviously there is a huge amount that is gratuities and tips that is not reported. And there is also chair rentals, where barbers pay cash for a chair and receive cash for their services rendered.

So we would also look at either BLS data and some form of BLS data which would help to create a number that is more indicative of what the professions are making and people in these professions are making. And certainly, at the very least, there should be some adjustment to income based upon a gratuity, perhaps 1.2 or 1.25 for every dollar that is earned or that is reported by the professional.

So we would urge the Department to take another look at this and we do not believe the debt-to-earnings ratio has any relation to what barbers and cosmetologists can and will make as their careers move on, beyond the first few years, once they have had a chance to build a real clientele.

Thank you.

Mr. Ramirez: Thank you.

Jessica.

Ms. Barry: I just want to make a quick point about the earnings data that hasn't been brought up. Geographic differences of where our graduates accept their first position is a huge problem. At my college, graduates come to our -- or students come to our college and they may be from a small rural area or they may be from a metropolitan area. And when they come to our school, they are studying to be a graphic designer and we immediately tell them if you are planning to move back to your small rural area, your job opportunities are going to be much less. It might take you much longer to find your first full-time job and your annual earnings in that first full-time job are going to be much less than if you moved to a metropolitan area. So we are very up close -- we are very up front with them on that.

But again, these are life choices. Sometimes they decide to move back and their annual salary, when you compare it to their classmates who then move on to even a smaller metropolitan area could be double.

So there is definitely a difference in geographics here with the earnings that is an issue for many colleges.

Thank you.

Mr. Ramirez: Okay, Diamond.

Ms. Diamond: Hi, Jen Diamond. So, I hear what you're saying and I think especially when we're talking about nontraditional students, those life choices aren't always things that are in their control, especially when we're looking at a 40-year-old student with children. Why they may or may not choose to do something is maybe not really a choice.

But ultimately, this rule is about making sure that graduates can pay back their debt. And that's good for students, and it's good for institutions, and it's good for taxpayers.

The Department stated in its first rule that the intention was to make sure that schools are providing training for an occupation -- that they're not providing training for an occupation where the low wages can't justify the program's costs. We think that this current ratio is a strong way to make sure that that can happen, that schools are not providing those types of programs.

And you know high debt and low earnings equal high default rates and that's bad for taxpayers. You know students can't pay back their loans, taxpayers are hit, and, as written, this rule is going to make sure that massive amounts of money are not being lost by taxpayers and reductions of federal aid in student loan forgiveness through some of the lower payment plan options.

And I just want to add I don't think it really makes sense to call this formula one-size-fits-all when the formula is really taking into account that it's tailored for each program and for each individual graduate cohort.

So, thank you.

Mr. Ramirez: Okay, thank you.

So we have Laura, Whitney, Kelly, Jordan, Chris, Todd, Marc Jerome, Sandy, Mark McKenzie, and Jeff.

So, I understand this is -- it's a crucial point. So we're going to let it go. We just ask please be concise. If somebody makes your point, no need to second it but let's just try to keep the comments concise.

So, Laura, you're next.

Ms. Metune: Laura Metune with the Community Colleges.

First, I just wanted to say that I appreciate the question about other metrics to the Department. It is really hard to evaluate this when we don't have anything else to compare it to. I understand that it will probably be a part of future conversations.

I also wanted to say that while there are some differences in the programs, there is a similar reason that our students go into these programs and it's for the purposes of obtaining a good-paying job. And whether or not they can pay back their debt at the end of that program is a fair way to measure its success.

I also wanted to say the reason that we look at private debt or why we should look at private is because we don't want to get into a situation where we're encouraging colleges to move out of the federal loan program and force their students to take on more private debt. We've seen that happen at some colleges. It can be a very dangerous outcome for students and provides them with fewer repayment options than they would have in the federal program.

And then, finally, I just wanted to say yes, there are a number of factors that lead to students' success. There is a lot of wraparound services that our colleges should provide to make sure students are successful.

And one thing that happened in California is that we adopted this program called the Student Success and Support Program and it's a very complex way that we pay colleges based on how many engagements they have with the student through the assessment process, and how many students see a financial aid counselor. And, for one, want to say that that is not an ideal way to do this and I would not want to get into a scenario where the Department is trying to calculate each of those interactions with the student. I much prefer a single measurement like the debt-to-earnings ratio.

So thank you very much.

Mr. Ramirez: Okay, thank you.

Whitney.

Ms. Barkley-Denney: Good morning. Laura covered some of what I'm going to cover so I'm not going to repeat it.

But I also would like to add that what we don't want to see, I think none of us want to see, is a move back to the institutional loan debt that was being generated by some of the places that are now out of business, which were truly usurious loans that were often not underwritten in any way. We all know the schemes that were undertaken. We don't want to go back to that.

And I also wanted to say I am concerned just in regards to Daniel's remark, which I very much appreciated, but I am concerned about the moving to such a high ratio on an annualized basis. I think the paper that you're referring to he actually used gross income to arrive to the 11 percent number. And so I just wanted to point that out that in that paper that we talked about yesterday, that was a gross income amount, not an annualized amount.

Mr. Ramirez: Okay, thank you.

Kelly.

Ms. Morrissey: The point that I wanted to make was that many community college general gainful employment programs were never in danger of failing these metrics. And, as a matter of fact, none of them did. Most community college certificate programs have a median debt amount of zero. And in spite of the exhaustive amounts of reporting that we all did, the expenditures associated with collecting the amount of median debt, and even at colleges that have opted out of the federal programs but are still subject to these requirements, resulted in an administrative burden that ultimately passes along the increased expenses to students.

So we just really want to be careful of whatever metrics we put in place. We don't want the administrative burden to outweigh the meaningful data that is collected at the end.

And I would support Mr. Heller's calculation of direct cost minus Pell Grant equaling loan debt because that makes the most sense. Because then we're getting at the heart of whether we're looking at discretionary borrowing or borrowing that's required for the cost of attendance, direct cost to students.

Mr. Ramirez: Okay, thank you.

Jordan. I think you might have to switch it on.

Mr. Matsudaira: I think Danielle complained about the back of his head being shown and I'm worried that a kind of unflattering part of my body is being shown on camera right now.

I want to just address some of the data comments that have been brought up. And in particular, while I was at the council, I led the team that designed the Scorecard. They call it Scorecard. And I just want to flag some issues that you need to keep in mind when making comparisons based on those data.

So those data, and I'm sure a lot of you know this but maybe don't appreciate how much of an influence it has on some of these comparisons, the Scorecard data earnings are for the full set of Title IV individuals who enroll at an institution. They are not for completers only. Differences in completion rates across institutions really -- well, there are two things that happen.

The first thing is that the earnings of non-completers are much lower across all sectors. And so that's going to kind of give you the illusion that a lot of these programs wouldn't meet that meet the earnings when, in fact, that's probably not the case. Not to say that there aren't some programs across sectors that wouldn't meet it but that inference is kind of dramatically biased by that fact.

And the other thing is just that differences in completion rates because the gainful measures condition on completion. Differences across completion rates in sectors in the Scorecard data are really going to alter the conclusions you draw from that.

So I would really caution against using Scorecard-based comparisons for these purposes. I mean I think it's an excellent kind of data request that we can think about of the Department to calculate measures that would be comparable on this scale, if that would help guide the discussion.

The other thing I want to point to quickly is BLS data. So I confess to not fully understanding the kind of idea that we can use BLS data for any kind of accountability scheme. This is basically occupation-specific estimates of the mean median wage in an occupation. They don't differentiate. There is no way to use that data to differentiate across different institutions, different programs within institutions. So, effectively, you'd just be asking the Department to say categorically cosmetology programs are or are not eligible for Title IV aid and there's no kind of accountability within that sector.

So I don't know why any accountability system based on that kind of idea would be a good idea. It's kind of hard to imagine it. But if there are ideas like that, I'd really like to hear those spelled out just so we can think about it.

And let me stop there. So just on the topic, I think the debt-to-earnings metric is desirable. It kind of produces incentives for institutions to either close or improve programs where students struggle to repay their loans. And that's a desirable future that creates a lot of benefit for higher education overall and for students, in particular.

So you know I think there are technical tweaks to it that could make it stronger. And some of the comments that people have pointed out, I agree with, are real issues that we might be able to address.

Let me leave it at that.

Mr. Ramirez: Thank you.

Chris.

Mr. Madaio: Thank you. Chris Madaio.

I think the key part of this question is what are -- what do we think we should define gainful employment to mean. And that was discussed a little bit. Clearly, the last rule defined gainful employment as a career that would allow the student an amount of their liking to be able to pay back their debts.

And I mean I think that's a crucial point. I mean a student shouldn't be going to a school that is charging them more than they're ever going to be able to pay back, based upon the job that they are trying to get. I mean otherwise, why is the student going through that in the large sense?

So I don't think it's appropriate that a student should be attempting to get any job in the field or a low-level paying job in the field. I don't think those things would accomplish the goal of the Higher Education Act's point of differentiating certain programs as requiring them to need to lead to gainful employment in a recognized field. And I think that clearly was trying to address two problems: that institutions were charging too much for their degrees and the degrees weren't sufficiently preparing students for those careers.

So I think the point of the rule and some sort of metric is to try and accomplish and to decide whether students are making enough money to be able to pay back their debts. So there needs to be some sort of metric. And obviously, a lot of people may be against a debt-to-earnings metric. As Jordan said, I would disagree with a BLS calculation, as that would have nothing to do with what those students at that school was actually making. I mean that would be comparing apples to automobiles. I mean talk about something totally different because talking about students at totally different institutions and potentially even totally different programs.

As far as other debt, I have an issue with not including debt that is taken out -- the student takes out to go to the school. I mean these are for educational expenses. Students don't take out debt just to have cash in their bank account. They take out debt because --

(Simultaneous speaking.)

Mr. Madaio: All right.

Participant: That's not true at all.

Mr. Madaio: That may be true but I think for the most part, people take it out to have cash in their bank account to pay for expenses because, in many cases, they're not working because they are going to school. They are taking it for specific reasons.

So I think to not include debt unrelated to a program would be a mistake because there's a lot of debt that students take out that they need and that is a crucial part to sustain themselves while they are at the school.

And then lastly, I have a question for the Department. I wonder has the Department prepared or does it intend to prepare any studies, as far as other types of metrics, in order to allow us to compare and discuss things?

Mr. Martin: Currently, we don't have any proposals on the table yet. If we do, if we were to propose a different metric, I don't know what -- I couldn't guarantee right now what studies we would use to support that. Currently, we don't have any plans to propose a different metric.

But that's why we're having this meeting, to see if there are any ideas about what would be an alternative. But no, we don't currently have anything ready to go. So, I couldn't answer the question about what studies we have used because we haven't, thus far, haven't even considered that.

We're going to take what we learn around this table and go back. Obviously, we will have proposed language but I wouldn't want to promise or say that we've considered anything thus far because we haven't.

Mr. Ramirez: Okay, thank you.

Todd.

Mr. C. Todd Jones: Well first I'm going to associate my same concerns with what Jordan and Chris said about the use of data and the invalidity of comparisons. But I guess I'm going to have to go, if Jeff is going to insist on dragging in comparisons for non-profits, I have to point out some other anomalies in the statistics, which actually work to the benefit of proprietary colleges under this structure.

First of all, we'll go to the SSA matching. One of the things you need to know about SSA matching is that when they can't find a student, the Department skims off the highest debt levels. This has the effect of distorting, to the benefit of the institutions, not the benefit of students, what the actual debt is for students who completed.

So if they can't find you, and let's say you were a low-debt student, they're going skim off the highest debt students, even if that's one they could have found in making the calculation. That's to the benefit of institutions.

Now, it's fair. I mean that's one of the problems with using a metric like this but let's not pretend that the structure is not built to benefit the colleges affected by this.

