

DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION  
AFFORDABILITY AND STUDENT LOANS COMMITTEE  
NEGOTIATED RULEMAKING SESSION 1, DAY 2, MORNING  
OCTOBER 5, 2021

On the 5th day of October 2021, the following meeting was held virtually, from 10:00 a.m. to 12:00 p.m., before Jamie Young, Shorthand Reporter in the state of New Jersey.

P R O C E E D I N G S

MRS. MACK: Good morning, everyone.

Welcome back to Negotiated Rulemaking, The Affordability and Student Loans Committee, session one. We had a really productive day yesterday, and I'm totally expecting us to build upon that this morning.

I want to do a quick roster call if you will for purposes of our viewing audience and for purposes of our transcript and just to re-welcome you all again to the process. So, I'll call out your constituency group and if you can just say good morning and your name for the record, that would be really helpful. Alright.

First, for U.S. Military Service Members, Veterans, or groups representing them.

MR. HAUSCHILD: Hello. Justin Hauschild.

MRS. MACK: Thank you. Good morning, Justin. For two-year public institutions.

MR. AYALA: Good morning. Bobby Ayala.

MRS. MACK: Good morning, Bobby. For student loan borrowers.

MRS. O'BRYAN-LOSEE: Good morning. Jeri O'Bryan-Losee.

MRS. MACK: Good morning, Jeri. For state higher education executive officers, state authorizing agencies, and/or state regulators.

MR. TANDBERG: David Tandberg.

MRS. MACK: Good morning, David. For state attorneys general.

MR. SANDERS: Joe Sanders.

MRS. MACK: Good morning, Joe. For proprietary institutions.

MRS. BARRY: Hello. Jessica Barry.

MRS. MACK: Good morning, Jessica. For private non-profit institutions.

MRS. SABOUNEH: Morning, everyone. Misty Sabouneh.

MRS. MACK: Good morning, Misty. For minority-serving institutions.

MRS. GONZALEZ: Good morning. Noelia Gonzalez.

MRS. MACK: Good morning, Noelia. For legal assistance organizations that represent students and/or borrowers.

MR. ROVENGER: Good morning. Josh Rovenger.

MRS. MACK: Good morning, Josh. For individuals with disabilities or groups representing

them.

MRS. LILLY: Hi. Bethany Lilly.

MRS. MACK: Good morning, Bethany. For independent students.

MRS. MARTIN: Michaela Martin.

MRS. MACK: Good morning, Michaela. For four-year public institutions.

MRS. DORIME-WILLIAMS: Good morning, everyone. This is Dr. Marjorie Dorime-Williams.

MRS. MACK: Good morning, Marjorie. For financial aid administrators at post-secondary institutions.

MR. BARKOWITZ: Good morning. Daniel Barkowitz.

MRS. MACK: Good morning, Daniel. For federal family education loan lenders and/or guaranty agencies.

MRS. O'CONNELL: Good morning. Jaye O'Connell.

MRS. MACK: Good morning, Jaye. For dependent students.

MR. NORWOOD: Morning. Greg Norwood.

MRS. MACK: Morning, Greg. For accrediting agencies.

MRS. PERFETTI: Morning. Heather

Perfetti.

MRS. MACK: Good morning, Heather. And for the Department of Education.

MRS. HONG: Good morning. Welcome back. Jennifer Hong.

MRS. MACK: Good morning, Jennifer. Alright. It is great to see you again. Before we get into our substantive work, I want to note that a couple of documents were circulated earlier, a clarification on the closed school discharge, the first subtopic that we talked about. And then, some proposed ideas from some of our constituency groups for everyone's consideration regarding upcoming issues. So, please make sure that you got both of those e-mails sent out from the facilitation team.

Commented earlier we thought we had a very productive day yesterday. We applaud all of you for your participation. However, with that, we did hear some of your concerns and your feedback, and upon listening to that and giving that some deep thought we have carefully thought about it, consulted with the Department of Education and, and we want to make a couple of modifications.

First, during yesterday's session, the Department of Education provided us with 10 individuals

who were slated to participate in our public comment section. Those were the only 10 individuals that requested public comment today, so I, I want to report that specifically that nobody was turned away yesterday. However, we ran into the issue of not having everyone show up, so we had some lost time for public comment yesterday.

In an effort to maximize that 30 minutes and make it as efficient and productive as we possibly can, we're adding a waiting list. I can tell you that folks are already requesting public comment today, and we are going to get in as many individuals as we possibly can during that 30 minutes including the utilization of a waiting list.

I do want the public to hear. If you are on the waiting list and we do not get to you, you are not automatically rolled over to a subsequent day. You will, in fact, need to re-register for a subsequent day if we do not get you in in that 30 minutes. But we heard you. The public comment portion is important, so again, we wanted to make that modification on our end to see if that can help improve the process for that last portion of each of our sessions together.

We also received some feedback in terms of the screen sharing and making sure that the folks

viewing have the ability to see the committee's thumbs, right, and the temperature checks for tentative agreement that we are being -- that we are completing.

So, we're going to be really intentional when we're -- when we're screen sharing to direct Vanessa or Erin or whoever's assisting us to make sure that the relevant highlighted text is in fact highlighted during the conversation. And when we take a consensus check or a temperature check we will stop sharing so that the -- all individuals can be seen on the screen. For some watching, not all individuals are on the screen while we are also sharing the document.

We just wanted to update you on our end about a few tech improvements that we think we can make to improve the process. Alright? Any clarifying questions on that? Okay.

A few reminders. We have lunch set at 12 Eastern time. If we can, we want to fit in a very quick five-minute break on the hour. Alright? And we will begin today with closed school discharge.

Again, we began that topic yesterday. We got through, I believe, the first sub-issue. And so, we were ready to begin the second -- the second solution proposed. Greg, I see your hand.

MR. NORWOOD: Good morning. Yesterday

we talked about having a for-profit borrower to join this conversation if you think if they provide critical, piece to the work that we're trying to do in this area. Some of us got together and want to propose that we add a for-profit borrower as an advisor, someone who can sit in on the conversation and advise as necessary.

We think their experience and their voice is absolutely critical to this conversation and it's almost useless for us to even talk about it without allowing them to share their story or at least be as one who could advise on this subject matter.

MRS. MACK: Let me ask a clarifying question. As the protocols specifically do not address the committee adding an advisor, is the committee open to taking a consensus check to in fact adding an advisor in this environment rather than an advisor that, similar to those that each of you can consult in break-out spaces, caucuses, between sessions, etcetera?

We have two advisors to the committee who have been designated. This is a new role, so I imagine this is a first instance where it's been proposed to add said advisor. What, what are the committee's thoughts? I'm seeing some thumbs. Does anyone have a question or comment? Josh, please.

MR. ROVENGER: I would -- I would just be strongly in support of us taking consensus check to add on this additional advisor.

MRS. MACK: Okay. Marjorie, please.

MRS. DORIME-WILLIAMS: And I just wanted to clarify. Was there a reason that we thought the rules -- the person should be an advisor as opposed to a committee -- a full committee member? I'd ask Greg if he could answer that question.

MR. NORWOOD: Well, I think yesterday that was voted down to add that person as committee member. If I am -- if I am wrong, please clarify that for me. But I think that person did not get full consensus yesterday. Neither of them.

MRS. MACK: Yeah. To be accurate, I believe we actually took a consensus check on three separate individuals to become a member representing that role and did not meet consensus. I'll have --

MRS. DORIME-WILLIAMS: This is still with reference to those same individuals or one of those individuals to be an advisor instead?

MRS. MACK: The way I understand Greg, and you correct me if I'm wrong, first we'd be taking a consensus check on whether we should add an advisor at all, and if that were to pass consensus, then I believe

the committee would have to agree on who that individual was or there would be some other selection process.

MR. NORWOOD: Someone feel free to jump in. The way I think about it is we did have three names proposed. I would assume those three names are still available and so I would move to go straight to consensus check to see if we can add one of those individuals as an advisor. Someone feel free to clarify that if they feel the need to.

MRS. MACK: Okay. Jennifer, I see your hand next.

MRS. HONG: Yes. I just wanted to say that the Department would be supportive of having a student serve in that capacity. I just want to reaffirm that we are committed to hearing the voices of students and particularly the lived experiences that some of these students and borrowers have had intimate experience with closed school discharge and borrower defense to repayment. So, we would be supportive of that.

MRS. MACK: Okay. Any other questions or comments? Heather, please.

MRS. PERFETTI: I believe yesterday there was some discussion about at least one of the members being a named plaintiff being unable to join the committee. Does this same rule apply to the advisor

role?

MRS. MACK: Can someone answer that question? Brian?

MR. SIEGEL: Yes. Our position would be the same that we remain open to, to adding a committee member -- I mean to adding an advisor, but it shouldn't be somebody who's been named plaintiff in the lawsuits against us.

MRS. MACK: Thanks for that clarification, Brian. David, I see your hand.

MR. TANDBERG: Yeah. I definitely support this but I'd prefer to have them as a, a full member of the committee. But if this is the alternative, I would support it. I would suggest we vote on the individual that provided testimony yesterday. I thought what she said was incredibly impressive. She's not a named plaintiff, and it appears that Greg is wanting to take a vote on an individual so we ought to identify an individual that we can take a vote on.

MRS. MACK: Greg, will you do me a favor and put that individual's name again in the chat just for everyone's reference? Or someone who has that name, please. Josh, I see your hand.

MR. ROVENGER: Thanks. So, one question and, well, two questions. One for the

Department and one just for the entire committee. For the Department specifically, I was wondering if you could just elaborate on whether this policy towards precluding a named class rep has been utilized for -- to prohibit any advisor previously or whether it's just something that the Department is choosing to do for the first time now.

And then the second question for the group is whether -- it, it seems like there's some degree of consensus that this is a voice we want at the table. And so, in addition to or perhaps even before adding the individual as an advisor, I would also be in support of reconsidering whether we want them as a full voting member of the committee.

MRS. MACK: Okay. Thank you for that, Josh. Did anyone want to speak to the first question which was the advisor, the question?

MR. SIEGEL: This is Brian Siegel. We haven't had formal advisors in the past who are committees. This is a, a new change in our process for us, so didn't come up before.

We have allowed negotiators to invite experts to address the committee on a one-time basis which is also part of our process with this committee, but we haven't had this type -- this specific situation

before.

MRS. MACK: Okay. Jessica, please.

MRS. BARRY: Oh, thank you. So, I, I thought a lot about this last night. I reviewed my notes and I studied the makeup of our committee again. I know, Jennifer, you are saying that you would support an advisor, but, you know, going back to your comments yesterday, the Department has put a lot of effort into making sure this committee does represent student borrowers in multiple categories. You know, borrowers also have the ability to participate in public comment period at the end of each day and I'm glad that you have instituted the waiting list. I do not support adding additional seats to this committee because the Department has ensured that student borrowers are adequately represented.