And secondly, in talking about private loan benefits, one thing we have to remember is that if they're not included, one of the things we are doing is skimming off forms of debts which are typically higher. For better or worse, our nationalized system of student loans over the last few years has produced loans that are at lower rates than would be found in the private marketplace, for the most part. There are exceptions to that.

But if that is the case and you're excluding other forms of private loans, some of those are going to be home equity loans, for example, and those are going to be at lower rates. But a number of them are going to be other forms of loan at much higher rates -- credit card loans and loans from lending institutions or affiliated for-profit entities that lend to students to make money.

So let's not assume that somehow the debt calculation here is casting things in the worst light, when in fact there are aspects of it which are actually benefitting.

Lastly, I'm going to turn to Gregory's comment and I know it is well-intentioned but I do appreciate that you are seeking can we find other metrics here that would be superior in replacement. But I think it's also the Department's responsibility as an administrative agency to engage in a kind of Hippocratic oath and that is to do no harm. And the reality is to develop metrics and to understand how they function prior to their implementation for full effect. And I think that's something that has not been considered in the past and I think the Department should focus on that going forward.

Mr. Ramirez: Thank you.

Marc Jerome.

Mr. Jerome: So the first thing, I appreciate Jennifer's comments and Chris' comments about concern about students with too much debt and not enough earnings. And I'm one of the few people here who actually has always liked the debt-to-earnings metric because it told me very valuable institution about my institution -- valuable information about my institution. And I'm not always so popular because I believe in accountability. I guess I'm going to -- Todd is walking about but I'm giving him a compliment as he walks out. So before you go, I actually -- stay for the compliment -- I'm going to echo, very formally, your comment that the Department did not have the proper data and the proper consideration to make sure they got the rule right.

And what I'm going to say is is the last GE negotiation, there were no earnings data out. The earnings data is now out and I believe, hopefully by the end of our third session, the data will be compiled and distributed and I really appreciate Jordan's comments on wanting to look at the same data.

But right now, the only data we have is Scorecard data. It is imperfect but it clearly indicates debt-to-earnings are a huge problem across the country. Low-income students, especially, are suffering from debt-to-earnings at institutions across the country. And before the Department goes back and reinstitutes a very tough rule, it has to reckon with that.

And so I guess today I am formally asking the Department to find a way -- I'm not asking to apply it to all sectors. I'm not asking for anything like that right now. What I'm asking for is you get the data to this group so that we accurately compare degree programs because what I'm concerned about, and I'm going to call it the problem of identical degree programs, and we are living this: students are coming to my institution; they are getting a disclosure on debt-to-earnings. They are saying why are you disclosing this? I am competing with other institutions that don't have to disclose it and the students are sometimes, and their advisors, picking the other institution when the data is clear.

I'm going to give you an example I have. Earnings were the same. My institutional debt is $20,000 and the institutional debt the student chose at the other institution was $40,000. And this is not what the Department could have intended. It could not have intended students are going from one degree program with low debt-to-earnings to another degree program not subject to the rule with high debt-to-earnings. And this is the absolute -- we have to consider protecting the consumer from these things.

Two other points. I am a person who thinks the rule is too lax. So I am not a believer in median debt because what median debt does, it excuses any program with a low percentage of borrowers but where borrowers are getting killed on debt-to-earnings. And so I'm going to ask the Department to formally reconsider median debt and just think about, at least for informational purposes right now, what debt-to-earnings look like for borrowers and exclude non-borrowers.

And then the third thing, which has been something with me since the beginning is completion rates. So in order for a program to prepare students for gainful employment, I actually believe they have to complete the program.

Right now, the rule, for a number of reasons, has no completion rate and the result is a little absurd that I think the majority of programs don't even get judged because they don't graduate enough students.

And then my last comment is there has been an historic, though it has lots of problems with manipulation, but default rates I think still are relevant because too many students in the country are defaulting. And I think if the Department took a different position on this and gave more resources, especially to the community colleges to address the issue, we would be able to impact default rates nationwide and that would be the single biggest thing we could do to help students, I think, with student debt.

Mr. Ramirez: Thank you.

Sandy.

Ms. Sarge: This is Sandy and there have been so many additional comments since I put my card up, I'm -- there's just so many interesting and very, very insightful commentary.

I think to your point, Greg, about what would be an alternative, again speaking from the perspective of a finance person, inconsistencies run rampant in this in that we offer to the students, on one hand, many different options for repayment and then we use a calculation for the annual debt burden that the student has, the loan burden that the student has. Why not just use the actual agreements that the students made? Because clearly, if they are going and asking their servicers for a repayment option, they know that in the early parts of their career, like pay as you go, they are comfortable and okay with the early stages of their career being -- that they're going to get paid less until they become more sophisticated in their career choice.

So my suggestion would be, if we had to do it in any way, then potentially let's use the agreement that the student already has in place. And then, obviously, if they're not meeting that agreement, that falls under the default side, but to figure out what the loan debt should be on the denominator. Maybe that would be an approach to consider.

I've heard several of you make a comment about cost. And I know, I'm going to preface it before anybody gets on me about it, that what I'm going to talk about is a statutory issue. However, cost for proprietary schools is deeply influenced by the 90/10 rule. 90/10 is contemplated publicly as a multiplication problem. Ninety percent of for-profit schools cannot have more than 90 percent of their revenue coming in, their cash revenues coming in from Title IV money. And, therefore, by definition, as soon as they find out what is changing in that current year's offerings from the government, such as Pell increases, they have to go in and actually divide that amount of money that the student would get by 90 percent, or give yourself a little cushion, maybe 85, and that, by mathematical means, increases what you have to charge.

Now the whole thing about 90/10 that is flawed, and I would be glad to caucus with anybody and a white board and show you what I'm talking about, we don't contemplate cost in that. And from an accounting perspective, revenue minus costs equals profit. If you increase the revenue because of a calculation requirement and you do not change cost, there is nowhere else for that additional money to go but to the bottom line.

And at the end of the day, I'll tell you, I sit here -- and trust me, every investor in Wall Street would be slapping me right now like, just be quiet Sandy. If you did away with 90/10, then you would ultimately come into play natural competition, and quality, and things that consumers want to deal with every day. But you arbitrarily increase costs because of this rule.

And maybe I'm naive. I've only been in this industry for ten years but math is math and that's what happens. And I do not want to hear one word about the intent of that law because, regardless whether the intent was to somehow say to a student that you should be willing to pay out of pocket with your cash and your savings account, as opposed to the cash you get when you borrow money, by the way, that is their cash as well, that you should be able to, if you believe in the quality of that program, is just bogus.

No one in this room, if you have an opportunity to borrow at a low interest rate versus take your cash out of a higher yielding investment, would do that. That's just irrational.

And I'm passionate about this and I would be glad to do an easy math show for you, if you're interested, at lunchtime.

So, at the end of the day, cost is being driven up because of a statutory situation and we need to look at that and we need to then take it outside of this room and go away. But don't bring cost in when we don't control that in every sense.

I would gladly, and most of my clients would gladly not have to put a payment plan, a cash payment plan in place and charge even less than what a student could get so they would have leftovers for living expenses. We would gladly do it because cost doesn't change in that equation. We don't need to drop the money to the bottom line.

Mr. Ramirez: Okay, thank you.

We have Mark, Jeff, David, Gannon, Jen, Bob -- I'm sorry, Mark McKenzie.

Mr. McKenzie: Obviously, this is an extremely important topic. The first question being whether the D/E rate is appropriate or not is actually a challenging for me. I actually think a better question is: Is it a reliable calculation?

From what I've heard and my own experience, and I'm not a data person, but it does not appear to be a reliable calculation. And so anything that stems from that, therefore, is unreliable.

The way this impacts students, for me, is an extremely important issue. Now, I'm also going to limit that. I've come from a specialized accreditor. So we accredit graduate programs, so both for-profit and non-profit institutions.

The way the rule is written now, it will discriminate against the for-profit institutions that offer the exact same program that the non-profits do, in my case, in the paradigm that I'm coming from. And if it moves forward, it very easily could be projected that 20 to 30 percent of the schools that are current would go out of business, based on an unreliable calculation.

When we look at it, we look at licensure rates. We look at certification exams. And we look at cohort default rates. We've compared our programs and there is no statistical difference between the proprietary and non-profit institutions. They score the same, basically. There is no difference in licensure rates. There is no different in exam prep.

So in our case, because it's a medical profession, these students have other ways to determine that the institution is actually meeting its obligation. The student graduates from a program. Graduation is one. They get there. They go through a certification exam. It doesn't matter proprietary or non-profit, they both pass. That basically indicates that the school has prepared them.

They get licensed in the state. That, again, indicates that they've been properly prepared.

The challenge is that this also will stifle innovation. So we have a fairly new and developing profession, which is kind of challenging to say for something that has been around for 3,500 years, as far as acupuncture, but in this country, it's fairly new. And so the result is the vast majority, probably 75 percent of the students, end up having to start their own businesses and that is not properly captured in the gainful employment or the D/E calculation either.

So at least in the paradigm that I'm coming from, this creates a lot of challenges and it's not about whether the student was prepared. The consequence of a school closure a student is dramatic and it's a horrendous thing to have to go through.

So I could actually go to a school that is a top-notch school, it's a proprietary school. I do well on my boards. I'm getting there and the school ends up having to close or move. So for those students that are enrolled, well, that school, we only have 56 of them in 22 states. So if you're going to school in Texas, there are three schools there. Those three, all three are proprietary, they'd all have to move out of state. That's a pretty huge impact and based on an improper or a calculation that doesn't work.

So I think you can talk about data all day long but if the data stems from an inappropriate calculation, to me, even looking at those numbers doesn't make a lot of sense.

So, I appreciate the opportunity to sit here but this is a big issue and, again, I bring it back to how does this truly impact students in this profession and their choices once they graduate.

So you may have a student that wants to go do mission work for the next two years in a different country. I graduated with a degree in acupuncture. I go out, I'm not earning much at all. And that's going to negatively impact the institution that I graduated from with a really good program. That's pretty challenging.

Somebody that wants to go into the military, you know that's going to impact.

So when you can't have that initial calculation as a solid point to get the data, it's problematic.

Thank you.

Mr. Ramirez: Okay, thank you.

Jeff.

Mr. Arthur: One thing I think we've got to understand about the formula and reconsider is when you look at the wages of the students after they graduate, like in our case we're dealing with mostly adult students and most of us are, in the sector, dealing with adult students, when we look at the wages, it's literally just under -- it's purported to be the wages three years after they graduate but, in reality because of the timing of the cohorts, it actually ends up being just under two years to barely three years after they leave school. And when you consider these adults, we've got to look at where they were, where did they come from, and what was the lift.

And when you consider that somebody may be on public support trying to get a career going, over half of our students attended other colleges prior to coming to our institution, you need a longer runway. You need a longer runway to prove the value of the degree and their ability to repay it, especially given the formula that we're using now.

And one other point on the benefit on the debt being capped at institutional costs and not including living expenses, I would just point out again that having lived and breathed this for the last several years and gone through the very painstaking process of reporting, I can assure you that there is zero impact on that calculation being able to collect students' debt. It just effectively, the way it's done, it does not happen. And I can show anybody that in extreme detail but it is not effective. It sounds good but it absolutely does not happen.

Mr. Ramirez: All right, let me just jump in here real quick because we're approaching an hour on this one -- on this first question and I can see that we're running into some of the points that are going to be coming in the future questions as well.

You all want to keep rolling here or one function?

Ms. Blum: Can I just -- I mean I have the same thought and my feeling is is that we're really covering -- I'd rather just keep going because we're really covering actually several of the other questions at the same time, which I don't see any problem with. They kind of do blend.