MRS. MACK: Thank you, Jessica.

Daniel?

MR. BARKOWITZ: Sorry. Having a mute fight with my mute button.

MRS. MACK: Happens to (inaudible).

MR. BARKOWITZ: So, I, I would also echo a concern that I raised yesterday which is if we start segmenting out student borrower voices or individual borrower voices, there are other segments of

the borrowing population that aren't specifically represented.

So, personally, I would be in support of the compromise position here which is the advisor role. I am concerned about, you know, having an opportunity for graduate students to weigh in, for parent borrowers to weigh in. There are a number of, you know, issues that we're addressing, interest capitalization as an example where, you know, it might be helpful to hear from a graduate student borrower.

So, you know, I, I guess my, my, my concern is how far do we start segmenting the population? So, again, as a compromise, I'd be willing to support the advisor position, but I'm concerned about adding additional members as well.

MRS. MACK: Thank you, Daniel. Misty?

MRS. SABOUNEH: I think there's immense value in having someone who, a, is willing and has been sitting through all of this and took the time for comment yesterday and has been through the process. I think a lot of us, obviously, we know a lot of this content but someone who's been through the process and can provide some of that just nitty-gritty details because we have a shot at this. We don't want to get it wrong. We don't want to miss anything. So, I'm fully in support of

adding someone in as an advisor, and I think that that would be valuable information and really help round, round out this group of knowledge.

MRS. MACK: So, I would like to move you all to a consensus check. I see two names that have been placed in the chat and I want to clarify who in fact we'd be taking a consensus check on. Josh, can you provide that clarification?

MR. ROVENGER: So, we're still waiting to hear on whether Mr. Londes who is the student borrower who spoke yesterday is available. And Ashley Pizzuti who is the borrower we put forward in the afternoon is available, and from our experience has equally valuable in -- insight to share with this committee.

MRS. MACK: Okay. So, the original motion put forward by Greg was to add this individual as an advisor. So, I am inclined to move this committee to take an official consensus check on adding Ashley Pizzuti as an official advisor to the committee in addition to our two advisors.

Is everyone clear on the consensus check and ready to take that check? I'm seeing all nods. Please raise your hand if you're not. Okay. Then let me see everyone's thumbs on adding Ashley Pizzuti as an

advisor to the Affordability and Student Loans Committee.

MRS. MACK: We are not in consensus on adding Ms. Ashley Pizzuti as an advisor to this committee. Josh, I see your hand.

MR. ROVENGER: I have a question about the protocols. Does the protocol specifically require a consensus to add an advisor or would a majority rule carry there? Because I only saw one dissenting voice.

MRS. MACK: So, adding an official advisor is not specifically addressed in protocols, admittedly. But in every instance where the committee collectively makes the decision, it calls for consensus and not majority voting. So, I think it would be safe to say that for this decision, consensus would apply as well simply because that is how this committee makes all decisions. Josh?

MR. ROVENGER: And, and I would also move further to add Mr. Londes as an advisor, as a second vote.

MRS. MACK: Let's take a consensus on adding her as an advisor? I'm sorry. I just want to be clear. Is that what you said, Josh? Yes, okay. David, I see your hand.

MR. TANDBERG: Yeah, I understand the, the desire not to segment borrowers too much, but I think

we should also make decisions based on data. Students who default are overwhelmingly from for-profit institutions. For-profit institutions make up the majority of closed schools. These are affecting students and student borrowers, and so if there is a population of borrowers that ought to be represented on this committee, it should be the for-profit students.

And so, whether it says an advisor or an official member, I think the data are clear what we should do. And so, I would strongly encourage everyone to give the thumbs-up vote on this.

MRS. MACK: Thank you, David.

Michaela?

MRS. MARTIN: I just noted that, out of the students who are on here, we have two, you know, independent, that's me, and then dependent. I currently am a law student at a nonprofit college, so we do have representation-- and then my, my teammate, my alternate, is also a graduate student loan borrower.

So, we do have public, undergrad, dependent, independent, graduate, and nonprofit--we do have like quite a range so we don't actually have a gap here that isn't represented while many of the other ones that have been mentioned are actually represented also.

MRS. MACK: Okay. So, I see one more hand, Justin, and then that'll be the final comment and then I'd like to move towards one additional consensus check on Evelyn. Justin, please.

MR. HAUSCHILD: Thanks, Kayla. I just want to say we support -- we support this. Frankly, we think that these individuals or at least one of these individuals should be added as a member. I'm not sure if, you know -- I think that's entirely appropriate and consistent with the Department's call for nominations in terms of groups of borrowers that are significantly impacted by the topics that we're discussing. And it's a little concerning to us that we're seeing a representative from a proprietary institution functionally -- functionally silencing the voice of the very students that attend those institutions.

So, I, I just wanted to say that that's a concerning thing for us and we'll support it. Thank you.

MRS. MACK: Okay. Thank you, Justin. Okay. One additional consensus check on adding Evelyn Cervantes as an advisor to the Affordability and Student Loans Committee. Please show me your thumbs. Okay. Again, we are not in consensus on adding an advisor to this committee at this point because we have taken both

consensus checks. I would love to move us into our first issue. Okay. Alright. Thank you, committee. We are going to return to the closed school discharge issue.

I am going to ask that we pull up the relevant document on the screen for all of you to view. I know that some clarification was pointed out around the subtopic 1, reinstate automatic closed school discharge, but I'm wondering if we could visit two, three, and four, and then return back to that clarification to discuss. Does that order work for everyone? Jennifer?

MRS. HONG: Thanks, Kayla. I think because we have this up right now it might make sense to just -- oh, I hope we have the right one which we also have a -- we have another clarifying document that we wanted to share with the committee but it -- that document is also pertinent to the comparable program issue.

So, it's just -- it's -- it might be useful to just briefly revisit automatic closed school discharges real quick, and then, then we can move on to two and then -- and then that document will be pertinent to the comparable program discussion as well.

MRS. MACK: Okay. So, do we want to revisit? You're saying start with the clarifying document?

MRS. HONG: Yes. I think that, that would be helpful.

MRS. MACK: Bethany, I saw your hand.

MRS. LILLY: Hi. We got the complementary document barely before this meeting started and so I'm reading it as we're doing introductions and talking through things. I would prefer to start with other things on the agenda so I can read through this because I think there was a lot of confusion yesterday and I'm sure the document will be very helpful. But I would much prefer if we could move on to other topics so I can review this and then come back to this just in terms of when I got the document this morning. Thank you.

MRS. MACK: Okay. Thanks, Bethany.  
Josh?

MR. ROVENGER: Yeah. I also would be in favor of continuing on with the agenda and returning to the auto school discharge after and the comparable (audio) discussion. I think it will help streamline the discussion because yesterday there seemed to be quite a bit of consensus on that among some of us that the comparable program requirement shouldn't exist to begin with. And if we do eliminate that, that'll make the auto school discharge discussion much simpler in my mind.

And so, I, I would also support just moving on with the agenda and returning back to it. In particular because even, I mean, I don't think the clarification solves all the problems that we were discussing yesterday.

MRS. MACK: Okay. Thanks, Josh. David?

MR. TANDBERG: I, I think I agree with that. I was able to quickly skim through the, the document. I'll be honest. It raised just as many questions as it answered.

You know, when we return if we are going to delay that conversation, I would want far more detail and specificity around what are the data challenges that are keeping us from making what I would say is good policy. It just says data problems without articulating what they are, and so I would want to dig into that with some detail. But I'm fine putting that off if folks want more time to dig into the PDF.

MRS. MACK: Jaye?

MRS. O'CONNELL: So, I, I did have a moment to review the clarifying document which for my confusion yesterday it -- I thought it was incredibly useful and just sort of brought me up the learning curve. So, I support Jennifer's proposal.

MRS. MACK: Okay. And Joe, please.

MR. SANDERS: I just want to make sure that we have time today to discuss the 180-day timeframe. The state Attorneys General (AGs) have had some significant problems around that, the issue of the date. And so, whenever we discuss it I want to make sure that we have time to discuss that.

MRS. MACK: Okay. So, we have two options on the table, folks. We can either pick up with the second solution which is establish a consistent window of eligibility for students and move into three and four and then return to the clarification, or we can begin the conversation with the clarification and then move into subsequent sections, right? We have two proposals on, on the table. Do we have a strong preference otherwise? I see a divergent reference. Joe?

MR. SANDERS: Yeah. I think it makes sense to give people time to read the document. We just got it. I haven't had a chance to read it. So, as a practical matter that seems the best to me.

MRS. MACK: Thanks, Joe. Jennifer?

MRS. HONG: We're amenable to that, you know, to give folks time to digest it. We'll, we'll certainly walk through it together, but, but that's fine if that's what everybody prefers.

MRS. MACK: Okay. So, let's begin with establish a consistent window of eligibility for students who withdrew from a school before it closed. If we could pull up that document and that source was the first one that was pulled up. And on page 2 that subtopic is addressed.

Alright. Department, I'll turn it over to you to walk us through that and then advise us where we can find the applicable guidelines.

MRS. HONG: Sure. Thank you, Vanessa. I've got you ping-ponging back and forth. So, the applicable re -- regulatory language is fairly straightforward and I'm eager to hear the feedback on this provision.

Basically, we have, you know, depending on loan disbursement, we have two different windows, one of 120 days for loans dispersed from one period, and then for another period we have 180 day -- days. So, we just want to confirm the window of eligibility and make it all 180 days. And, Vanessa, if you want to go -- excuse me, to page 4 of the amendatory text. Toward the bottom, you'll just see the deletion 120 and 180 added there, but I am interested to hear what Joe has to say and others regarding this window.

MRS. MACK: Joe, please.

MR. SANDERS: Thanks for the time. We had a situation where here in Illinois where the Illinois Institute of Art lost accreditation. They didn't tell people about it for about six months, and there are a number of issues that stem from that.

One of them has to do with closed school discharge and the fact that there was a hard-set date at the time of 120 days within which people had to be enrolled in order to be eligible for closed school discharge.

At the time that the Illinois Institute of Art lost accreditation and then subsequently announced closure after it was revealed that they lost accreditation, we had a settlement administrator that was working to make sure that the company was complying with a settlement, with about I think it was 40-some state AGs.

The school communicated the closure outside of the 120-day window and it caused many students, upon hearing of the closure, to drop out. The school did not effectively communicate that closed school discharge was an option. The school did not effectively communicate the date that they expected to close, and it created a situation where many, many students dropped out of eligibility because of how and when the school

communicated about its closure.

I'm going to put a link to the settlement administrator's report into the chat right now. The fulsome discussion of the issue that I'm describing starts on page 33. It goes into more -- far more detail than I could verbally elaborate right now. I have dealt with a lot of closed schools and trying to communicate with the Illinois borrowers about their ability to apply for this. Most people don't know it's an option.

I think that a standard whereby the, the eligibility date is linked to the first date that the school communicates closure with the students would alleviate a school's ability to manipulate who's in and who's out on closed school discharge. I'm happy to propose language if, if this is of interest to others, but it's a significant problem, and absent the Department moving the date post hoc many people fell out because of this.

MRS. MACK: Thank you, Joe. Any other comments on this subpart or points for clarification? Heather, please.

MRS. PERFETTI: Thank you. So, I'd asked yesterday if there was a definition of closed school and I am still curious if there is a definition

within regulation or elsewhere that defines a closed school.

MRS. MACK: Can someone speak to Heather's question? Justin, I saw your hand next.

MR. HAUSCHILD: Apologies, yeah. I, I thought that I had seen -- I'm struggling to find specifically where in the reg right now, but a definition that referenced I think in terms of closure a complete stoppage of instruction. But perhaps I'm off about that.

I don't know -- that's not necessarily exactly to your point, Heather, but I'm wondering how much that definition colors, colors the answer to your question. So, I -- I'm also interested.

MRS. MACK: Thanks, Justin. Daniel?

MR. BARKOWITZ: I wonder if -- and I -- I've seen the definition, Justin, that you're referencing in the sub. It's A21, the definition of a school's closure date is the date the school ceases to provide educational instruction and all programs as determined by the Secretary.

I wonder, first of all, if that is statutory or regulatory language. And to address Joe's concern, if there is a significant triggering issue that causes the school to, to move to closure whether that is, is a law enforcement action or an accreditation action,

if, if the closure date itself is later, if really what we're talking about is the earlier of those two dates as near the triggering date.

So, to Joe's point, for the institution that lost its accreditation and doesn't share that, should that be the triggering date rather than the closure date itself? And I'm not sure if, again, if that is statutory or regulatory language, but a precipitating event like that could cause significant loss of portability and significant loss of ability for students to make use of that education regardless of whether or not it's communicated to students in a public forum or public way.

MRS. MACK: Thanks, Daniel. Bethany.

MRS. LILLY: I understand the, the question about closure date and the definition of a closed school. But what we're talking about here is whether or not students have the opportunity to take advantage of something, right? And so, what we want to do is make sure that students know about this and know that they have options and can take advantage of them for as long as possible.

And so to my mind, Joe's initial proposal which is making sure that students who are -- when students become aware of the determining date here

does seem to be useful. I, I think from a legal perspective that'll be a little complicated to kind of establish that kind of mental knowledge, but I think their available resources will be pretty clear on that.

I -- so, I -- I'm much more comfortable with Joe's initial proposal because I think it gets at the student knowledge and the students are the folks we're trying to send through here.

MRS. MACK: Thanks, Bethany. Jessica.

MRS. BARRY: So, I just have a question. So, wouldn't these situations fall under extraordinary circumstances or exceptional circumstances?  
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MRS. HONG: Yeah.

MS BARRY: -- extraordinary circumstances?

MRS. MACK: I'm going to ask if anyone can speak to Jessica's question and please raise their hand. Jennifer.

MRS. HONG: Yes. I mean, that'll be our next subtopic, but we've added some exceptional circumstances and one of those is, you know, their application withdrawal, (inaudible) agency of the school's institutional accreditation. So, in that case, that particular situation would be addressed in the

scenario that Joe just described under those proposed exceptional circumstances.

MRS. MACK: Thanks, Jennifer. Josh?

MR. ROVENGER: Thanks. It actually makes me quite nervous to rely on the exceptional circumstances exception unless we put it in some requirement that the Department has to extend the window in all of those circumstances.

Traditionally, the Department has only utilized that exceptional circumstances exception in really extraordinary circumstances like the implosion of Corinthian. And so, I, I would be in support of Joe's proposal and then would not want to, to rely on that exception.

MRS. MACK: Are we talking now about subpart 4 with the exceptions? Okay. Let me remind you all we're going to get down to subpart 4, but to the extent that we can keep the scope of this dialogue and, and this coming temperature check for tentative agreement, let's keep it within the scope of subpart 2. David, please.

MR. TANDBERG: I'd first indicate support of Joe's proposal. Also, I -- I'm not sure when the appropriate time would be, but I do think it's important that we're -- have a, a shared understanding of

the effect of these closures on students and their education trajectories, their employment outcomes, etcetera.

And so, I think at some point it would be good to stop and allow Raj, our research advisor to kind of share some, some research, some data so that we can understand really the full impact of these closures on students so at least as much as the data and the research allow. I know there's a recent GAO report, also some recent research on the effect of closures on where students go after an institution closes whether it's to a for-profit, nonprofit. I would love to hear that and I think it would help us make decisions.

I am cognizant. I don't want to interrupt as we reach -- get close to a consensus vote, so maybe after the vote or after we've moved to the next section. But I'd propose that we do that.

MRS. MACK: Okay. Thanks, David, and we'll -- we can check with Raj around when would be the appropriate time to do that. Joe, please.

MR. SANDERS: Hi. Thanks. Totally understand that exceptional circumstances cover this situation, but -- and, and in fact, they were applied here. So, the closed school discharge, discharge date was moved back to the date they lost accreditation.

I think that the issue there is that it requires, for instance, at the Illinois Institute of Art, it required significant advocacy by my office, by the Colorado Attorney General's office, by student advocates. You know, there was a whole system that was mobilized, you know. A, a lot of people were affected by this so we went to the Department and said, hey, you need to do this.

That may not be the case, and in every instance, you have different administrations that may have different priorities around when they apply or don't apply exception -- exceptional circumstances. So, tying the availability of the discharge to the date that it's communicated to students alleviates those problems. The second thing is on the question of evidence. I don't think it's hard to establish.

Number one, these things become public especially when the school is, you know -- as described in the report that I linked you to --when the school is ending e-mail blasts to students saying, hey, we're going to close. You should transfer your credits or you should do, you know, whatever else. Those things are not hidden, right? That comes out. So, I don't think that the evidentiary piece here is a significant burden.

MRS. MACK: Thanks, Joe. Brian,

please.

MR. SIEGEL: Just to respond to an earlier question, this is regulatory. It's not -- the, the definition of when a school closes is not the way it's established by the Department and regulations. I think it's been fairly consistent since we -- since closed school discharges were first (audio). There may have been some minor changes, but it's been consistent, fairly consistent.

As Bethany noted, I think Joe's proposal it, it would -- could be complex in, in certain situations but it would be very helpful to see proposed reg language just so we can put it in, in that context. And just somebody who's done negotiated rulemaking a lot.

Whenever somebody -- whenever you have a proposal if you can provide it to us even after you state it publicly, provide it to us in some draft reg language it helps us to, to put it in the context overall of the regulations.

MRS. MACK: Thanks, Brian. And I see a commitment in the chat from Joe for everyone's awareness that he believes he can provide some, some language this evening. Joe, if you'll send that to the FNCS facilitation group we'll disperse it out to everyone as we have thus far. Thanks. Daniel, please.

MR. BARKOWITZ: So, just so I understand the point of this particular subparagraph we're looking at. The idea here is that maximal flexibility or maximal benefit from a student perspective would be -- so, we're trying to -- going backwards in time from whatever triggering date we have to allow the student to submit a, a closed school application.

So, my concern of using the, the awareness date is if that is after the close date or after whatever event triggers it, it actually is not positive for the student because it means that in fact it, it shortens the window. So, you know, I guess I would just ask Joe to provide some clarity.

My understanding is again the idea here is we want to extend backwards in time to the student's benefit that 180-day waiting period or a period that would allow a student to submit a closure request or a, a cancellation request from that period.

And, you know, again depending upon the sequence of events whether it's whatever event, in this case, the loss of accreditation, the example you're giving, the notification of students, or the actual closure date, it will really depend on the sequence of those events in terms of what provides maximal benefit from a student perspective unless I'm misreading it.

MRS. MACK: Thank you, Daniel. Joe, I see your hand.

MR. SANDERS: Yeah. There could be a situation where the school just one day locks its doors and that's the day people find out. So, you could -- you could write in, you know, 180 days or the date the school tells people, whichever is longer. Something like that.

MRS. MACK: Thank you, Joe. Anything else on this particular subpart? Michaela?

MRS. MARTIN: Is, is the concern with just like lengthening the amount of time that someone withdrew? The concern then is that folks withdrew for other reasons and then could still qualify, right? But how many people generally, like is there like any -- do you all have any data on how many people actually, you know, are withdrawing for other reasons within that amount of time?

I just think that as you all, you know, mentioned, folks, once you start hearing that because you hear it before it happens, like that, that's the thing. And 180 days is really only two semesters. Like if you're on a semester system that means if you weren't enrolled in the spring then you will not qualify. And that's actually relatively short if you think about it.

Like if they close in the fall and you

weren't in the spring because you heard last fall that they were going to close and you're like, dang, like I'm going to stop taking out thousands of dollars in student loans because it's going to be worthless like I just -- I also am just wondering like how much of like how many people would actually be the ones of concern if you did just make it a longer timeline?

MRS. MACK: If anyone again has answers to some of the questions and concerns being raised, please raise your hand. Josh, I see your hand next.

MR. ROVENGER: I would also be interested in seeing data (audio)--

MRS. MACK: Josh, I think you might have to log in and -- log out and log back in like yesterday. We're back to robotics.

MR. ROVENGER: (Audio) robotics? (Audio). Okay, I'll be right back (audio).

MRS. MACK: Anyone else have clarifying question or comments that haven't been made on this particular subpart? Michaela?

MRS. MARTIN: Sorry. Just to follow up on that because these are not for automatic renewals, right? Or are these the automatic renewals? I just want to make sure that I'm tracking that properly. Like, are these for folks who are submitting an application? No?

I don't see any movement of yes or no. Sorry.

MRS. MACK: I don't think we have an answer at this time, Michaela. David, I see your hand.

MR. TANDBERG: I think it, it would be helpful perhaps if we tabled this and we just go by the lang -- the language from Joe. I just feel like right now we're dealing with some nuances that perhaps some draft language could help clarify, and then we could have a more robust discussion and a vote after we actually have language. And perhaps Joe could consider some of the comments that have been raised as he drafts the language.

MRS. MACK: Okay. Thank you, David. Heather, I see your hand.

MRS. PERFETTI: Thank you. So, I think we certainly support the consistent window of eligibility, but I would also recommend the notion that we obtain whatever data may be relevant so that we can see the issues embedded in the 120 days, 180 days, or some other time period that may be more appropriately informed through that data.

MRS. MACK: Thank you, Heather. Jennifer.

MRS. HONG: Just to get back to Michaela, this section deals with auto qualifications for

discharge, so yes, these -- all, all of the students would be eligible under this section for auto discharge if they -- if they did not re-enroll after 12 months. So, that still applies to this section but they're not interdependent. This just, just, just says that they qualify so long as they withdrew from the school no longer than 180 days if that helps. So yes, they, they still -- they would still be eligible for the auto discharge.