Mr. Martin: The next question, when we look at that one about the passing rates thresholds being appropriate, I would like to limit the comments to that particular questions, are the thresholds appropriate.

So assuming that -- if you don't think that the metrics are appropriate at all, we've already had that discussion. So I would like to limit that specifically to what about the thresholds, given these metrics, so we can move along.

Mr. Ramirez: Yes, and Greg, would you mind hitting just the brief highlight of the other questions so that way folks know what's coming up?

Mr. Martin: Right, we'll move -- yes, so we'll have the one about the thresholds. After that: Are D/E rates an appropriate metric for evaluating the performance of non-GE programs? So, again, should they be extended to non-GE programs?

How long after a cohort's completion from a program should earnings data be reviewed to provide relevant information for students enrolling in a program? So we've already had comments to the effect that some people feel the current one is not long enough. So, what would be appropriate? I'd like to hear some suggestions for alternatives if you don't like what we currently have.

And finally: Are there more appropriate data sources that should be used to determine earnings, other than Social Security Administration earnings?

Mr. Ramirez: Yes, so I just wanted folks -- to just kind of recalibrate folks that there are going to be opportunities to hit some of these other points.

But let's take a quick one-function break. And then we have David, Jennifer, Bob, John, and Kirsten when we come back. So, just a quick five-minute break.

(Whereupon, a recess was taken.)

Mr. Ramirez: Okay, there was a suggestion that I would like to throw out to the group. It seems like it may be helpful. Because you all are commenting on the first question, I understand it's hard not to have some bleed where it goes into some of the other questions.

So the suggestion was that if we could review what all the questions are and then have the speaker comment, identify which question they're commenting on when they give their remarks. This way it could be a more, I guess, cohesive discussion as opposed to each bullet.

So let me just ask the group real quick. What do you think of that? Greg.

Mr. Martin: I'm fine with that. If people are comfortable looking at all the questions holistically and just determining which one they want to comment on, rather than going question by question, I'm fine with that.

My only concern with that would be if we miss -- we have to be careful that we get every question at least addressed.

Mr. Ramirez: Yes, and we'll try to keep a little tally of which ones are being --

Mr. Martin: So in the end, the conversation we've had hasn't addressed one, then you might want to make a point that we still need some comments on a particular issue.

Mr. Ramirez: Okay. All right, so let's give it a shot.

And we'll continue down the queue. We have David, Jennifer, Bob, John, and Kirsten. Okay, so --

Mr. Silverman: I think I'm still on the first question. I'll brief. This is David Silverman. I'm piggybacking on the comment about geography and there was student income.

We have campuses located in New York City and Los Angeles. Cost of living, cost of operating college, cost of operating a business affect the charge for tuition compared to other areas around the country. Students may come from a rural area and train in a big city and then they may, after training, go back to the rural area.

Thank you.

Mr. Ramirez: Thank you.

Jennifer.

Ms. Blum: Yes, thanks. So I guess, in terms of since you just quickly asked this, I looked at the questions, I think I'm answering number one and then I just want to note that question three has two questions; so I'll call it 3B --

Mr. Ramirez: Okay.

Ms. Blum: -- and 4 and 5.

I feel like I agree with Greg, I feel like two is actually a quite specific question that might deserve separate attention. So I would just suggest that we call out two later because it's a metric-specific question.

Mr. Ramirez: Okay. Sounds good. Okay.

Ms. Blum: So I also am responding to a couple of comments that were arrayed around the room a little bit ago. A couple of things that Jen Diamond said, I completely agree, actually, that the notion of -- I think we really have to question what we're evaluating here. Are we evaluating quality? Are we evaluating return on investment? And I think Jen Diamond pointed to repayment, you know the concept of are students able to repay in correlation to their profession. I actually will say that I think that is a worthy question these days. So I want to sort of voice some support for that concept as we move forward.

But she also correlated cohort default rate results that somehow what we see in the debt-to-earnings relates to cohort default rate. And actually let me say that we had one failing program. It was a bachelor in child development. It teaches Head Start teachers. And for completers, because we are able to do the math, its completion cohort default rate for that program is 1.4 percent.

So there is no correlation because and the reason for that really is default is obviously a worst case scenario and there is an ability, obviously, to not default. You can be in repayment and the federal government has set up an overly complicated system, perhaps, for repayment but because there are several means for how you manage your debt, and if your ability to manage your debt is compliant with federal law, then I really feel strongly that the debt-to-income metric is sort of contradictory with every other aspect of how we look at repayment in this country.

I'm not saying that it's necessarily wrong. I'm just saying that it doesn't comport with the tools that we provide our students in repayment today. And there needs to be that alignment in federal policy, where there is an alignment between how we look at return and repayment relative to what the plans are and the tools are that our students have.

I'm not saying that the tools students have are perfect. So I just want to be on record that I'm not saying that it's a perfect system today but I am saying that, in fairness to the institutions who would be penalized, to blame us in a different metric when it's very clear, I mean a 1.4 cohort default rate is a pretty low cohort default rate for one program and it is very much explicitly due to underpaid Head Start teachers and daycare providers and that is pretty clear.

So I just want to be -- the other point I want to make is that, Jen, you also said that this isn't a one-size-fits-all metric. Actually, we are very appreciative -- because we offer so much at the graduate level, we are very appreciative of some of the steps that were taken last go around, actually in both go arounds, to make some distinctions between levels of degrees. But the reason this is a one-size-fits-all metric is that at the earnings level it only looks at years two and three of earnings. And as everybody else at the table has already said, I won't belabor it, but and I said it yesterday, people who get a business degree are much more likely to do well right out of school than somebody who has a culinary degree or a bachelor in child development degree. And so it is a one-size-fits-all on one piece of the puzzle.

The only other thing is and the reason I think there was a question about other data sources and also other metrics, on the data sources I know there's been a lot of conversation about the Scorecard. I do agree that there is some value to the Scorecard but I actually want a second, and I know this sounds odd, perhaps, interesting fed fellows or whatever, but I do want to, with Jordan and Todd, I do want to point out that if we do pull data from Scorecards more specifically, we need to be very mindful of the cohort numbers that were used to develop the Scorecard. As an institution that has 85 percent of its students in graduate and only 15 percent undergrad, there are extreme -- and there's no minimum cohort used on the Scorecard. So we have situations where there are data points literally used on three students. So when we're pulling the data, I would caution the Department to maybe perhaps pull it in the cohort of a set cohort and above of students, rather than -- so I respect the Scorecard, except for all of its flaws. The concept is a nice one.

And then, finally on alternatives, I'm not advocating for this at all but I do want to put on the table and to Jen's point, again on repayment, I do want to put just everybody, you know full disclosure, that Congress, and Todd has referenced Congress, too, Congress is looking at other metrics across the board, including last week, obviously as introduced, a loan repayment rate at the programmatic level. I'm not advocating for that particular construct, per se, or the Title IV piece of it, per se, but I do want to acknowledge that the Department is putting a fair -- I mean that the House, sorry, is putting a fair bit, and I know the Senate is, too, into a fair bit of work at looking at alternatives.

And so because of the complexities of the statutory structure on gainful employment, you know of course I would ask the Department to be thinking carefully about putting something else on the table while there's a lot of debate on this issue.

Mr. Ramirez: Okay, thank you.

Bob.

Mr. Roberts Jones: Bob Jones. We've continued to make the point that some of these occupations don't hold up to the GE standard. I want to go back and point out again the Department has joined the conversation with all of the education, higher education groups, and everybody else, to in fact accredit programs all the way down to badges, and boot camps, and things at the lowest possible level, knowing full well that those occupations don't pay in the early days, or later days, everything from culinary, you've heard all these things made, they've built the system saying we are going to accredit those programs. We are going to set standards for quality for those programs. We're all in agreement to join that conversation. You can't have that conversation and this conversation in separate places. You're contradicting the very issue itself.

If we're going to in fact agree with the Congress, agree with the Department, agree with everybody else to use the accreditation system and hold schools accountable for the same kind of data, we all agree, make the data available and transparent and hold them accountable for these issues, then do it within that system and stop having a separate system that says I'm fully accredited but I have to close. And then we blame the accreditor and we blame everybody else. This is way too confusing and out of line.

Second point is the data itself is you're using different data for debt, different data years for earnings, different data for the whole process, all of it old. So the program itself that you are now judging may well have changed substantially from what that data reflects. It doesn't work. You can't do it. Timing is essential.

Last point, at the Labor Department we used Social Security data several times in attempts to judge earnings, program outcomes, everything else. It failed. It never has been used again. You can't use Social Security data to accurately reflect employment earnings. It does not work.

Ms. Buck: And Bob, just for us, could you clarify which questions you were responding to? Because we're trying to keep track. Thank you.

Mr. Roberts Jones: Largely, one and four.

Mr. Ramirez: Okay, John.

Mr. Kamin: Yes, so I have a couple of points to make. Let me preface this by saying I'm really focused on question number one but I would be remiss not to discuss some of the conversation that came up about 90/10, even though I believe it is not appropriate for this venue and is very tangential to the discussion we're talking about.

I don't know that much about math or about what Wall Street's speculations would be on the elimination of 90/10 but I do know a little bit about history. I know that 90/10 came out because our nation diminished the GI Bill to the point of no return because of concerns associated with abuses.

We passed the Forever GI Bill earlier this year and, believe it or not, I had to write a couple of letters to Korea veterans asking me if that meant that they would get their GI Bill because they didn't get it to the same degree that World War II veterans got it because, through the Bradley Commission, said that it was open season on taxpayers' money and that it wasn't worth the investment because of the abuses that were going on.

Now, I cannot accept that we would be entertaining a notion that could lead to veterans not getting their GI Bill benefits anymore. Granted, veterans are currently excluded from 90/10 and that is a separate conversation, but we do have protections associated with 85/15.

Now, that is a non-starter for us knowing its place in the history of our country.

Now, regarding gainful employment, I am curious from the perspective of understanding what the problems with it are. I've heard a lot of abstract dings on it, that it doesn't work, that it's failed data, that it's a disaster, that we can't accurately do it. But I'm curious about what we do have. The difference compared to the previous negotiations is we have data on this. We have the information that came out from 2017 earlier this year.

Now, granted, there are a lot of repeals that are going on. I think over half are currently in repeals and I'm not sure if any information is coming in on that. But I'm curious if anybody has any specific examples for why this doesn't work this year.

And if this is a softball question, great, because I'm just trying to understand what we've seen in terms of specific programs where this hasn't worked out right, where that would indicate that this is not a proper metric, based on what has happened.

Mr. Ramirez: I'm going to let Marc respond to that last question real quick.

Mr. Jerome: My response will be brief but the bottom line is I think the data will make it clear that the GE rule could potentially and would close programs with much lower and better D/E rates and send students to identical degree programs with much higher and worse D/E rates and that could not be what the Department intended. And I think, hopefully by the end of our sessions, we'll get to the bottom of that data.

Mr. Kamin: Okay, that is more than I would know but it seems to me still speculative. I'm curious for the information that has come out, what is wrong with the information that is there?

Mr. Jerome: So we're at a great deficit, as the Department knows, because there simply is no programmatic data to compare. And I'm not going to belabor the point. The only available data, which is institutional and has some limitations, seems to indicate that debt-to-earnings are a huge problem in all degree programs.

And so you have to, for veterans, you want to make sure they go to the best program with the best outcomes. And this rule right now, the data right now isn't supporting that outcome.

Mr. Kamin: Okay. I mean I would just say that we've seen attempts on the VA side for the comparison tool to implement costing flags and other provision to inform veterans. I believe, and I'm paraphrasing the issue, there is an attempt to do graduation rates. And Lord knows the issues with graduation rates. And there were plenty of institutions that said, look, I can point directly to why you are wrong in using this and here is A, B, and C to do so.