MRS. MACK: Okay. So, a couple updates on this subpoint. First, Joe is going to bring us language. As soon as we get it we'll get it out to all of you folks for your consideration. Also, per David's suggestion, we have already tapped into Raj about putting together some data to share with this committee that would help inform you around this sub-issue as well. So, as soon as we have an update on that, we'll provide that as well.

In the meantime, I would love for us to take a consensus -- no, that's wrong -- a temperature check for tentative agreement on the language that's proposed here knowing that we'll have to revisit it once Joe's language is there. But, but just a, a signal out in terms of thumbs on the actual language that was already proposed by Ed. Can I see your thumbs? Again,

not an official consensus check.

Okay. Thank you. That's very helpful in guiding our future discussions. Department, can I ask that you move us into the third piece which is define comparable program for purposes of a closed school discharge?

MRS. HONG: So, just to be sure I did -- did we want to take up the exceptional circumstances issue first and then go back in -- because we're going to need the, the table that we just provided to everyone. I know that they needed some extra time with that, so we could -- we could move on to the exceptional circumstances if that's what I'm understanding that folks want to do.

MRS. MACK: Is that amenable to everyone to go to number four and then talk about number three in conjunction with the clarification that's coming? I'm seeing some nods. Okay. Then let's talk about that. Thanks, Jennifer.

MRS. HONG: Great. Thanks, Kayla. So, so we're just proposing adding illustrative examples, additional illustrative examples to the list of exceptional circumstances. This list we meant to maintain as non-exhaustive, however, I think it would send -- we think -- we believe it would send clear

signals on how a Secretary may use this authority going forward. So, we already got into it a little bit but, you know, we've (inaudible). Thank you, Vanessa. The seven -- the seven examples are listed here just to go over them real briefly.

The accrediting agency revoking or withdrawing accreditation as we just discussed. The revocation or withdrawal by the state authorization licensing authority to operate or to award academic credentials in the state. Termination by the Department of the school's participation in Title IV HEA programs. A finding by a state or federal government agency that the school violated state or federal law related to education or services to students. A teach-out of the student's educational program exceeds the 180-day look-back period for a closed school discharge. Also, if the school responsible for the teach-out of the student's educational program fails to perform the material terms of the teach-out plan or agreement such that the student does not have a reasonable opportunity to complete his or her program of study or a comparable program. And finally, subpart seven, the institution is or was placed on probation or issued a show-cause order or placed in an -- in an accreditation status that poses an equivalent or greater risk to his accreditation by his accrediting

agency for failing to meet one or more of the agency's standards.

So, even short of an accrediting agency withdrawing accreditation we've also included a circumstance where an institution is on some probationary status.

MRS. MACK: Alright. Thank you, Jennifer.

MRS. HONG: Thank you.

MRS. MACK: Let's open it up to clarifying questions around this and comments. Josh, I have your hand first.

MR. ROVENGER: Thanks. So, I have a, a broad comment and then a question for the Department. And just -- and just to, to start at the beginning, we very much support the Department's inclusion of specific examples here, and we really applaud the Department's recent application of this doctrine to ITT Tech.

It was a really meaningful change decision that impacts our, our client base. The first comment I had is we would propose some additional examples on the list, specifically anytime the Department places a school on heightened cash monitoring status, in our experience that's often the precursor to significant cuts in the school, and that was the case for Education

Corporation of America, ITT Tech, and Corinthian. And then we also think that a judgment against a school for violations of state and federal law that injuriously impacts the school's finances can have the same type of effect.

And, and this is an example there. Education Management Corporation in November 2015 was ordered to pay a 95.5 million-dollar penalty to the Department in several states. That was really the beginning of the end for a number of its schools. So, that's, that's my comment.

In terms of the question I have for the Department, one concern I think that we have with respect to exceptional circumstances is that different administration -- to the extent it's discretionary, different administrations may apply it differently. And so, to our mind, it seems particularly important to try and --

MRS. MACK: It looks like we lost Josh for a moment. Let me move on to Misty, and as soon as Josh comes back in we'll get him -- get him back.

MRS. SABOUNEH: Hi. Can you guys hear me? Perfect. So, agree with the intent of this. I just have one clarifying question probably for Jennifer. The sentence of finding by a state or federal government

agency that the school violated state or federal law, can you expand on the intent of that sentence there?

I think it could be beneficial to have some additional definition and clarity around what constitutes a violation just to ensure that there is -- there is an equity across all the different schools and institutes (inaudible).

MRS. MACK: Department, is that clarification that you can provide at this time?

JENNIFER HONG: I was actually still on Jo -- Josh's point and then I'll, I'll get to if we could wind back to Misty, I think the, the point that Josh was trying to make with regard to, you know, how this is a -- this provision is applied to different administrations. This is expressly why we wanted to include these illustrative examples is to codify situations in which the Secretary would use his authority going forward.

I know Josh is not on, so maybe I should've saved that. Sorry.

MR. ROVENGER: So, so I'm back. I, I switched -- I switched devices. I apologize. I, I don't want to jump ahead but is it okay if I, I finish that for the public?

MRS. MACK: Yeah, please speak to that.

And, Misty, hold that thought. We're going to come back to your question again.

MR. ROVENGER: Thanks, and I apologize, everyone, for my tech issues. I've now switched devices which I'm hoping solves the problem for everything. So, so we definitely appreciate that. One thought we had and we're happy to provide a pro -- some proposed language if it would be helpful, is that the Department could consider presuming that any of the examples warrants an expansion of a window, and then if the Secretary decided for some reason that in certain circumstances -- certain circumstance it shouldn't be extended, the Secretary would affirm that we have to rebut that presumption. And that may be just something that kind of takes, takes the examples and, and goes even further at limiting the discretion for the Department.

MRS. MACK: Josh, if you do have language that would be helpful. If you could send it to us we'll distribute it. And because we might have a number of suggested text or language, if you could identify the topic and the subtopic specifically related to the text that you're providing, that might be helpful if we have a number of text revisions coming in. Okay? Justin, or actually Misty. My apologies. Misty, can we go back to your question?

MRS. SABOUNEH: Sure. So, my question was just around the sentence at the bottom of bullet 4, a finding by a state or federal government agency that the school violated state or federal law. And I was just wondering if Jennifer could provide a little context on the intent of that sentence.

MRS. HONG: So, just, just to provide some context here. In, in the event that a student might have a claim based on a violation of federal or state standards, we, we want to encourage them to go through the closed school process because they felt like they, they would -- it would be a more expeditious way of processing their discharge, for example.

MRS. SABOUNEH: So, I think that my comment just that it could be valuable to further define this.

MRS. HONG: Yes, and we would -- we can, you know, we can discuss that when we get into our borrower (inaudible) defenses, for example. I mean, any kind of violation in terms of a, a student feeling that they've been misrepresented regarding what they -- what, what kind of educational services that they -- an institution may provide.

MRS. MACK: Okay. Thank you, Misty. Thank you, Jennifer. Justin, please.

MR. HAUSCHILD: Thank you, Kayla. I, I, I wanted to just call attention to one category of exceptional circumstances that was previously enumerated but doesn't appear to be included. And I understand these are non-exhaustive and non-binding, but in paragraph C I think where exceptional circumstances are in, in the current language first discussed in terms of examples, it talks about the school's discontinuation of the majority of its academic programs. And I wanted, if, if possible maybe to include it somehow in, in what we have proposed, but would be curious as to why that's not included, and would, would propose that it just be added. So, I, I don't know. If I, I can get a little bit of clarification on that, that would be helpful. Thank you.

MRS. MACK: Okay. Please raise your hand if you can provide clarification to Justin's question. Bobby, please.

MR. AYALA: I cannot provide clarification to Justin's question. I had another question, so I, I don't know if you want me to --

MRS. MACK: Yeah, go ahead and ask. No one has raised their hand quite yet to speak to Justin, so let's add to our question to you.

MR. AYALA: Okay. Mine has to do with number seven and, yeah, and that question about how it

may impact students if the, you know, institution was placed on probation from the accrediting agency and we have students that apply for a discharge, and the institution at a later time is, is then found to be in compliance and then is rewarded accreditation. How does that impact the student's moving forward that if they went ahead and applied for discharge?

MRS. HONG: So, remember that this -- these are exceptional circumstances so the point is that we are providing this as an illustrative example, so it, it will take -- the Secretary will take these on a case-by-case basis. The point being that if an institution is under some kind of probationary sanction by their accrediting agency, that they can shut -- they -- the Secretary can consider that as an exceptional circumstances for discharging the loans. Again, that -- I mean, it would have to be reviewed by the Secretary but certainly is something that the Secretary could consider.

MR. AYALA: And, and if the student were to be -- have their loans discharged it, it wouldn't come back. If the institution ends up, you know, getting off of probation the student's going to be fine if his/her loans discharged.

MRS. HONG: Right.

MR. AYALA: Okay.

MRS. HONG: Yes.

MR. AYALA: Thank you.

MRS. MACK: Okay. Thanks for your question and clarification, Jennifer. Marjorie, please.

MRS. DORIME-WILLIAMS: So, this is also a clarifying question about point number five. And so, it's of the teach-out if the student's program exceeds the 180-day lookback. Is that -- and I know we were just talking about this and so maybe we'll answer it once Joe provides the language. But it's not clear to me whether this is 180 days after the school has stated that they were closed. Is it 180 days from again when students find out? And is the plan that the teach-out plan is finished in 180 days? So, I, I guess just maybe some clarification as to what exactly number five is referring to.

MRS. HONG: Jessica?

MS. MACK: Yeah, please.

MRS. HONG: 180 days applies to the lookback before the student with -- withdraws from the institution, so 180 days prior to the student's withdrawal.

MRS. DORIME-WILLIAMS: Okay.

MRS. MACK: Okay. Thanks for the question and clarification. Heather, please.

MRS. PERFETTI: Thank you. So, I did want to just ask about some follow-up questions on the probation and show-cause piece because the previous questions triggered a couple things for me. So, they -- I, I think that just an important reminder for institutions that may be in a non-compliant status of probation or show-cause, accreditors are getting teach-out plans and teach-out agreements if necessary from those institutions at that point.

My question, though, is the non-compliance period could be for a number of years. Is this designed to be restricted to the initial noncompliance of probation or show-cause or throughout the dur -- duration that could be over a number of years?

MRS. HONG: So, I think the answer to your question is yes, Heather. I mean, at, at any point when we find that an institution is on probation it could apply when -- whenever that probation was initially applied or throughout the duration if we -- if we find information that supports that, you know, the things that are not looking good for students then we, we would consider making those students eligible for closed school discharge. So, yes, and yes.

MRS. MACK: Thanks for that clarification. Heather, I see your hand again. Did you

have something to follow up?

MRS. PERFETTI: I did just have a follow-up question. So, there are some although few circumstances where an institution may be on probation and they show some improvement and an agency may change that status to warning but they may then go back to a more heightened status of probation or show-cause. But students who may be at the institution while the -- while they are on warning would not rise to the level of this exceptional circumstance.

MRS. HONG: I just want to make sure I'm following you, Heather. So, if they -- you, you mean if they're -- if, if the institution is subsequently placed on a status that is less punitive than probation?

MRS. PERFETTI: Yeah. So, if an institution's --

MRS. HONG: Right.

MRS. PERFETTI: -- saying year one of noncompliance is on probation--

MRS. HONG: Mm-hmm.

MRS. PERFETTI: -- year two of noncompliance they're transitioned down to warning because they've shown some progress in some of the areas, but year three they may be showing more difficulty at meeting the standards and could go back to a probationary

status. Those students at the institution that is at the time of the warning would not be qualified under the exceptional circumstance here. It really is limited to students at the institution during probation or a show-cause.

MRS. HONG: That is the illustrative example that we are proposing as language, the probationary status or equivalent, show-cause. Again, I just want to emphasize that this a non-exhaustive list, and the Secretary has authority to exercise, so these are just meant to be illustrative.

MRS. MACK: Okay. Thank you, Heather. Thank you, Jennifer. Any other additional comments that haven't already been made or clarifying questions that haven't been asked and answered? Daniel.

MR. BARKOWITZ: Thank you. So, I want to return to something that I believe Josh suggested around including as one of the determining factors at an institution being placed on heightened cash management. And I would be -- I would have a concern around that especially because currently the way things are in terms of the Department factions, of the 400 schools on heightened cash monitoring currently, half are not-for-profit institutions, so that isn't necessarily going to lead to closure.

So, and again I know we're not -- we're not picking on a particular sector here, but I'm just I'm concerned about the implication of adding that. And, and I would imagine in a vast majority of those cases the private not-for-profit or public institution is not necessarily at risk of closure imminently. So, I, I, I would have some concerns about the heightened cash management piece.

MRS. MACK: Okay. Thank you for that, Daniel. I do want to call your attention that David is going to need to step away from the primary table so his alternate, Suzanne, is joining us on camera. Thank you, David, for the message. Jeri, please.

MRS. O'BRYAN-LOSEE: I just had a clarifying question about the probation of accrediting agencies. Are students informed when colleges are on probations or lengthy probations? Because student awareness is a big piece of what we're talking about, so I was just wondering.

MRS. MACK: Do we have an answer for that particular question? Jennifer?

MRS. HONG: Yeah, the institution is required to make that information public.

MRS. MACK: Okay. Thank you. Justin, please.

MR. HAUSCHILD: Yeah, apologies. And simply just recycling my previous comment because I'm not entirely sure it was addressed. And I -- and I understand that this is just a list for illustrative purposes, but it was previously deemed appropriate to include the school's discontinuation from the majority of its academic programs, and we believe that's an important point to illustrate. And I'm just curious why that was removed and, and whether or not the Department's amenable to including it in its proposed regulations.

MRS. MACK: Department, is that something that you can speak to at this time, or shall we circle back to that?

MRS. HONG: Can we circle back to that? I mean, I think -- I, I think the answer to your question is just we're here to consider everything that you're saying right now, so if, if (inaudible) not included we will circle back and take it into consideration.

MRS. MACK: Okay, perfect. So, let's make note of that and we can circle back as needed. Josh, please.

MR. ROVENGER: Thanks. Just to respond quickly to Daniel's plan on heightened cash monitoring. I, I think in those instances it just would never come up if the school doesn't close. I mean, the only instance

in which it's going to constitute an exceptional circumstance to warrant the extension is if the school does in fact close. And, and so I don't -- I don't know that the fact that there are these other schools also on HCM status justifies not (inaudible).

As a, a separate question on a -- on a separate topic for the Department, I can send this by e-mail as well, and, and this may already be public, but with respect to the dis -- to kind of limiting the discretion that the Department has here, it would be helpful to know all of the instances that the Department has utilized this authority just to get a sense of how frequently it is actually used in practice.

MRS. MACK: Thank you, Josh. Heather.

MRS. PERFETTI: Thank you. I just wanted to add to Jennifer's answer to Jeri in terms of public disclosure of probation. Any noncompliance status of an institution is also publicly disclosed by the accreditor as well as by the institution. So, all of that information is available to students. Admittedly, they don't visit our websites all that much, but the information is available publicly at the agency's website as well.

MRS. MACK: Misty, please.

MRS. SABOUNEH: I'm not sure where to

slide this in, but I just wanted to make a note here. I put this in the chat, but my understanding is that currently if a branch campus closes but the program is still offered online, this is technically considered a closed school. I just wanted to make sure that that clarification was put in somewhere here. And then again, on just the -- that last sentence on the third bullet, I think before, you know, final consensus and we can try to propose some additional language, but just to clarify what is a violation? And what state and federal laws are being referred to here just to provide a little bit more definition around that final statement.

MRS. MACK: Okay. Thanks, Misty. And if you do have language or a suggested edit I encourage you to share that out and we'll get it out to everyone. Any other additional comments or points of clarification that we haven't touched upon? Because I do want to get us into a temperature check on this and then make sure that we can revisit the clarification, the comparable program aspect, and then I do believe that Raj, as requested, has some data to share to the committee as well. Jessica, I see your hand.

MRS. BARRY: I don't have another question but I just want to second what Misty just said. There are some strange instances with consolidations of

campuses and mergers that happen that I think we need to address. So, I just want to second what she said.

MRS. MACK: Okay, thank you. Heather.

MRS. PERFETTI: Thank you. I don't have additional comments except I too agree that we need to think about the unique transactions that may be taking place across higher education as we think through this. But I did want to just make a suggestion in terms of the order. It may be helpful to cluster the accreditation criteria together as opposed to them being separated in the order in here.

MRS. MACK: Okay. Thank you. Jeri.

MRS. O'BRYAN-LOSEE: Hi. Just to go back to what Misty had said about campuses in the chat box and things going online when a program is closed and going online. I just want to remind everybody that a student has a contract with the institution to deliver it in a way that they started their education and they've signed the paperwork for, and when you move a branch campus online there are branch campuses for a reason as well. You're talking transportation issues. You're talking about people who may not have the technology to go online, the accessibility to go online.

That's a huge -- that's a huge -- a much bigger question than just throwing them all online.

And I think we've seen that COVID has really exacerbated that problem for students anyway let alone throwing somebody into an online that didn't intend on taking online courses.

MRS. MACK: Thank you, Jeri. Jennifer.

MRS. HONG: Real quickly to Misty's first question regarding the applicability to branch campuses. So, this is at the -- on the front end of the regs where we discussed, you know, what a closed school means, right under that, and to limit it to a school means the school's main campus or any location or branch of the main campus regardless of whether the school's location or branch is considered eligible. So, that's where we can find that.

MRS. MACK: Okay. Thank you, Jennifer. I want to ask you all in terms of a temperature check for tentative agreement on what has been proposed here by the Department. Remember thumbs up is I'm in agreement. I can support this. This is I can live with and support this or, this is -- this is something that I will have to express dissent on and not support. Can I see your thumbs for this particular subpart? We're not forming -- okay. I believe everyone is sideways or up on this particular one. Thank you very much.

I did promise a five-minute break

around the hour. At this point, we have been engaged in such robust conversation I did not want to interrupt it. I'm going to ask your permission to just push on through until lunch. And so if I could see thumbs. If everyone's agreeable to that I'm going to keep us working for the next 40 minutes. Okay. Alright. Thank you. Thank you very much for that.

Our next piece was to talk about the comparable program. The Department also circulated just this morning a document around clarifying the automatic closed school discharge, so I'd like to move us into a conversation around those pieces. Josh, I see your hand.

MR. ROVENGER: Thanks. Before we move into those pieces just because I think they are inviting a very robust discussion, I did just want to flag one additional issue that I think the Department should consider regulating as is relates to closed school discharge. I'm flagging it now and I'll, I'll happily submit some proposed language and a letter if needed.

But essentially, some schools, in particular ITT Tech, manipulated the students into enrolling for multiple degrees, and often they would take -- they would first have to enroll in an Associate's program and then a bachelor's program even if the student only ever wanted to attend a bachelor's program and

thought they were actually engaged in the bachelor's program. And as of now, the closed school discharge regulation only accounts for discharging the debt associated with the program the student was attending when it actually closed even though they're basically one and the same.

And so, we thought -- we have a lot of clients who were left with debt from that Associate's program that they never wanted to be in while the, the bachelor's program would be discharged. So, again just wanted -- thank you. Just wanted to flag it and, and I'll, I'll circulate something on this.

MRS. MACK: Okay. I have made note of that. Jennifer, I'd like to turn it over to you. Which document would you like pulled up on the screen?

Ms. HONG: So, this is the -- I, I don't if anybody had time since we're all engaged talking about it, but this is the document with the tables on the auto discharge, this PDF clarifying a Section 1 proposal on automatic closed school discharges. This will also be for, for our comparable program discussion and facts. We could -- we could even walk through it and talk about both issues together.

MRS. MACK: That sounds great, Jennifer. Will you walk us through this?

MRS. HONG: Sure. So, during our discussion, our staff went back and developed this great table to more clearly articulate what we're thinking about in terms of automatic discharge. And then we could get into the discussion about comparable program.

In brief, it's divided into borrowers who did not enroll elsewhere, and borrowers who did enroll elsewhere. And it's a side-by-side with existing regulations and proposed regulations. What you'll notice and I -- if I was remiss in making this clear yesterday, automatic discharges apply across the board in our proposed regulations where they do not currently apply. So, if, if I can just make that abundantly clear.

In every situation except the last two, (and that is because we will talk about the data question we will have data respectively on an approved, approved teach-out. So, in that case, if, if they decide not to avail themselves of an auto discharge and go ahead and, and re-enroll, they, they would still be eligible just to -- for, for a closed school discharge.

But in any case, within a year across the board, they are -- they are eligible for -- ours are eligible for automatic discharge if within one year. So, I'm just going to give you a minute to digest this.

So, so for borrowers who did not enroll

elsewhere, you'll see that our proposal is more generous at every point in time than existing regulations. So, to your left, you have various school closure dates, those prior to 2013, the 2013 to 2020, and then what we're proposing to go onward. And basically, automatic discharge if they do not enroll within one year.

And then the second piece, borrowers who did enroll elsewhere, again, we're more generous than existing regulations at every point in time. And again, the standard is even more generous as data improves for borrowers to have opportunities to get an auto discharge even if they re-enroll.

And we, we believe this idea of re-enrollment I know there was -- so, maybe we need to take this discussion to the concept of re-enrollment. We believe that it is important. I know there was some talk about taking it off the table altogether.