I would just hope that, to make it easier on all of us, with the data that has come out and it does exist, I've been spending hours just going through this spreadsheet on my computer, are there any latent injustices that could help lead us to a path that could correct this towards a better rule.

Mr. Ramirez: Jennifer, do you have a direct response to that?

Ms. Blum: I do.

Mr. Ramirez: Okay.

Ms. Blum: And actually I would like to also address the initial issue that he raised of 90/10. I would like to actually formally ask that that not be discussed further because it is a statutory issue. From our perspective, it's completely irrelevant to this conversation. We don't even -- I mean just from a personal perspective, whether that rule exists or not does actually impact us one iota. And we're actually pretty proud that we have that situation.

But regardless of the merits, which are questionable, regardless of the merits, it's a statutory issue. I think we can take 90/10 off the table and I'd like to actually really ask that it be off the table because I don't think it's relevant to the conversation.

Mr. Kamin: Yes, I agree that it's not relevant. It being statutory is just simply not up -- there's nothing we can do about it, whichever way you're going. I mean people have made comments about it and that's fine but I think we've pretty much laid out what we feel about 90/10. And I don't want say nobody can mention throughout the next couple of days but yes, we've explored that issue as much as we can. Seeing as there is nothing this negotiation can do about that, it is purely statutory.

Ms. Blum: Thanks. And then on the second, on the fact-based -- oh, no, George, don't leave -- I do have some data that might be helpful, particularly focused. I have it at other degree levels but at the bachelor level, just to quantify the impact, to show that the metric doesn't work. And again, it goes to the one-size-fits all comment that it is a problem.

Under our analysis, using all of the programs that are gainful, so not the non-gainful, obviously, but any program that was gainful at the bachelor level, 92 percent of IT programs passed; 74 percent of business and management passed; only 33 percent of education programs at the bachelor level passed; 16 percent of the visual and performing arts passed.

I just want to demonstrate that is it cannot be the intent of this government to suggest that for-profits can only, or for that matter at the lower degree levels, non-profits, only offer business degrees and not have an opportunity to educate teachers.

So, that's the answer.

Mr. Kamin: Thanks.

Mr. Ramirez: Jennifer, and where was that information from?

Ms. Blum: It's available on the -- our sources. The Department can provide this data itself. It's the Department's. All GE data is available to the public on -- you to know how to crunch it, of course, but all of the GE data is available on the Department's own website, at this point. And we took all of the data and we analyzed it.

I mean and the pass/fail pieces, it's the Department's data. We just broke it into types of programs by zip code.

Mr. Ramirez: Would you be willing to submit your summary data?

Ms. Blum: Let me check internally but I don't think it will vanish.

Mr. Kamin: Okay and just to wrap it up, Jen, I really do appreciate that. That's the exact kind of numbers and easy to understand, broad overviews that we can get into and also be wise not to mention that. I think you have some very valid points that needs some personal reflection on when it comes to the grad school issue and is there really a quantitative -- can we put it on some type of scale over the difference between graduate education versus certificate. So, another great issue to get into, eventually.

Mr. Ramirez: Okay, thank you.

Kirsten, are you good?

Ms. Keefe: So yes, my comment was actually going to be about 90/10, so I will not give it. But I will just ask then that folks not bring up issues that we can't discuss because it is really difficult for somebody to bring up a position and not be able to counter it when you do not agree with that because this is a public forum and I appreciate that it is not on the agenda. But it is really difficult not to counter it.

One piece, it's not specifically on 90/10 but one thing that Sandy said about getting rid of it and letting markets take care of things, I will just make a comment on that.

That never works for low-income folks, for communities of color, for the most vulnerable borrowers out there. And you know with 90/10 and other issues, we need regulation. You know those groups that getting rid of pieces like 90/10 would create a race to the bottom and folks are targeted and those are our populations in legal services.

And so I just wanted to counter that that leaving it to the markets will leave the folks that we represent in a really vulnerable position.

Mr. Ramirez: Okay, thank you.

Gannon.

Mr. Gannon: Yes, speaking on question two, the passing D/E rate thresholds that currently existing in the regulations are actually appropriate because they are based on research. And in order to fail those metrics, they must fail both the debt-to-earnings and the debt to discretionary earnings. So they have to fail both. So I think it's a fair metric.

And also just talking on question one, as personally being a student that had to take out debt just to get cash to get through school, I encouraged people to empathize with my situation because I sure wasn't laughing during that time.

Mr. Ramirez: Okay, thank you. Whitney.

Ms. Barkley-Denney: Oh, my goodness, I almost forgot what I was going to say. Can I come back a little later when I remember?

Mr. Ramirez: We'll skip --

Ms. Barkley-Denney: I am 90 percent sure of what I am going to say and ten percent unsure.

Mr. Ramirez: We'll skip to Jordan and then we'll come back right after Jordan, okay? Give you a chance to regroup.

Jordan.

Mr. Matsudaira: So I just wanted to echo something helpful that I thought Javier said which was one people bring up kind of data analyses that have been done, I don't know like what the right mechanism is to submit those to like some kind of way that we can all look at those. Is that to email it to you and for distribution or --

Mr. Ramirez: Marc?

Mr. Jerome: I spoke to the Department. They asked that we put in writing the submission. So, we will do that.

Mr. Martin: Point of clarification. Are we talking about data requests from us or data that somebody else possesses they would like to share?

Mr. Matsudaira: I'm hearing both but --

Mr. Martin: Yes, data requests should be given to us in writing. If you've got data that's available that we're asking that somebody brought up that they want to share, obviously they would be responsible for providing that.

Mr. Ramirez: Yes, so all I would say is that if somebody is throwing out some data that you're interested in, just raise your hand and we'll ask if that person could submit it.

Mr. Matsudaira: Yes, I just wondered if we could make it a norm to either have citations or -- you know I'm a professor -- so to have citations or kind of submit the analyses for everybody to be able to see just so we can kind of digest those in a more slow fashion, rather than processing the numbers in real time.

Kind of one data request that I wanted to suggest to the Department is you know question four is about how long after a cohort's completion from a program and a lot of people have talked about the inadequacy involved in looking at short-term measures of earnings, rather than longer term measures of earnings.

I think working on the College Scorecard, which is institution-based, not program-based, and I think people are right to speculate that different programs might have different kind of growth rates over time, and it's conceivable that that matters. But I will tell you in the aggregate, if you look at measures of earnings measured six years after an institution first starts, so look at four-year programs six years after people first start, which is you know one-ish years after they would have finished versus ten years, which is four to five years after the typical person would finish. Those measures are correlated to the tune of about 0.9, which is a very high correlation.

So I don't think that kind of a longer time horizon is likely to change the conclusions, the kind of rank ordering of programs that we draw. It does have a bearing on the level. The earnings are all rising but they are probably all rising kind of together. So the kind of ordering might stay the same but the level is what matters for GE.

So one thing the Department could take a look at is taking a look at over a longer time horizon when the cohorts are sent over to SSA to be matched to earnings, the Department now has debt-to-earnings cohorts for 2006 to 2014, I believe. And with that data, you can look at pretty long-term measures of earnings and so on by program, you know going all the way back to 2006. Presumably, you can look at earnings at least through 2015, 2014 or so, based on what I imagine is at the IRS at this point. So, that kind of information could inform this question about whether altering the time horizon would meaningfully affect kind of how we view the relative performance in different kinds of programs. And that's one data request that I suggest.

Mr. Ramirez: Okay and just be sure to get that in writing, okay?

Mr. Matsudaira: Sure.

Mr. Ramirez: Okay, Marc.

Mr. Jerome: Jordan, just one question. When the rule first came out, the Department characterized the time period as three years and I think as we got involved in the more technical aspect, for students who graduated at the traditional time of June, it ended up being 18 months. Are you firm that 18 months is an appropriate time to measure the earnings for students, especially bachelor and graduate?

Mr. Matsudaira: What I'm suggesting is that conditional on some kind of notion of -- you know let's say that we could observe somebody's full career earnings, we can't view that and the data aren't going to show that. But you'll be able to see like maybe eight to nine years' worth of earnings after somebody goes into the market.

If we agree ex ante that there is some kind of culmination of that data and of people's debt levels or other kinds of things that was informative, what I'm saying is that the Department could produce that kind of information that would allow us to make those decisions.

So you know whether -- I suspect, my personal guess is that the measure that we use that's based on the current construction is going to be highly correlated with some kind of measurement that incorporates the long-term aspect of things. But that's a speculation right now and something that we could inform with more data.

Mr. Ramirez: Thank you.

Whitney, are you good or you need a little more time?

Ms. Barkley-Denney: I'm good because Jordan asked what I was going to ask for.

So I understand where you guys are coming from when you talk about earnings changing. When I was here back in 2014, I was a brand new University of Michigan graduate making $28,000 in the Mississippi Delta working on consumer issues. So that probably wouldn't reflect well on Michigan, if they had looked at that point.

So I was going to ask for the same thing Jordan was. If we can see what increases in income look like over time, I think that would help us drill down on this issue as it relates to career programming.

Mr. Ramirez: Whitney, I would just ask that maybe if you get with Jordan, just to make sure that his information request is consistent with what you need and this way, you don't need to duplicate it.

Ms. Barkley-Denney: Sure, that sounds great. Thank you.

Mr. Ramirez: Okay. All right, Todd?

Mr. C. Todd Jones: This is Todd. I only want to make a comment that if we're going to start down the path here of as a group asking for information requests, that maybe we have a subcommittee to talk about what information requests we are seeking. Because otherwise, we are going to get into significant duplicative but similar information requests.

I've brought up a couple comments about data so far. I think it's important that if we're asking for data as a group that we come to a consensus as to what that means and have a conversation about data before sending it off into the bowels of the Department for mining.

Mr. Ramirez: All right. So let me ask the group how do you feel about a subcommittee on data?

Chris.

Mr. Madaio: Well, my concern in that is that that would end up, I think, changing or there would be some negotiation as far as what we'd be requesting. I mean I'm sure the Department, if it gets duplicative requests can answer that one request. And if they get somewhat similar requests, they would be able to kind of hash out the difference.

So I mean I would probably prefer individuals make their data request as necessary and the Department can respond, as is appropriate.

Mr. C. Todd Jones: Well, may I respond?

Mr. Ramirez: Yes.

Mr. C. Todd Jones: Let's put it this way. I think I've spoken about five times here and three times I've talked about data that others have presented that I am critiquing. So if we're going to go down that path, we're going to bury ourselves in comments and arguing over what -- is this data correct? Is that data correct? Whereas, if we have a little time away from here, we can come to an agreement -- we may be able to come to agreements on what the shape and nature of data is.

Because, otherwise, we are going to bury ourselves here in the weeds of distinguishing is that appropriate, is that not appropriate. If that's the path people want to go down, well, I have all the time in the world and I'm sure you all do, too, but that's not, I'm sure, the purpose of this.

Mr. Ramirez: Jen.

Ms. Blum: So I actually similarly, I think that understanding the trajectory on earnings is important but to go back to sort of actually the question, is whether it's the appropriate metric, and whether earnings is part of the puzzle, or whether we're talking about the ability to repay, which actually are not -- they are correlated for sure. So I am not saying there is not a correlation but it's not -- and particularly because of again, the Department's own loan repayment systems, there is not -- it's not 100 percent direct correlation.

So while I'm not objecting to the you know pulling of earnings data, looking at loan or -- and I'm not suggesting this either, I just think it's more complicated than just the earnings question. And before we pull the earnings data, is that reaching the conclusion that we think debt-to-earnings is the right metric?

So I think that things like borrower's dependency on income-based repayment, which we are very -- we read the rulemaking on it and we're very supportive of an income-based repayment, maybe not seven or eight of them, but we are very supportive of having an income-based repayment. That reflects on a student's ability to repay a data point that would be interesting. And I'm not asking for it but I'm just pointing out that there are other areas that are of interest is the ability of a student to move beyond income-based repayment back into standard or into standard repayment at some point in time.