We have always interpreted the provision, a statutory provision to mean a student's ability to complete the program. And I just I know that we, when we think of these school closures, we're thinking often about precipitous situations but they're not always -- that's not always the case. Some cases there may be more or less robust teach-out opportunities. There may be students that are very close to getting

their degree. Maybe one or two, three credits away. They can easily finish their degree elsewhere. We believe that, that takes care of this student.

Do we want to -- why, you know -- we believe that the point is that they complete the program, they're happy with the completion of the program, and that they (inaudible). Either way, however, they always have this option available even if they do re-enroll, and I think that's the point that I really wanted to make that may not have been clear yesterday is that they are -- but we, we, we have to retain this idea about re-enrollment because it's -- it really is what we believe this provision is about is a point -- the point being is does the borrower have the opportunity to complete their program? We want them to complete their studies and benefit from the loans that they took out.

MRS. MACK: Okay. Feel free to keep going if there's more to walk us through and then --

MRS. HONG: No. I think -- I think I will end. I see a lot of hands also (inaudible).

MRS. MACK: Okay. So, let's start to take some clarifying questions and comments on what we were just walked through. Joe, I saw your hand first.

MR. SANDERS: Yeah. Jennifer, what happens at the point that a student is offered a teach-

out? Does the student have the opportunity to walk away at that point and receive an automatic discharge?

MRS. HONG: Short answer is yes.

MRS. MACK: Marjorie, please. Or I'm sorry, Joe. Did you have a follow-up there?

MR. SANDERS: Just one point. I don't think that most students or even a lot of people that work on these issues very closely understand that option. When school offers the teach-out, if I don't want the teach-out then I can walk away. So, just a, a point to consider that, you know, maybe some more robust communications or something else to let people know about that option is something that's not out there.

MRS. HONG: I, I think the point is we don't want to penalize students for trying to teach-out, you know. They, they can walk away and continue to receive their discharge if they so wish.

MR. SANDERS: Yeah, absolutely. We have a student-led help line that people can call. We tend to get an influx of calls when a school closes. And many people in that moment communicate what you're saying, Jennifer. I want to get my degree. I've been doing this for two years. I want to complete.

We just think it's important that in that moment, in the heat of that moment where there's

this very disappointing thing going on in their life, they understand that there's an alternative to that. So, I don't necessarily have a concrete proposal on that but I think it's an important point that students need to be made aware of that option.

MRS. MACK: Thank you, Joe. Marjorie, please.

MRS. DORIME-WILLIAMS: Yes. So, first I think like a (inaudible), I appreciate the efforts to clarify some of what we're looking at. And I specifically just wanted to speak to this conversation about the enrollment.

I think everyone agrees that that's really important. Our goal is to provide students with opportunity to finish their degrees. I think in terms of policy, the issue with this and thinking about, you know, what is the loan paying for which are courses that they took which means credits that they would then transfer to another institution.

And again, I think this is really problematic because these student's aren't getting that money back and often many of those credits do not transfer or they're made to retake these classes again and there's substantial literature to support looking at the, the challenges that students face particularly for

low-income students, students who are women, and students of color. And then adding to that sort of differential treatment depending on the institutions that they are trying to transfer into.

So, I think in theory it makes sense, but in practice, these students are still having to pay more both in time and money because even if they do re-enroll they're still having to take courses over again that they've already taken and won't be accepted. So, I think to not offer the same automatic discharge because the issue isn't our students graduating. The issue is the institution that they started at closed and so some of those credits are not going to transfer, and having sat on many admissions committees and, and having conversations with students about curriculum, that happens regularly, right, across institutional settings.

So, I think that to offer this process of automatic discharge shouldn't be dependent on whether or not students re-enroll. That's not to say we're not encouraging students to do that, but again, the transfer of credits is a significant issue even for students who are not coming from closed institutions. And so, ignoring that I think is really problematic in this language in, in the proposal.

MRS. MACK: Thank you, Marjorie. I

just want to make note that David has come back, and for dependent students, Dixie (primary) is back and Greg has stepped away the table. Michaela, please.

MRS. MARTIN: I just -- maybe I'm a little confused at this stage because yesterday it was clarified pretty like firmly that students who re-enroll are still eligible for that full discharge, right? We're not talking about a partial discharge. So, I'm, I'm missing maybe that part where like why they would need to fill out an application, right? Or is it that like, oh, maybe if they re-enroll they won't fill out an application and we won't have to discharge their loan. Because like other than that like I, I don't -- I'm not understanding what the practical difference is in having them fill out an application versus just getting rid of it if you're going to get rid of it either way.

MRS. MACK: Department, can you help us understand that particular point to move forward?

MRS. HONG: Yes. So, we wanted to give them one year, right? One year to decide what they wanted to do. And the reason -- remember, the reason why we said one year, it has to be one year is because if it gets to be any longer than that then a student tends to go -- tends to go into default, right? So, that's why we're reducing, reducing that window to one year. Auto

discharge within that year.

If they re-enroll, think about it. If you have someone that's a senior maybe three credits short, they, they may want to re-enroll somewhere just to finish and graduate. They don't -- you know, they, they are ready to be done and to complete their program they found somewhere else where they could finish out. That -- in that case, the discharge wouldn't need to apply, right? So, if they -- but they could still submit an application if they wanted to even in that situation, right?

So, we want to -- we want to just take, you know, take this closed discharge and I know we -- I know we think about the big, you know, precipitous closures. That's different. They're all going to be -- and they're -- everybody is going to be subject to this auto discharge within a year, but we do -- we need to preserve the option for re-enrollment for those students that are close to being done and they just want to be, be finished with it. They can still apply for discharge after that.

MRS. MARTIN: You're saying in that cases where someone has few credits, they've taken a class and they finish it up, they would still qualify for a loan discharge?

MRS. HONG: Yes, but not the --

MRS. MARTIN: So, you're just saying that you're hoping that because they graduated they won't apply and then it won't have to be discharged?

MRS. HONG: Well, there would be no need, right, because they've completed their program. Why would we auto discharge someone who has met their educational goals, completed the program?

MRS. MARTIN: These schools prey upon low-income people and overcharge them and so I think that (interposing).

MRS. HONG: I don't disagree. You can't -- you have -- yes. We -- we're not contesting that point, but we are -- we -- we're talking about the universe of closed schools. And that not every school close -- closes precipitously.

MRS. MACK: We have a number of other folks with their hands raised, so Jennifer --

MRS. HONG: Yes, yes.

MRS. MACK: -- and Michaela, I, I would like to move on to some of the other comments and questions. Josh, please.

MR. ROVENGER: Thanks. And so, I'll start just by saying I, I appreciate the Department's time in preparing this clarification and I think it's

helpful but it doesn't -- it's still -- my concerns that I expressed yesterday about, in particular, borrowers who attended a school that closed before 2014 remain. For those -- particularly for those who have re-enrolled and therefore not entitled to any sort of automatic discharge, you know, it -- I understand that they can still submit an application, but for, for those borrowers in particular, they're the least likely to know that they're entitled to this relief. They're the ones who had been waiting the longest for the relief. And we know from the GAO that they're not likely to have transferred most of their credits over to any other program.

And one GAO report from 2019 found that only 4 percent of students were able to transfer credits from for-profit schools between 2004 and 2009. I, I guess where, where I'm going with this is if, if the Department is going to take the position that the possibility that someone out there may be able to transfer their credits and complete their program and it isn't this calamitous closed school situation, that that outweighs granting any automatic discharge to borrowers pre-2014 who re-enroll, it would be helpful for the Department to rely on specific instances and specific data that would support that and for us to see that. And because to my mind the, the balance there just, just

doesn't -- isn't tipping the right, right direction.

MRS. MACK: Thank you, Josh. David, please.

MR. TANDBERG: Yeah. In the document that's on the screen right now I'm interested you, you say as we get better data we'll be able to define this more broadly, etcetera. I'd like to know the specific data points that you would like that you don't have now.

Also, I'm, I'm interested in learning of those who continue their education yet submit an application for relief or discharge, what percentage are approved? I'm also concerned as my alternate has shared with me the fact that students tend to default after a year. That suggests they're stressed financially by the closure, right?

That, that's an important data point that no matter what they're doing whether they continue their education or they don't, we have data to suggest that this is a population that's stressed financially and could use relief. It'd be really interesting to learn, to compare those who continue their education without discharge versus those that continue their education with discharge, the difference in the graduation rates between those. And my, my guess is those that those who receive relief are probably far more likely to continue and

successfully graduate.

So, two data points I'd like to, to summarize. One is what are the data points you need to be able, as you suggest, to give more borrowers the opportunity to get relief? And then what percentage of those who apply for relief actually get it of those that are continuing their education?

MRS. MACK: Thank you. I'm tracking those. Feel free to always place specifically what you're requesting in the chat too. It helps us keep track of it there as well. Bobby, please.

MR. AYALA: Just a couple of points for us to consider. When Marjorie brought it up earlier and I kind of wanted to piggyback off the, the transfer issue. Throughout the literature, you know, we, we take a look at the -- there's issues with transfer between two-year and four-year public schools, so I bet the issue's even exacerbated when we take a look at closed schools, you know, transfer issues then. I think Josh mentioned the statistic earlier about 4 percent were able to successfully transfer credits.

And so, when we take a look at students that are re-enrolling and they're being -- and now, if they complete their degree, it stands to reason that they, they may be ending, you know, paying a lot more for

that degree considering a lot of their credits didn't transfer and they're having to retake a lot of the courses. So, why, why should they, you know, be excluded from, from the process as, as mentioned earlier by Jennifer?

Another issue that was brought up by -- and, and I totally agree with her, but an alternate is, is -- does the treatment of a, a re-enrollment decentivize returning to higher education? If we take a look again at the literature, when we look at the students that are mostly impacted by closed schools in, in reference to minorities, one of the biggest issues to persist in (inaudible) retention, you know, and, and ultimately degree completion is continuing on with an education.

But if they read into this rule they may say, okay, you know what? I'll just stay out for a year. And if I stay out for a year, I can get this 30,000 forgiven and then I'll just try and come back a year later when a lot of times, you know, life happens and they may be unable to do so after a year. And so, this could create a negative impact on the completion rates if, if they consider, you know, the way debt relief as opposed to continuing on. So, that's, that's all (inaudible).

MRS. MACK: Thank you, Bobby. I just want to note that we've had a substitute in for Jeri. Her alternate, Jennifer, has come into the process for student loan borrowers. I have Heather, Justin, Jaye, Bethany, Jennifer, and then Jennifer. And then after that, I would like to move us to hear and welcome to the table advisor Raj who has some of the data that we invited before. And I want to make sure that we can get that in before the lunch hour. Heather, please.

MRS. PERFETTI: Thank you. So, I won't repeat the point that was just made, but I also was going to bring to the table the balance between being liberal with automatic discharge while also not being harmful to student completion which was just referenced. I think that is an important consideration, and, and I'm struck by some of what Jennifer was indicating because not all closures are precipitous, and so how do we balance some of this discussion with the quality closures that are taking place?

I know that those aren't necessarily the ones that are reported in, in the media may not necessarily be the ones with large student numbers. But there are quality closures, and how do we balance that with some of this discussion? Thank you.

MRS. MACK: Thank you, Heather.

Justin?

MR. HAUSCHILD: Thank you, Kayla. So, I want to raise a few points here. I just want to say that we appreciate what the Department -- and I, I apologize, I'm reading from another screen here so I'm not disinterested. Appreciate what the Department is trying to do here in not wanting to penalize students with transferring and attempting to complete, but we're not entirely sure that's the primary lens we should be viewing these regulations through.

I think Marjorie's and Josh's points they made earlier were, were incredibly important. You know, the GAO, and somebody correct me wrong if I'm reading this in, in the wrong fashion, but they talked a lot about the barriers that students face when they're transitioning between institutions. They talked about how proprietary institutions or proprietary institution transfers are the most common, and that how when students do that on average they lose 83 percent of their credits is I, I think what the number is. And that's a really concerning thing. That means that students making these transfers are likely retaking classes that they've already spent money on to take in addition to taking additional time to retake those classes.

The, the addition -- the next point I

want to make is this idea of kind of this -- and I'm not going to call it -- well, just this, this idea of a three-credit student that they've just got three credits left and they want to transfer and finish it up, there are residency requirements it's my understanding at, at many schools that mean you essentially have to spend a certain amount of time at an institution before graduating. So, I think that's an important consideration to take into account here.

And then I understand that there are closures that happen in a more responsible manner than other closures, but I -- but I just think, you know, when we're -- when we're talking about and framing this idea of a quality closure, it is still a closure and a closure still impacts the students. So, thank you.

Oh, and (inaudible) I'm, I'm so -- I'm so sorry. I did have a suggestion for how we might manage this. What about an automatic discharge that has an opt-out provision similar to how some of the TPD has been done? So, if a student was desiring to transfer and complete for whatever reason they have the option to do that but in an op-out of an automatic discharge.

MRS. MACK: Thank you, Justin. Jaye, please.

MRS. O'CONNELL: I'll be brief. I

think this was around the, the issue of balancing the quality closures with the precipitous closures and just thinking in Vermont of some of the small, nonprofit, liberal arts schools that have closed recently and they've organized with our state universities, other institutions that I, I think have responsible teach-out programs. And students have completed their degrees so it, it just as I listen to where this is going like is there -- are there some data points where you could understand where students are having to incur additional costs to retake classes versus the students really are completing their degree maybe even at an institution that's giving them more access. I, I, I just feel like we -- I don't fully understand if this proposed regulation gets us to that. Thank you.

MRS. MACK: Thank you, Jaye. Bethany?

MRS. LILLY: So, I wanted to touch on automation and how important it is to people because I think that's been to some degree missing in this discussion. Low-income folks and people with disabilities are disproportionately low-income. People of color are disproportionately low-income.

Figuring out how to interact with the bureaucracy to submit an application is very, very, very difficult. You're going to have to go oftentimes to a

legal services organization to find assistance with this. Some of those organizations are represented here on -- at this table. You'll get these calls and that is really why I think you're getting the level of push-back you're getting on this because you are going to miss lots and lots of folks if you do not automate this.

I really like Justin's idea about an opt-out because I think that captures those folks who are in the situation Jennifer identified. But I don't think, you know, there are going to be all that many of those folks, unfortunately. I'm curious to see what the data says.

And we're talking about folks who may have limited internet access who probably are going to run into problems with a collection of other ways of accessing the application in and of itself. And if we eliminate that automation they're not going to get it. We've seen it in TPD. We've seen it in other programs. You know, that's not going to happen if there's not automation.

And so, I think we have to keep in mind that we're missing -- if, if we don't automate this process for folks then they're just not going to go through it. And I think we need to be very upfront about that. You are like basically leaving people in debt if

there's not automation for them, and I just want to be very clear about that.

MRS. MACK: Thank you, Bethany.

Jennifer. I'm sorry. There's two Jennifers. Yeah, the alternate that has come to the table. I apologize.

MRS. CARDENAS: Okay, thank you.

MRS. MACK: Mm-hmm.

MRS. CARDENAS: So, I wanted a, I guess, a, a clarity on the one-year. I think when it comes to thinking about students getting ready to graduate, Jennifer from the Department said that yeah, but universally the majority, you know, don't fall into those like gaps. But the reality is the majority have generational wealth. The majority have the access the other students don't. So then, you know, she also mentioned that it would be easier because then they wouldn't go into default.

So, my question is then why don't you fix the default? Because like one year, I mean, there are schools that are semesters, there's schools that are quarters, and then students have to like manage their life on like food security, housing security. We have students who live in their cars. So, we have so many varieties of students that don't fall into the, well, they're just not going to be able to graduate.

So, my thing is like one year seems -- I want to know where that data's from the one-year, because we have so many different institutions that have different formats for applying, for getting accepted, and then when the school starts. So, anyways, that was it. Thank you.

MRS. MACK: Thank you. Alright. We have Josh and Jennifer, those two more, and then I am turning it over to Raj.

MR. ROVENGER: Okay. So, I'll be quick. I just wanted to respond to questions and points raised by Jaye and Heather. And, you know, who are we -- who are we talking about here? And I think it's important to note that just last week the GAO reported that 85 percent of the 246,000 potentially eligible borrowers whose schools closed between 2010 and 2020 went to for-profit schools. And a tremendous 95 percent of the 80,000 borrowers in the cohort who've received discharges attended for-profit schools.

So, that's where -- that what's we, we're talking about up there and that's what we should be focused on as we think about the policy changes and their implications.

MRS. MACK: Thank you, Josh. Jennifer and then I'd welcome Raj to turn his camera on and come

to the screen. Reminder, he is our designated advisor on economic and higher education data. Jennifer, please.

MRS. HONG: So, look forward to hearing from Raj. I just want to affirm that all the proposals on the table are to encourage automatic discharge. It expands -- it's an expansion from our current regulations to provide this benefit precisely for the population of students that we've all described and discussed. And I just want to be sure that that is the intent behind these proposals and we welcome all your thoughts on this as we continue to refine them.

But we are interested in trimming the paperwork burden and we realize that this is difficult for borrowers and for students, we have done so. And we've done that in the TPD universe and we are finding ways to do that here. We're proposing that across the board for closed school discharge. I just want to be clear on that point. Thank you.

MRS. MACK: Thank you, Jennifer. I'm going to go ahead and turn it over to Raj. Raj sent a document to us to share out. Raj, can we send that out now to everyone?

MR. DAROLIA: Yes. So, I'll bring it up on the screen.

MRS. MACK: Perfect. The floor is

yours.

MR. DAROLIA: Thanks, everyone, for including me in this discussion. As I mentioned in the beginning, what I'm trying to do is just provide resources, information, and data where I can. What I'm presenting here is, is (inaudible) last night and this morning trying to just (inaudible) some data needs. And so, I, I have included kind of three sets of information here, and as some other questions came up really just to put data and research and I can try to talk about those as well. Just to, you know, going in advance just to (inaudible) as I'm trying to put this together quickly and on the fly. And let me know if there are, are other things that would be helpful. And I know it's always hard to talk right before people are going to lunch especially because you haven't had a bathroom break yet. So, I'm going to try to do three things here quite quickly.

The first is just to provide some highlights from the recent GAO Board. I think some, some folks have already mentioned this. It probably would be helpful to, to pull some information from there so you will understand what was reported in there. I also pulled some data from the Digest of Education Statistics just to show some of the courses taken specifically

amongst -- or sorry, programs offered and credentials conferred among for-profit and, and public institutions. Then I'll talk very briefly about some of the research evidence we have.

So, the first thing I want to do is just talk about this, this recent GAO report. For those of you who haven't seen it, this was the report that was released on -- it says released on the date Thursday, September 30th, so, so somewhat recently. So, what they looked at was college closures from 2010 to 2020, and they reported about 246,000 borrowers for more than about 1,100 colleges that closed.

I do want to point out one data thing here. For those of you who have looked at the closed school report, that's actually got a much larger number of institutions. There's a number of reasons for that. One is that the GAO did do some collapsing of categories regarding colleges, so that branches that at times were included with, with their parent-schools, and in other cases they did not include schools that closed that did not have any (inaudible).

So, borrowers that enrolled in closed colleges collectively had about 4 billion dollars in federal student loan debt outstanding. The median student loan debt was 9,500 dollars and averaged about

16,000 dollars.

This was mentioned before. What they report was about 86 percent of the students who are enrolled at those closed colleges were for-profit colleges, 14 percent nonprofit, and 1 percent. So, they were able to track based on some restricted data that they gained access to, enrollment outcomes overall among the borrowers at these closed schools.

So, about 13 percent completed their programs before the college closing. I have a bullet point about sort of circumstances surrounding closure I'll mention in a moment. At least in their report they're claiming under current policies, the students would have been ineligible for closed school discharge because they completed their program before the school closed. Forty-four percent transferred to another program, so (inaudible) of these possibly eligible for closed school discharge, thirty percent of the borrowers who transferred from a for-profit college transferred to a public college. Five percent transferred to another for-profit college that subsequently closed.

And using a subset of their data, so this is only pre-2015 cohorts, about half of the borrowers who transferred did not graduate within six years of transferring. So, I think there's been some

questions about what the outcomes are or have been. They're finding that a fair number or at least half did not actually complete the program (inaudible). And then about 43 percent did not complete their program before their college closed and did not transfer to another college, and this is the group that (inaudible) is calling eligible for closed school district.

They do mention referencing some of their other reports that circumstances surrounding closure appear to matter and they mentioned abrupt closure versus orderly closure and this has also been talked about here in the discussion this morning. This isn't the slide because it -- I, I sent this along before I had a chance to add this.

There is a little bit of research which tries to predict the circumstances of closure. Part of the discussion today was about heightened cash monitoring. What the research suggests, and is this a -- I'm referring to a paper by Robert Hutchin from 2020 that I can put in the chat -- suggests that heightened cost -- heightened cash monitoring does predict closure, but weakly, and it's certainly not determinative. So, another way to say that is just because a school is on, on one of these monitoring plans does not mean that it's definitely going to close. It's actually we predict

(inaudible).

Some of the negative consequences of closure from the GAO report is that students often lose credits and this was also mentioned in part of the discussion today. What the GAO reports is that students transferring on to for-profit colleges lost about 83 percent of credits on average. And then when you -- when they looked at our student enrollment at public colleges, on average, for-profit borrowers who re-enroll at public colleges are unable to transfer 94 percent of their credits. So, clearly, that is a barrier to transfer function (inaudible).