Those are the types of data points, to me, that demonstrate an ability to repay and a return on investment equation.

So I'm just saying that before we go seeking earnings data, I really would like us to land on whether we're going -- and I think this is a question and I'm not expecting the Department to answer it now. But I would say that before we go deep diving into a bunch of earnings data the Department needs to decide whether that's the proposal they're putting on the table to correct the debt-to-earnings or whether they are thinking about something else.

Because, to Todd's point, I don't think it's worth spending a ton of time talking about the trajectory on earnings if the Department is not going to land on debt to earnings.

Mr. Martin: Well, I can address -- I mean from our perspective, if we're looking at the current D/E rate, the current thresholds, we had reasons for why we did that. That was backed up by research and studies that we did. I'm not suggesting all of you have to agree with that. But we did. That was supported. So we do have a significant amount of text data to support that.

At this point, we're not wedded to sticking with it or departing from it. I think anybody who comes up with a suggestion that there be a different metric established, will have to give us some reasons as to why and some supportive data as why we should move to that.

So we have not made the determination yet. That's why we're here. We just didn't want to drop that on you as a fiat from us. We want to take it and back and think about it.

And we truly are, I'm not just saying that, we truly are giving thought to whether this is the proper metric and is there something else that you would put forward as an alternative to this.

Ms. Blum: So I just want to respond, I mean just because it was --

Mr. Ramirez: Yes.

Ms. Blum: And I'm fine with that. I just wanted to say that I just want to make sure that we know what we're going toward.

I did also want to respond that I don't support the notion of a subcommittee, per se, on this issue because actually I agree with Chris that I think if there are opportunities and there may be, actually, privacy reasons or why. I think it's actually a really good example of when me might call a caucus to discuss nitty-grittys around earnings in particular, professions because it's impactful for each of our own institutions to be having that conversation.

So I would say to the extent that both caucuses and subcommittees are private, I would say that there is an opportunity to operate in caucus and we don't have to go through the issue of creating a subcommittee.

Mr. Ramirez: Let me just formally ask that question, then, just so that way we could not just drop or approve. Let me see if you're okay with the idea of forming a subcommittee on data, as Todd had suggested. Let me a show of thumbs, if you're okay with forming a subcommittee on data.

Yes, so there are several thumbs down. That's what I had anticipated but I wanted to just formally do that so that way there is no -- at this time, no subcommittee on data.

Mr. Martin: One additional comment about that. I don't think the Department would say we preclude a subcommittee but I don't think that just because there was a subcommittee that that would obviate anybody else's request for data.

Mr. Ramirez: Absolutely.

Mr. Martin: So if there was a subcommittee and someone else outside that said I still want this, I would not say you know sorry, no we won't do that because there's a subcommittee.

So if the intent is to preclude other requests for data, it won't do that.

Mr. Ramirez: Yes, Tim.

Mr. Powers: Will we get copies of the written requests for data? Because I'm just a little bit worried that people are going to be sending requests and we'll have no idea what is being done.

So all I would ask is that if a written request is put forth, that we all get to see that.

Mr. Martin: If we get a written request for data, I will make --

Mr. Ramirez: I think it would make sense, if folks are going to request certain data, if they could just make the comment here that I would like this information and we're going to submit the requesting writing, so everyone understands what is being requested.

Mr. Powers: Yes, and it's just for transparency and just kind of knowing what they're looking at. That's all.

Mr. Ramirez: Absolutely. Sure.

Participant: So, I'm sorry. We had a request to ask what the process was for submitting requests for data for the record. So, if we have an answer to that.

Participant: I think they're conferring.

Participant: Okay.

Mr. Martin: Just some side discussion on that. First of all, our goal is to get the requests out as fast as possible. So we would like to just respond to the -- rather than just let everybody know when everything has been requested, get the data requests back as fast as we can and you'll all see it when we do that.

Any data requests that you have can be sent to us to Scott Filter, who is the team lead, and that is scott.filter@ed.gov. So if you put it to writing to him and be certain to make clear exactly what it is you're seeking so that the more detail you give us as to what you want, the better we'll be able to assess whether we can give it to you and then actually provide it.

Participant: And then you said the data would be available to all. So where would they find that?

Mr. Martin: We'll distribute it. Once we the data request is done, the outcome of that will be distributed to everybody.

Participant: Great, thank you.

Mr. Ramirez: All right, so Jacob -- I'm sorry. Is this on the data question?

Participant: I just wanted to make -- can everybody hear me if I stand?

I just wanted to make one suggestion about this, which is anything that involves earnings data is kind of a different kind of data run insofar as the Treasury Department has pretty strict disclosure rules about releasing earnings information, as you might imagine. And what that means from this standpoint is that the competing requests to do different sorts of data runs on IRS data are actually competing with one another. So that if somebody requests the data to be cut in one way, that might preclude the data from being cut in another way because, without getting too much into the details, the different cuts all have to have minimum numbers of kind of observations within each cell for the Treasury Department to be able to release that information out in the public for us to be able to see it.

So I think even we don't agree to coordinate on the kind of broader set of data requests, just with regards to IRS data requests I think maybe it makes some sense to do that because --

Participant: I will seek guidance from the professional on what group that should be.

Participant: Okay, so we're going to get back into our queue, and I believe Daniel has been waiting.

Mr. Elkins: I have a few questions for members around the table. Feel free in the natural flow of things to, when you can, comment to this. They are germane to debt calculations but they're kind of all over the place from the last few hours.

Whitney, thank you earlier for your clarification. Whitney, Jennifer, for everyone around the table as we're trying to understand debt calculations, do your organizations represent Section 101 schools, or Section 102 schools, or all consumers?

Tim and Todd, thank you so much for your wide knowledge base. It seems like you guys are adamant against using the current calculation rates at your institutions. I can understand where you're coming from for that.

Do you think that the current rates, as they are calculated, make sense to be applied to Section 102 schools? I'm not talking about expanding them but as they are currently fashioned, or would you advocate for refashioning them, or doing away with them as a whole?

David and Marc, it seems the average --

Mr. Ramirez: Daniel, let me pause you because it's going to be hard to track all this.

What was the first question that you had there?

Mr. Elkins: To Whitney and Jennifer: Do your schools represent all consumers at all institutions or just Section 101 or Section 102?

Ms. Barkley-Denney: And what's Section 101 and 102? Can you please define that?

Mr. Ramirez: Jennifer, why don't you do it first and then we'll get Whitney.

Mr. Martin: I'd like to make one point before we go on, understand that Issue Paper 3 is debt calculations. So right now, I'd like for people to remain focused on the D/E rates, is it appropriate to use this rate calculation, and not focus so much on the debt calculation on that, which we will be address in Issue Paper --

Mr. Ramirez: Can you resubmit it during that?

Mr. Elkins: Absolutely.

Mr. Ramirez: Okay, so what's your second question then?

Ms. Barkley-Denney: I'd like to respond to that really quickly. It's all students. It's all students. So for both of us, borrowers both at the beginning of their journey through college and then at the end. So we have also a lot of the issues that Jennifer was talking about with repayment plans and things like that. So we sort of covered this for all consumers from all sides of the educational journey.

Mr. Elkins: I do apologize. The question was meant to be to the gainful employment metrics, not -- my point paper accidently got taken off my desk.

So Tim, if you remember the question.

Mr. Powers: Would you mind just repeating it?

Mr. Elkins: Yes, we understand the reason why you would be against veterans -- we understand why you would be against GE, as it's currently calculated with the metrics at your institutions. Do you think the current metrics should be applied as they are currently to other institutions that wouldn't fall under your guys' jurisdiction?

Mr. Powers: So I think for the private non-profit perspective, it's not that we don't want gainful to apply to our institutions. It's the degree programs under the Section 101(a) definition because we do have a large number of schools that do offer certificate programs and they, quite frankly, I think would all agree that they should be under the gainful regulations because they are gainful employment programs.

We get a little squirrelly when you start to try to apply a definition not intended for the Section 101(a) schools, the degree programs at the public and the non-profit private universities. And so we get a little bit squirrely there.

But just to be clear, we do support the general structure of some sort of a gainful employment regulatory scheme as it relates to certificate programs at our institutions.

When it comes to the prop schools and the schools outside of our jurisdiction, I just don't think we're going to go there in terms of commenting on whether they should apply to them or not because we're just here to represent our sector.

And so I will just kind of refrain from the second part of the question.

Mr. Elkins: That's very helpful.

And my question is to David and Marc. Historically, programs at institutions such as yours are extremely high. And that does not necessarily mean they're bad programs. Obviously, you have issue with the metrics because earnings and the actual amount of the cost of programs don't line up.

Veterans do go to your institutions. How would you solve that problem is the question.

Participant: And for the record, Daniel, your question was to Marc Jerome or to Mark McKenzie?

Mr. Elkins: Mark McKenzie.

Participant: Mark McKenzie.

Mr. McKenzie: The challenge, as I tried to point out, maybe I wasn't clear in my presentation earlier, but it's a graduate medical degree. So fairly high credits. The high credits are determined based on, typically on state law. So your creditors don't necessarily establish that.

So first off, you have a high credit load right from the get go. Then, a student goes through that program and they can be successful in passing their boards and getting licensed, and yet their choice, once they graduate, is they are not a lot of gainful employment positions available. So, currently, not a lot of hospitals employ acupuncturists yet. It's moving that way.

I think this is a time line. So the longitudinal studies on earnings would be really important but I don't think we have the information yet to be able to look at that.

And you also place, basically all of this is about I think an inappropriate calculation or let's say a calculation that doesn't carry all the -- cover all the variables in order to determine something that's a general approach.

So I think the time line doesn't work for us. And I would assume, going back to what Robert said earlier, that there is an accreditation structure already in place. Any -- all accreditors that are involved in this Title IV, we go through reviews every five years. We track licensure rates. We track certification rates. We track completion rates. There are metrics that are already in place and there's a structure already in place. This is taking one piece out of that and trying to do it separately. And I think that was, whatever the political forces that took that outside and said well, we want to do this as a separate deal, you've created a net that captures schools inappropriately, I think.

Has it dealt with some bad actors? Probably.

Mr. Elkins: I appreciate it. You've answered the question from your end. I'd like to hear from David, if he can speak to this.

Mr. McKenzie: Sure, thanks, Daniel.

Mr. Silverman: Yes, we do have veterans, which is great, coming from the military to performing arts. It's probably a nice change for them.

We came, to answer your question, we're very low zone. We came in 8.1. So we were that close to passing. We're probably going to work on an appeal, which is due in February.

Actors -- so, we're not just dance. We're actors, singers, dancers. Our students are -- we probably have 60 students on Broadway; one of our graduates is on Modern Family; Jason Derulo, a top 40 performing artists. We've got to get his earnings into one of these calculations and Jesse Tyler Ferguson.

And also, lastly, just to keep talking, we had two of our graduates were in the original cast of Hamilton and now going onto Netflix and regular TV. And we need their earnings as well.

So like we were low zone, 8.1 for our performing arts. Actors need a few years. You know you're not come right out of school and start -- you're not going to -- most kids aren't going to be on Broadway day one or be on TV. They need, especially two or three years later, these kids could still be working waiters at night; they're auditioning during the day. They could be working at Starbucks. Some come out with jobs right away but it's hard. And three years is -- I'm a CPA. I went to business school. I didn't have my act together three years after college. I really didn't.

These kids need some time to have a -- and to treat performing arts like a business school is just not equitable to me.

So and the veterans, they're going to need some time, too. And I'm glad they come so keep sending them.

Mr. Ramirez: Jennifer, do you have a response to that?

Ms. Blum: Yes, can I just ask David a quick question? Do you offer at the bachelor degree?

Mr. Silverman: In Los Angeles, we have a four-year BFA.

Ms. Blum: So not in New York?

Mr. Silverman: Not in New York yet. We're working on it.

Our students can go from New York to LA.

Ms. Blum: You don't have to -- the reason I'm asking is is that -- and full disclosure, my son attends Tisch --

Mr. Silverman: Oh.

Ms. Blum: -- so I'm really immersed in debt issues but I just want to --

Mr. Silverman: We're cheaper than NYU.

Ms. Blum: But I just want to point out that they are, again, just from a disclosure and metrics standpoint, and I'm not suggesting it apply to everyone, I'm just point out the flaw in the conversation to discuss debt around performing arts when you know the two best performing art schools in the country are non-profit and they are extremely great schools. So I'm not questioning their quality, obviously, but I know that I'm going to have a -- I hope I don't but I'm pretty sure I'm going to have a film major who I'm supporting post-graduation.

Mr. Ramirez: Whitney, you had a question, a follow-up?

Ms. Barkley-Denney: Yes, I had a follow-up. Backing up on what Jennifer said, I mean, obviously, I don't think anybody questions whether an MDA has graduated some very good actors and singers. I have three friends who are graduates myself.

So you have two-year certificate program. How much does that two-year certificate program cost?

Mr. Silverman: Our tuition is 37.

Ms. Barkley-Denney: Thirty-seven, okay.

Mr. Silverman: Yes.

Ms. Barkley-Denney: I just wanted to get a clear -- because obviously, a lot of people don't -- you know my friends struggled as working actors for a while and then they go on. That doesn't say anything about the program. That's the nature of the business, right? Not everybody is going to make it.

Mr. Silverman: Not everyone's going to make it but there's plenty of backup positions. We teach entrepreneurship. We teach stage managing. Listen, just because you graduate a performing arts college, you may not be on Broadway. You may be designing. You may be writing. You may be choreographing. There's plenty of other positions to get.

And people want to only go two years. You know you want to come out, especially dancers, they need to be -- sorry to say it but they need to be young. You know you only have a short window, just like athletes.

Ms. Barkley-Denney: Sure. Sure, I just wanted to get the costs on the two-year program.

Mr. Silverman: And sort of -- the last thing. We sort of get caught in the GE. Our credits transfer. People come out with a certificate. A lot of students go from New York to LA and finish up and get their BFA but those students are counted until they go to the BFA. And if we didn't offer a certificate, these students wouldn't even be part of the gainful employment.

Mr. Ramirez: All right, let's -- Mark.

Mr. McKenzie: The of his institution I think perfectly illuminates I think the dilemma we're having with the current metric. I believe when the data will come out or when it comes out, that these type of programs, performing arts, fine arts, early childhood head, and if you looked at the data for degree programs across the country, almost none would pass the rule, which then leads to how is the Department justifying closing only those degrees in one sector.

And so that's basically the issue of fairness we're looking for. I think the issue perfectly presents with acupuncturists as well. And so that's the kind of data we'd be looking for to see are we serving all students well. Because if all students are having very high debt-to-earnings, then there's a separate solution to that.

Mr. Ramirez: Okay. So, Whitney, did you have something else that you had on that?

Ms. Barkley-Denney: I have a separate comment.

Mr. Ramirez: Okay, go ahead, Whitney.

Ms. Barkley-Denney: So getting to what is the question number -- question number two, I just wanted to say I do think it's really important to think about -- and we're not getting into the calculations yet so we don't have to discuss that, but I do think that it is important to talk about annualized and discretionary income. I think it's actually good for schools, since the current way it's calculated, you have pass both -- or fail both, rather.

But I want to, particularly around discretionary income, think about what students, when they're graduating and borrowers when they're graduating are paying out. So of course they're not just paying their student loan debt and we saw that back in 2013 when we were talking about the threshold levels, where you know in the original Baum papers that we were using, the eight percent cite was to non-mortgage debt. And I think that that's important.

You know these borrowers aren't just graduating with student loan debt. They're also graduating, most of them, unfortunately, into rental markets instead of mortgage markets but that's a whole other discussion.

So they're renting a house. They're paying for insurance. They're paying taxes. They're paying all of these things they have to pay and then getting to their student loan debt.

So it's really important when we talk about these metrics that we remember this should not be considered the only debt that a borrower has. And like I said, in the original papers that we were using a couple of years ago, those numbers were actually calculated around all nonmortgage debt.

Mr. McKenzie: Greg, I just had a question that could be fairly easy for you. The current numbers on earnings, those are just -- those are based on the reported and do not include discretionary income calculations because the appeals haven't completed. Is that correct?

Mr. Martin: That's correct. Currently, we don't know. We have not processed any appeals yet. So yes, all those would be reflective of -- all those earnings would be reflective of SSA data and nothing else.

We are currently looking at the appeals but so far, we have no -- there's not data to give anybody on the outcomes of -- based on the outcomes of any appeals.

Mr. McKenzie: Okay. So the -- Jordan, I believe the discussion you were having was all about the SSA earnings data, correct, not on -- as far as what you were talking about and does not necessarily include those professions that have alternate streams of income that may or may not be reported to SSA?

Participant: So, Jordan, you have to speak into the mike for the record, please.

Mr. Matsudaira: Sorry about that. I think what you're saying is correct. I talked about other data sources but I didn't address other sources of income that people might have that's not reflected in SSA.

Mr. McKenzie: Okay. This kind of comes back I think to what Todd was saying. And even though I did a side thumb on the idea of a data committee, I guess my request would be if negotiators are going to bring discussions of specific data to this table, I'd actually like to see the data that they're talking about.

Because you can talk about it but if I don't have time to actually look at the information, it's irrelevant because I haven't had a chance to look and say okay, do I agree. Is this data reliable or not?

As I said before, my biggest issue is I do not believe the current calculation would lead to reliable data because of all of the variables that have been said multiple times.

And we have varying degree programs. We haven't talked a lot about the difference between doctoral degrees, master's degrees, bachelor's, certificate programs but each of these sectors have very different areas that they focus on. In the accreditation system, we already have to look at that. We define standards within that and we track by sector.

And the current economic climate may be hitting one particular employment sector really hard and not hitting another one. How is that taken into account?

So to me, there are still lots of questions about how we can get to a reliable number, in order to look at this and have the potential huge impacts of closing schools, having students have to relocate either in a city or a state, go to a completely different state in order to pursue what they want.

Mr. Ramirez: All right, Mark, let me jump in.

So if anyone is going to be citing any data and you can't provide it in advance, that's obviously different than the request to the Department of Ed.

So send that data to us and then we could distribute it to the other members. Okay?

So --

Ms. Blum: Can I just ask one thing? Can it be distributed or given to us in Excel, as opposed to just in PDF, mainly so that we can do calculations and not have to try and get it all into --

Mr. Ramirez: I would say if you have an Excel, submit it but don't turn yourself inside out if you only have it because you got it from somewhere else and it's a PDF. But whatever you have, give it to us with the consideration of if it's in Excel, give it in Excel.

We're about -- is there any -- Greg, do you feel we need further discussion on number two?

Mr. Martin: No, I think -- well, we're just basically asking there -- so are the passing rates in the current regulations appropriate for determining programs?

I don't think -- I think we've got pretty much what we need there.

I'd like to move on to number three, actually, to have a little more input on three. Are D/E rates an appropriate metric for evaluating the performance of non-GE programs?

So approaching that from the standpoint of if we retained a D/E metric, would it be appropriate to apply that to non-GE programs as well, inasmuch as we're going to be measuring the performance of that program or is it not appropriate to do that?

Mr. Ramirez: Okay. So then I would say the same thing.

Participant: I'm sorry, Greg. Are you moving on to bullet three or Issue 3?

Mr. Martin: Oh, I'm sorry. No, not Issue 3, bullet number three of Issue 2.

Participant: Okay.

Mr. Martin: I think we've pretty much explored question one and two -- I mean I'm sorry, bullet one and two and to move on to three and get some opinions on that.

Participant: Okay. Okay, so just a facilitator note. I know that this is an emotional topic but we're going to start policing if it's sort of a kneejerk reaction comment to something someone is saying. Let's keep it about the actual question that it is.

Because it's almost lunchtime and we're only at bullet three and we have a few more to go on this one.

Mr. Ramirez: Yes, I think that we've hit quite a few on the other ones. I think we're getting close to wrapping up the conversation on this one. But let's -- Jennifer, go ahead.

Ms. Blum: I just have a question because one thing -- I actually was reserving on question two. And I'm happy to reserve on question two but, to me, that question was specifically asking about the actual -- and I just want to make sure that we have the conversation in one of the other issues then, about the actual metric of eight percent.

So I just -- if there is another place in time, that's fine, but I definitely want to have a conversation about pass zone fail.

Mr. Martin: Well, I'll entertain that. I mean if you want to -- but we need to be specific about the threshold, the rate, the actual thresholds.

Ms. Blum: Okay and I'm happy -- I mean just --

Mr. Martin: Because what's happening is I think we're slipping back into -- we keep slipping back into bullet one as a result of that discussion.

Ms. Blum: Yup.

Mr. Martin: So maybe we should -- if you have something to say specifically about that, then --

Ms. Blum: Is this the time? I mean I'm fine to do it --

Mr. Martin: Just go ahead.

Ms. Blum: Okay.

Mr. Martin: Go ahead.

Ms. Blum: So I would put the proposal on the table that when the Department is looking at the metrics, they re-contemplate whether a zone is necessary if the metrics on pass and fail change. So obviously, the pass and fail need to go -- so the pass would need to go above eight.

And zone, to me, has -- although I completely appreciate the Department's concept around zone, the fact of the matter is you can't really self -- just timing-wise, there is no opportunity to correct. And I know that that was the bona fide intent and I appreciate that. There is literally no opportunity to correct from zone.

And so I would propose that zone be removed and that there be a re-contemplation of what the right metrics are.

And so that's why I'm reserving the opportunity. Maybe it's not this issue. Maybe it's during the debt calculations themselves but I just want to put it on the table.

Mr. Ramirez: Okay, Jeff.

Mr. Arthur: Yes, in regard to the zone, also, I mean it's such a wide zone that it's a gulf that cannot even be crossed if you're at the higher end. It literally takes a huge percentage increase in salaries or a huge percentage decrease in debt to gone from the edges of zone to passing. And so it's not even practical to be that wide.

Mr. Ramirez: All right, I have Daniel, Tim, and then Mark McKenzie.

Mr. Elkins: Have we gone back to bullet two or are we on bullet three now?

Mr. Ramirez: Which one? Yes, we were hitting a little bit on two but if you have -- do you have two or three?

Mr. Elkins: We'll go with bullet three.

Mr. Ramirez: Okay, do three.

Mr. Elkins: So as the current rate stands, we don't think that it would be a good idea to expand that to non-GE programs just because it's not calculated in a fair equitable manner.

That being said, it doesn't appear to us to be calculated in a fair and equitable manner to any of the current programs as well.

Mr. Martin: Could you be a little more specific by exactly what you don't feel is fair or equitable?

Mr. Arthur: Yes, just the eight percent thresholds, like we have great schools, dance programs, and so forth that are just on the cusp. It does not make sense to penalize those institutions that are servicing veterans well because of a number that seems to, based on the information I have been presented with, based off of mortgage underwriting.

We feel much more comfortable, if we're going to have a conversation about expanding GE to all and keeping it with the rates currently within the current institutions, I would suggest, the 2011 rule. There was not all that much that was wrong with it. There was one portion that was turned over in court but we could fix that very easily.

Mr. Ramirez: Okay, Tim.