Continuing on from this report, GAO findings on College Closures (continued), as of the writing of the report as of the analysis period, which is April, so this does not include the most recent news about some of the discharges, especially August 2021 ITT Technical Institute, about 80,000 students had loans forgiven for a closed school discharge. This is about 1.1 billion dollars at 600 -- at 682 colleges, median loan debt of 9,900 dollars. And a large share of this is students who went to for-profit colleges, 96% of the students, and two-thirds of those were concentrated at, at certain colleges. So, so a lot of the forgiveness thus far -- or sorry, the discharges thus far have been

concentrated in small -- relatively small number of for-profit colleges.

Automatic discharges accounted for 42 percent of discharges since they were able to do some in 2002 or 2013, excuse me. This was a, a data point I think was asked for maybe indirectly relating to this. Of the group that transferred but did not graduate within six years of transferring, so again this is kind of a group of pre-2015 students they were able to track for six years, and they transferred but did not graduate. About 700 applied for and received discharges. I believe the total amount of, of students in that group was about 5,500 students, and so 700 of about -- of the 5,500 applied for and received the discharges. And of those who received automatic discharges, about half still ended up defaulting on their loans and it tended to happen quickly, so within the first year and a half after college closing. And then another 21 percent were past due.

So, if we think about of those who even received automatic discharges, almost three-quarters either went into default or experienced some sort of (inaudible). So, again this is all from the, the recent GAO Report on college closures.

I'll stop here for any questions about

this. Again, this was my research. What I tried to do was sort of surface some of the main findings that I could see on this.

MRS. MACK: Josh, thank you for all of that, that information. Let me ask the committee members. Do we have any clarifying questions for what's been presented here before we head into our lunch hour? Bethany?

MRS. LILLY: Just to be sure that I was taking notes correctly, you said for the 700 that applied and received discharges that was out of about 5,500 you thought?

MR. DAROLIA: Let me just confirm that here. I believe that is correct. Yes.

MRS. LILLY: Thank you.

MR. DAROLIA: Of about 5,500 borrowers who transferred prior to 2015 and did not complete the programs in six years, only about 700 applied for and received discharges as of April (inaudible).

MRS. MACK: Okay. Thanks, Stephanie. Michaela?

MRS. MARTIN: Did it show the folks you tracked or just, in general, like how much longer it took to graduate for those who did transfer?

MR. DAROLIA: I don't believe that was

reported in this -- in this report. So again, this was data that I don't personally have access to that the GAO has. I can -- I can look back for that specific question, but off the top of my head, I don't (inaudible).

MRS. MACK: Okay. And David.

MR. TANDBERG: Thank you so much, Raj. I really appreciate the -- these data and the effort you put to -- into creating this document and then -- and presenting it to us. I will certainly be referencing the document throughout the negotiations.

I, I think what is clear to me in these data, particularly the percentage of students applying for discharge and the like, is that we're facing some very significant equity issues. We need to keep in mind whenever administrative burdens are put in front of people, it's those with the social capital to negotiate that administrative burden that ultimately receive the benefits. And so, by restricting automatic discharge even for those who continue their education, we're privileging those who already have existing privilege, and that, that's my concern here.

And I, I know we do not have the data, but I think it would be reasonable to assume and perhaps we can find the data to support this or refute it, that

those who receive the discharge have a clearer path to continuing their education and being successful than those that don't. And the repercussions of that are tremendous, not just for the students but for the generations that come after that student, the probability if that student doesn't complete, the probability that their kids will ever complete college is significantly reduced.

And so, I, I get that not every, every closure is precipitous, but even in the best of cases, in the most well-planned (inaudible) designed closure that it remains a significant barrier to the student completing, and a -- and a promise has been broken. They took out the loans on the assumption (interposing) that they would be able to complete at that college, that that path would be made available to them, and yet that path was closed not because of anything they did. So, a few points to consider.

MR. DAROLIA: I'll just say with that that I'm not aware of any research or data that currently exists that allows us to track those outcomes to any extent that you, you discussed. There is other research which obviously suggests that as we relieve constraints or burdens on students or others, you know, within our population that their outcomes are, are better. There is

also research which does again not directly bear on discharges that I'm aware of, but Marjorie sent out some literature regarding transfer, you know, that's also relating to other types of bureaucratic processes between federal (inaudible) registry that there is disproportionate or -- disproportionate burden on certain groups where certainly a lot of research (inaudible).

MRS. MACK: Okay. Raj, thank you for that information. Committee, we have eaten four minutes into your lunch hour. For that, I apologize, particularly because I kept you from a break this morning. So, we are going to return right at the 1 o'clock hour so I'm in a -- in a rush to get you to, to lunch right now. I do have a quick question, though. When we come back from lunch, do we feel like we have covered everything that we can with regard to closed school discharge for now? Department, do you have everything that you need with regard to the information/data that's being request and some of the language pieces that we've already seen come through the chat and will continue to come through e-mail so that we can pick up with our third issue when we return?

MRS. HONG: Yes, and I appreciate the robust discussion on this issue.

MRS. MACK: Okay. If everyone is

amenable, then we will come back to session right at the 1 o'clock hour and pick up with the third issue, eliminating interest capitalization for non-statutory capitalization events. I'm seeing some in the chat. In the chat we do have information requests, yes, that will be saved with regard to this particular issue. And there are already language pieces coming in that we will continue to share out with everyone. I apologize that we can't always do that in real-time automatically as we're in session, but we'll get those to you timely. Alright. We will see you after lunch in 55 minutes.

(Proceedings concluded at 12:05 a.m.)

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**Appendix**

**Department of Education, Office of Postsecondary Education  
Zoom Chat Transcript  
Affordability and Student Loans Committee - Session 1, Day 2,  
Morning, October 5, 2021**

DISCLAIMER:

Note: The following is the output of transcribing from a recording. Although the transcription is largely accurate; in some cases, it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

From Josh (A), Legal Aid (he/him) to Everyone:

Evelyn Cervantes

From Josh (A), Legal Aid (he/him) to Everyone:

We're checking on her, and the others availability

From Josh (A), Legal Aid (he/him) to Everyone:

Ashley Pizzuti

From Josh (A), Legal Aid (he/him) to Everyone:

is available

From Josh (A), Legal Aid (he/him) to Everyone:

Ms. Cervantes is available, except for today and Thursday.

From David (P) - State hi ed agencies to Everyone:

We have also been willing to have segmented representation of the institution sectors.

From Bethany (P) Disability (she/hers) to Everyone:

I want to echo Justin and Michaela on this. Strongly support including Ashley or Evelyn

From Cindy, FMCS Facilitator to Everyone:

I will be off camera for a few minutes for internet stabilization but am engaged and listening.

From Joe (P); State AGs to Everyone:

[https://defendstudents.org/news/body/nsldn\\_20190206f.pdf](https://defendstudents.org/news/body/nsldn_20190206f.pdf)  
pg. 33.

From Bethany (P) Disability (she/hers) to Everyone:

Just want to register support for Joe's proposal.

From Joe (P); State AGs to Everyone:

Heather's question is a good one. The closure date is tied to that definition.

From Bethany (P) Disability (she/hers) to Everyone:

Doesn't have any impact on when a student is aware though?

From David (P) - State hi ed agencies to Everyone:

Joe's point is very important. We shouldn't have to rely on such advocacy efforts.

From Joe (P); State AGs to Everyone:

I will circulate proposed language tonight.

From Misty (P) Priv & Non-Profit to Everyone:

Want to queue a question/comment. When defining a "closed school" I want to ensure that if branch campus closes but the program is still offered online, that would not be considered for closed school discharge.

From Josh Rovenger (he/him/his) to Everyone:

Sorry. I've changed devices.

From Joe (P); State AGs to Everyone:

Proposed Closed School Discharge Eligibility Date Language §685.214 (c)(i)(B) Did not complete the program of study at that school because the school closed while the student was enrolled;; or the student withdrew from the school following the school's communication that it will close, publicly or directly to students, or not more than 180 calendar days before the school closed, whichever is longer.

From Joe (P); State AGs to Everyone:

I also sent a redline word doc to FMCS

From David (P) - State hi ed agencies to Everyone:

I need to step away for a few minutes. My alternate, Suzanne Martindale is going to join in my absence.

From Alyssa (A) Fin Aid Administrators to Everyone:

Some of us are getting very odd audio.

From Daniel (P) - Fin Aid Admin (he/him) to Everyone:

Same

From Daniel (P) - Fin Aid Admin (he/him) to Everyone:

Better now.

From Michaela (P) Ind. Students to Everyone:

much better

From Suzanne (state regulators) (A) to Everyone:

FYI David is coming back to the table for state regulators

From Joe (P); State AGs to Everyone:

Would love to see the literature on this point, Marjorie.

From Marjorie, (P) 4 Yr. Institutions (she/her) to Everyone:

Yes, I can share several.

From Raj - Advisor Econ/Higher Ed/Data to Everyone:

Joe -- if you can clarify the research evidence you would like to see, I can work to track it down (if Dr. Dorime-Williams cannot produce it easily/quickly).

From Marjorie, (P) 4 Yr. Institutions (she/her) to Everyone:

The Multiple Dimensions of Transfer: Examining the Transfer Function in American Higher Education | <https://doi.org/10.1177/0091552117725177>

From Marjorie, (P) 4 Yr. Institutions (she/her) to Everyone:

Thank you Raj. I was trying to think of the easiest way to share.

From Joe (P); State AGs to Everyone:

Thanks Marjorie. This is very interesting stuff on a point that is very problematic for students.

From Marjorie, (P) 4 Yr. Institutions (she/her) to Everyone:

Agreed Joe. These issues are strongly interconnected.

From David (P) - State hi ed agencies to Everyone:

1. What data does the Department need "to define this more broadly and give more borrowers the opportunity to still re-enroll and get relief."

From Marjorie, (P) 4 Yr. Institutions (she/her) to Everyone:

What We Know About Transfer | <https://doi.org/10.7916/D8ZG6R55> | Less than 60% of students transferring from CC are able to transfer credits and 15% are able to transfer NO credits.

From David (P) - State hi ed agencies to Everyone:

2. What share of students who continue their education and apply for discharge get their request approved?

From Christina (A) 2 Year Public she/her to Everyone:

Please keep in mind financial aid annual and lifetime limits when considering the impact of school closure.

From Joe (P); State AGs to Everyone:

My office sued Westwood College for misrepresenting its transfer of credit policies:  
<https://www.cfpbmonitor.com/wp-content/uploads/sites/5/2014/11/IL-AG-second-amended-complaint.pdf>

From David (P) - State hi ed agencies to Everyone:

Here is the report that I believe Josh is referencing:  
<https://www.gao.gov/products/gao-21-105373>

From Joe (P); State AGs to Everyone:

Josh, will you put the GAO report link in the chat for the record?

From Josh (A), Legal Aid (he/him) to Everyone:

David posted the link. Here's the full report.  
<https://www.gao.gov/assets/gao-21-105373.pdf>

From Joe (P); State AGs to Everyone:

Thanks Raj, David, and Josh