Mr. Powers: This is just for the Department because it's not in the issue paper, I just want to clarify going to Jennifer's point about zone versus fail.

So it's my understanding that if a program fails two consecutive years, it's kicked out of Title IV, correct? And if it's in the zone -- is it four consecutive years in the zone?

Mr. Ramirez: Let me -- sorry three.

Mr. Powers: So I just wanted to put that out there so that we're all sort of -- because it wasn't in the issue paper. That's all. Just making sure.

And just to sort of clarify also on the general support that our sector has for gainful, I just also want to make it clear that we think that they should be done better.

So us being supportive of a regulatory scheme doesn't mean we don't think it can be improved. I just wanted to make sure that we put that out there.

Mr. Ramirez: Okay --

Mr. Silverman: You all have to get warning I think the first year --

Participant: You have to speak into the mike, David. I'm sorry.

Mr. Silverman: Okay. You also have to give warnings and publish it. So after if you fail one year you have to put a disclosure and say if we fail next year, we're out. Who is going to go your school?

And the same thing with the zone, I believe, after two years you'd put -- I wouldn't get any students. You would look at the thing saying oh, this school might close. I'm not going. I'll go somewhere else.

Mr. Ramirez: Yes, I don't want to go too far down that rabbit hole.

Mr. Silverman: Exactly. I just wanted to make sure we were all -- so it's two years failing, three years in the zone you're out of the program.

Mr. Ramirez: Okay, Laura.

Ms. Metune: Laura Metune with the Community Colleges.

Earlier today we had a conversation about --

Participant: Hang on. Hang on. Can everyone hear Laura?

Ms. Metune: Earlier today we had a conversation about wanting to avoid items that were really under statute and not regulation. And I guess I have a question about this question, which based on the conversation yesterday, we concluded that in order to apply the GE metric to all institutions would require a statutory change.

And so I'm just wondering from the Department's perspective how this issue of statute versus regulatory authority plays into this question and what your intent is moving forward.

Mr. Martin: Well, there is a difference between whether or not, obviously, whether or not sanctions -- what the statutory authority is to apply sanctions based on D/E rates to all institutions, as opposed to the question of using -- applying D/E rates to all programs using them for disclosure purposes.

So we're getting -- you know, again, we've not put a proposal on the table. We're getting a feel for how -- you know where people are on that issue.

So we're not saying that just -- if rates were calculated for all programs, we're not saying that it would be necessarily we would be able to apply sanctions to all those.

Ms. Metune: Okay so to just reiterate some comments I made yesterday that if what we're being asked to do here is to weigh in on moving towards disclosure only for all institutions, I don't think that is sufficient. I think having a sanction and accountability metric is important for protecting students.

Thank you.

Mr. Martin: We'll put out -- we'll discuss -- that is in a later issue paper. So we will have time to discuss that issue at length.

Mr. Ramirez: All right, Marc Jerome.

Mr. Jerome: So I guess I will try to be consistent but in order to determine whether the 8 percent and 12 percent rate is correct, we have to get the data on the identical programs. And I think what I'd like the group to think about is if the data showed that almost all performing arts programs in the country did not meet a 12 percent rate, would that affect the way the group looks at consensus on whether 12 percent or 8 percent is appropriate. And without that data, it's almost impossible for us to really opine on whether the metric is appropriate or not.

The existing data seems to indicate it is not appropriate.

Mr. Ramirez: Okay, Whitney.

Ms. Barkley-Denney: Yes, I wanted to talk a little bit about how we think about these thresholds, particularly within the criticism that this comes out of mortgage underwriting. Actually, in some ways, as somebody has done both student loans and foreclosures, I think it's more important to tightly underwrite -- or not underwrite because that's not what we're doing but to make sure that a program is affordable for a student loan than for a mortgage.

If my mortgage clients fail to pay their mortgage, there is an easy remedy for that, which is that the bank takes back the house. Right?

If my student loan clients -- I don't have clients anymore but people who have student loans default on their student loans, the Department can, and I'm not making a judgment, I have them, but not making a judgment at this table, literally follow them to the grave, whether it's taking their tax returns, taking their Social Security payments. We are now seeing more seniors falling into poverty because of garnishments on Social Security payments than we have in the past.

So I think, actually, that having a tighter ratio when it comes to student lending is important because of the extraordinary powers of collection that the Department has when it comes to student loans and the financial straits that that can put a borrower into.

Now, we can talk also again about repayment programs and why that shouldn't happen but it still does and we need to make sure that those ratios are tight and that borrowers can actually afford to repay the programs that they're attending.

Participant: Just one question for you. It's about outcomes. Because again, I'm all about debt-to-earnings. And I guess what I'm looking at is is if the debt-to-earnings show that most institutions that serve low-income students have high debt-to-earnings rates that would have failed GE but they're non-GE programs, this is what I think the quandary the Department's in.

To me, if you're protecting consumers, we all have an obligation to protect them at any institution they serve. And I think the data, when it comes out, is going to be very problematic when we actually look at it.

Ms. Barkley-Denney: Yes, I look forward to seeing that data. I mean I can't comment until I've seen it.

Participant: Fine.

Mr. Ramirez: Dan, have you got a follow-up question on that, too?

Mr. Elkins: Yes. You were responding to what I was talking about with mortgages earlier. I really appreciate it. It's a good perspective. I appreciate you kind of -- it's something we need to think about.

As it was layered in with that third bullet point, so then are you saying keep eight percent and apply that to all schools at all institutions?

Ms. Barkley-Denney: You know I think for disclosure purposes -- look, as a consumer advocate, certainly we want people to be able to see the debt-to-earnings ratios for the schools that they're attending. I wouldn't necessarily be a thumbs down on that. I think I would have to think about it more.

I do think the eight percent threshold is reasonable. I think it's very well-reasoned within the Baum paper that we use. I think that, again, including and thinking about -- I actually think it's generous because the eight percent threshold, as it was proposed in the Baum paper, as I said before, was all nonmortgage debt. So that's credit card debt. That's car debt. That's you know any debt that you have, other than a student loan.

What we did when we used that eight percent was we just isolated it to student lending which, theoretically, you know people have other debts that would have been included in that eight percent calculation in the Baum paper above that eight percent threshold, if that makes sense.

So you know I think that it's really important to think about all of the debts that students have and that student debt should only be a fraction of that.

And a lot of those debts are things that they have to have. Most people have to have a car to get somewhere and they can't necessarily go afford to pay for it or they have to have other credit card debt to get them through hard times, or to help them on payments that they can't necessarily make. So I don't want to cast this as all that other debt being bad and student loan debt being the only worthy debt out there.

Mr. Ramirez: Yes, Greg.

Mr. Martin: Yes, this is Greg. For the record, I just want to make a clarification because we're talking about the outcomes under the D/E measure. So the problem with this is we have two, three -- we have a number of different years working in conjunction here to get this all straight.

So I just want to be clear about this, that a program becomes ineligible for Title IV funds if it fails the D/E rates measure for any two -- for two of any three consecutive years for which rates were calculated for the program or has a combination of zone and failing D/E rates for four consecutive award years for which rates were calculated for the program.

So the three comes into play because there is any consecutive two -- for two of any consecutive three years. That's for failing. And then failing or zoned for any four-year period -- consecutive four-year period.

Does that help clarify things? And the reference I'm using -- and I wrote this myself. So it's funny how you forget that when you're trying to speak on your feet. But our June 30, 2015 Dear Colleague Letter 15-12 is what I'm referencing for that.

Mr. Ramirez: All right, so just a quick time check. We have like 25 minutes before noon and we have three speakers left on the list.

I think that we could probably get to close to wrapping the conversation up on number two prior to lunch. So let's see if we could get that done.

So we have John, Diamond, and then Jeff.

Mr. Kamin: This is more just a statement for the record and a clarification.

In terms of 8 and 12 percent, speaking on behalf of the veterans groups that nominated me, I would say they are overwhelmingly in support of the gainful employment rule that was written in 2014. Overwhelmingly. No matter what the narrative that we establish here over the flaws, and deficiencies, and how much of a train wreck it was, and how much we insult it, the premise behind it is extraordinarily important for veterans.

And with that, our baseline is what needs to be changed from the status quo right now. So I'm not one to arbitrarily say on their behalf we should go from 8 to 12 percent. I think it's interesting and important to understand and I would hope we can come to consensus on it. If it means the rule can stay because 12 percent works, great. But the most important thing for us is to understand why the changes need to be had right now.

And that is just the reality. Outside of this room, I'll tell you what, this is a very important issue for veterans and we're not approaching this from a way other than identifying the fundamental fixes that need to be made.

Mr. Ramirez: Okay, thank you.

Diamond, Jeff, and then Jennifer.

Ms. Diamond: I just wanted to add another point in support of the current thresholds. Looking at the discretionary income piece and how that 20 percent passing rate is calculated, that's looking at 150 percent of the poverty level, to my understanding, for a household of one which just isn't true for so many students attending GE programs.

So I think, in addition to what Whitney said, the generosity is already -- we're already being generous with it. And to be more generous for institutions would really be at the expense of students.

Mr. Ramirez: Thank you. Jeff?

Ms. Blum: Yes, so I'm actually just going to the question three on the applicability to non-GE programs and assuming where it sounds like we're making the assumption.

First of all, I do want to point out that you asked the same question on disclosure explicitly in Issue 6. So I'm going to keep this really short and just respond to something or piggyback, I guess, off of Tim to say that if you're applying this metric more broadly in a disclosure environment, I again would reiterate that when you think about debt-to-income and if you're thinking about it in association with training and preparation for GE, there would be, in my view, numerous degree level -- well at least graduate degree level that are not necessarily preparatory.

So whether that metric makes sense -- and by the way, a good number of graduate level programs pass. So I'm not suggesting actually because there is a problem because, actually if you look at the date, most programs pass at the graduate level.

I'm from a burden standpoint of doing this reporting and disclosure when there's not a there there at the graduate level and when it's not meant to tell anything about the initial job training piece, I think that there's a subject there for conversation. I'll reserve it more. But because you asked the question here and in six, I'm putting it on the table.

Mr. Ramirez: Okay, thank you.

Jeff.

Mr. Arthur: Yes, and the bullet 3 does ask for some other metrics that appropriate for evaluating programs. I think certainly that we should make data available. Whether it's a metric that leads to sanctions is another issue. But certainly the salary, and debt, and cost of each program should be available to consumers if we can make that happen.

But I do want to point out a few things. I'm going to state some data but I'm going to say it's general data and that we can find it. Right now, one of the biggest factors of the cost of education is time to completion. And that is one of the elements of the gainful employment disclosures. And so I think that is an important metric to consider for all institutions: time to completion.

I believe the recent analysis shows that bachelor degrees, the median completion time is -- I thought it was 5.8 but Roberts told me that it's over six years now.

And then there was an article in either the Chronicle or Inside Higher Ed recently that showed that on average, when a family considered how much they are going to spend on a degree, that it ended up being 40 percent more than they expected.

And then another metric recently, a survey showed that 30 percent of graduates wish they would have chosen a different program. And I think this really highlights the need to disclose this information. And so when we look at what are some other metrics for evaluating all programs, and non-GE programs, and GE programs, that this is all information that we have a responsibility to make available.

Mr. Ramirez: Thank you.

So we have Tim and then Chris.

Mr. Powers: I appreciate your point, Jennifer. And I just wanted to say that we'll definitely be engaging in that conversation later. So, thank you.

And just to bullet point three, I mean I think we've made our opinion pretty clear that we just don't think it's appropriate to apply metrics not intended for our programs to be applied to them.

So we've made our position clear. So I'll drop it at that. Thank you.

Mr. Ramirez: Okay, thank you.

Chris.

Mr. Madaio: Chris Madaio.

So, you know the debt-to-earnings, clearly there are a lot of issues here at this table with it. However, it seems that we've had a really hard time coming up with something else that would better. So, that's what I really haven't heard yet today except for the discussion of BLS data, which is so far away that it's really not even close.

So you know I think that's really the problem that this is the metric and, unfortunately, someone is always going to be on the cusp. The person who is on the cusp is always the one that feels it's unfair.

So I think because a school may be just barely failing, you know that doesn't require that the metric needs to be thrown out or that the metric is inappropriate because some people are very much failing and then some people are just barely failing. Because no matter what the metric, someone is always going to barely fail it.

And I think the key point, and we've talked a lot about how if the metric is about having too much debt, we'll it's also about having perhaps too high a tuition. And that's what the gainful employment aspect of the higher education statute is trying to cure. I mean that's why it was put there in the first place. It's why for-profit colleges and career schools that were not non-profits were permitted to participate in the Title IV student loan process is because it's supposed to lead to an outcome that they are different. I mean that's why they are positioned differently. It's why the HEA treats them differently is because career schools that are in the for-profit world, they are proprietary for-profit and then certificate programs are different than programs at non-profits and public schools.

There are differences in the way for-profit schools are structured. I understand that's going to be a huge point of conflict and clearly, we're never going to agree with that. I think the research bears this out and there are just some straight facts that are true, right, that a for-profit business and a non-profit business are different.

There are structures put in place in non-profits' world that make them different. There are structures put in place for public schools that make them different.

So you know, clearly, I'll get disagreement. I'm sure a lot of people are going to put one up and want to disagree. So I think but the HEA requires programs that will lead to gainful employment for specific programs and not others.

Mr. Ramirez: Okay. All right, we have about 15 minutes. So we have Tony, Jeff, Jen, and Sandy.

Tony.

Mr. Mirando: Okay, thank you.

And again, just listening, and I try to listen to everybody's perspective and there's a lot of that going around, I keep coming back to what's fair, honest with the student -- you know for the students and giving them choice. And whether it be a non-profit, a for-profit, whether it be a certificate program, or a bachelor's program, or a graduate program, they should have choices what best works for their lifestyle, their lives, their time of life that they're in.

So whatever GE -- and you know I'm all about accountability, I'm all about data. I run an accrediting agency. It's important. But I also think and I would assume there's nobody around this table that would say whatever data we're using should be accurate data. And it should be data that reflects what's good for everybody, not just certain parts of our community.

And whatever -- I mean I'm assuming this meeting here is to provide information to the Department so that when they go back and look at GE, that maybe they can fix some wrongs. And when you look at the GE metrics, it's wrong when it comes to certain individuals, certain students, certain graduates, certain programs.

And if we're trying to establish right here, then we just need to continue to go back and look at this so that Christopher, when you're looking at it from your eyes, people can say it's a fair process; that the bad apples are being taken care of but the good apples are allowed to continue, whether it be for-profit or not-for-profit, whether or not it's an 18-year-old young female who has got a couple of kids or a 50-year-old male who is wanting to get into barbering.

The reality here is that we've got a system that's not working and we need to sit around -- we're very smart people -- sit around and come up with the metrics that works and takes into consideration all, all -- not some, not part, not most -- all of the different characteristics that we each endure at our institutions or all of what our students endure every single day. Because unless you do that right, it's going to be wrong.

Mr. Ramirez: Okay, thank you. Jeff.

Mr. Arthur: Yes, I think we're definitely for performance standards, Chris. And first of all, I mean the zone has to go. I mean that does a disservice to students. It potentially is going to push students to programs with higher debt-to-earnings rates or poorer performing programs than where they might have originally gone.

What we've got to really do is truly identify the outliers. But I would certainly start with the zone has got to go.

Mr. Ramirez: Okay. Jen.

Ms. Blum: I, too, wanted to address some comments by Chris. So, and of course I agree with Jeff on the zone issue.

But I also do want to say that you said you mentioned that we haven't offered up any other suggestions. And I do want to -- we are holding all of our suggestions on the debt-to-earnings to the other issues. So there are lots of issues coming up and we have lots of suggestions on amortization periods. And we're just not addressing them now because the Department has appropriately defined those issues later.

So I don't want anybody to have the impression that we're not providing means for improvement. We certainly are on this metric. And I just want to point out that I also raised the House bill is addressing actually very similar concepts. I'm not saying whether they are right or wrong but there are other proposals out there in the universe relating to programmatic loan repayment, which gets to the repayment issue.

So I don't want there to be any suggestion that we're not suggesting other alternatives.

Secondly, to say that for-profits are different from non-profits is to over simplify the world in higher ed right now. And as an institution, I will keep harping on this, unfortunately, but we have outlived the statute, which is really my point.

And with respect, we have programs that we offer that are, and the reason that they are, closely identical is because of our accreditors. And with all respect, they are in the triad, the ones who handle this situation.

But I will give a perfect example. We have a master's in mental health counseling. We're very proud of it because it is CACREP-accredited. CACREP requires an extra lengthy master's program. It tends to be a two and a half to three-year program. That's not my choice. That's CACREP's choice. All programs are at that length if they are CACREP accredited. That has impact. We are one of the only master's in mental health counseling programs, which we are quite proud of, at the for-profit level.

All of the non-profits are not subject. I'm just pointing out the flaw in the system.

I'll give you one more example. We are the only for-profit architecture school that has a gainful metric right now. The only one. We have nothing to compare our data. Our students having nothing to compare their data against.

So I just want to point out that these are the types of quandaries that the Department is in. And so when we look at disclosures, and if that's the applicability, that's why I keep saying what do we want the disclosures to apply to.

Mr. Ramirez: Thank you.

Sandy and then Jordan.

Ms. Sarge: So I respect everybody's position about statutory versus non-statutory issues. So I would ask then that if we can't respond with where the issues, in my opinion, arise, then let's take things off the table. Because I can't address cost and why, in my opinion, cost is up or down without bringing in where I truly believe the problem is. And I'm trying very hard to avoid the words.

But if you bring up cost, I am going to have a hard time not bringing up things that impact that that are in the statute right now.

And I get what we're all here for. So I'm going to respectfully ask, don't bring it up again, then. We heard you twice now about cost and I have a strong opinion about that. And I'm going to respect the group's wishes to not bring it up but then don't hammer me on it.

Mr. Ramirez: Okay. Jordan.

Mr. Matsudaira: Just on the issue of whether we've outlived the statute, I mean what I wanted to kind of speak to is just the kind of sense that's come out, not in a very precise way but the notion that you know there's kind of the differences between for-profit sector and the not-for-profit sector aren't all that stark.

I think this is another area where we actually have a lot more information about relative performance of the different sectors, and not only just the differences, and kind of the default rates, or payment rates, debt-to-earnings, earnings outcomes, and things of that sort of nature but we really have a sense that, even when you condition on the kind of differences in the students who are entering these different sectors, that outcomes do tend to be quite a bit worse in the for-profit sector. And because of that, there is a rationale for kind of the heightened attention that we're paying to this sector.

So I want to kind of give you some citations to research studies that kind of show this. And there are a lot that have been conducted over the last five years or so. So we really have a lot of added information on this front that I think really warrants the kind of heightened scrutiny that the regulation brings to the sector.

But one idea that I had for kind of getting more information about this in a way that people might find useful was to ask the Department. So the Department, during my time here, developed -- I think they brought in some people from industry to do risk modeling, basically a predictive exercise for being able to try to figure out the ex ante default risk probabilities of students.

I'm sorry -- how far back would you like me to go?

Mr. Ramirez: Continue.

Mr. Matsudaira: So the Department has a group that works on kind of risk modeling for the loan portfolio. And I'm not -- I was kind of around for the early part of the development of the models that were there so I'm not really sure what the final model looks like and exactly what's part of that but maybe the Department could let us know.

My recollection is that the elements of that model took into account a lot of different aspects of kind of students' financial background from the FAFSA and also had information about the sector that students were enrolling in.

And so from that, you can get a sense for you know based on the history of default at different institutions, once we condition on the differences in student characteristics across institution or programs, what's the kind of differential kind of default involved -- what's the kind of differential likelihood of default and perhaps other kind of repayment outcomes that are due just to kind of differences across the sector, the institutions in which people are enrolling.

So if the Department could perhaps bring some of those people to the table to talk about those things, that might be informative. Thank you.

Mr. Ramirez: All right. We have about five minutes left and we have Jen and Mark left.

Ms. Blum: Well, I'll speak for a minute and just for a minute.

I mean just to Jordan's request, you know I would be interested if that data got broken down by demographic and by socioeconomic status because I think that that's really important.

Mr. Ramirez: Mark -- oh, I'm sorry.

Mr. Martin: I'm not familiar with that. I don't work in data so I'm not familiar with that study. I'd have to check to see if we have it or what we would be able to provide. So I can't promise anything with relation to that -- in relation to that until I've talked to other people.

Mr. McKenzie: And I do appreciate the comment, Jordan. I think the one area where the data isn't really available is exactly in this setting, the debt-to-earnings data and hopefully, we'll get there.

I would like revisit, because there was a request about an additional metric, or something that would make the rule better. I continue to believe that all the available research, especially from places like Complete College America, show that completion is very important. And there's a very good Brookings report from Looney and Yannelis that shows that both at proprietary colleges and at community colleges, the students that drop out earliest with the least debt default at the highest rates.

And so I think one of the things that did not come out in the last session is just how wide a swatch of GE programs are not measured because they don't graduate enough students.

And I brought it up last time but one of the reasons that made me question the efficacy of the regulation was that the certificate programs in my neighborhoods that are public but subject all pass and they had below three percent graduation rates. And it was hard to argue that a program is of high quality when the completion rates are less than five percent or less than ten percent. And I think it would actually, from a consumer standpoint, nothing could be better for consumers, especially low-income students, if the rule could incorporate something that helped improve completion rates.

Just one piece of data and I will submit it. This data was run by College Measures and it showed of almost 30,000 certificate programs in the public sector that were subject to GE, about 90 percent of them did not graduate the requisite 30 so they weren't measured.

The data's not good in the proprietary sector either. Of the almost 5,000, almost 3,000 did not meet the 30 percent.

So, there is something going on that a reg that's supposed to reach GE programs, because of the completion issue, is actually not reaching GE programs.

Mr. Ramirez: All right, thank you.

Tim, are you going to close us out?

Mr. Powers: Yes, this is just a question for the Department, again, just so I understand.

My understanding is that if you have an N-size less than 30, you don't report annually but if you eventually get to that 30 threshold over the course of, I think, three or four years, that data will be eventually reported. Again, I'm just looking for clarification. Is that --

And by the way, the answer is I think that is correct. I have the data on that and the data, even on the N-size less than eight is not so great.

So more than half the programs have N-sizes less than eight. And it's something I think we and the Department should think about.

Mr. Martin: Just a point of clarification. Bear in mind that you still report if you have less than -- we don't use it if the N-size is less than 30 but you'd still report.

Mr. Ramirez: Okay, Chris.

Mr. Madaio: Quick point. I appreciate the point about the essentially graduation rate metric. And not that I'm saying additional metrics could be good, a warning about using graduation rate in place of that debt-to-income is that it puts incentives essentially on a school to push people through to ensure they graduate without having taught them the requisite skills.

Sure but that's things I see. As an enforcement Attorney General, these are things we get complaints from students or we hear about schools that are pushing students through. We hear complaints about students who say teachers weren't in the room; they weren't taught the appropriate things to be able to learn through their field.

So graduation, of course, is important and it is, I think, something that does have some indication about whether a student can succeed but I would really caution in using that as a sole metric because it really won't accomplish determining whether a student is prepared for gainful employment.

Mr. Ramirez: All right. Let's return back at 1:00. And when we come back at 1:00, we will start up with Issue 3.

# Adjourn

(End of Recording.)