

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
AFFORDABILITY AND STUDENT LOANS COMMITTEE
NEGOTIATED RULEMAKING SESSION 1, DAY 3, AFTERNOON
OCTOBER 6, 2021

On the 6th day of October, 2021, the following meeting was held virtually from 1:00 p.m. to 4:00 p.m., before Andrea González, Shorthand Reporter in the state of New Jersey.

P R O C E E D I N G S

MR. TOTONCHI: Welcome back, everyone. I hope everyone had a good lunch and a good break, and is ready to dive back into the thorough discussion we've been having. Before we dive back into our borrower defense subtopics, I just want to quickly recognize Noelia Gonzalez. She has stepped up and she's been serving at the table on behalf of minority serving institutions and will continue to be doing so going forward in this negotiation, so thank you, Noelia, for your service on this committee.

MS. GONZALEZ: You're welcome.

MR. TOTONCHI: So, let's dive back into the topics. Review what we have -- a few subtopics left on the borrower defense issue, okay? Specifically, under borrower defense post adjudication, we have one more subtopic: the reconsideration process. Jennifer, could you start us off on that?

MS. HONG: Sure, I'd be happy to. Thank you, Emil. Let me just pull it up. Okay. So, this is our second and our last issue on issue paper number seven regarding post adjudication. We just went over the presumption of full relief, and now the second subtopic is to establish a reconsideration process that a borrower may pursue if a BD claim is denied or partial relief is

granted. Excuse me.

To request reconsideration, the borrower would need to provide additional evidence or request adjudication under a specific State standard and specify the basis for using the State standard instead of the federal standard. There would be timeframes attached to this process and, while we review the BD claim, the borrower's loans would remain in forbearance.

The Department would then review the reconsideration request and issue a decision. If after the process the borrower's claim is still denied, the borrower would not enter repayment until 90 days after adjudication of their reconsideration. And that is to give them adequate time to enter repayment.

Happy to hear your thoughts on the reconsideration process.

MR. TONCHI: Right. Thank you. Joe, you're up first.

MR. SANDERS: Thanks. So, State AGs, Eric and I specifically, discussed the State law standard last night. We talked with some other State AGs that are involved in this issue and -- our big problems with this -- the State law standard and the reconsideration process -- the framing that Jennifer used yesterday where she said what we want to create is a strong federal floor

with the possibility depending on the state that the state has a higher ceiling for student protections. That concept is something that we could potentially get behind.

The major stumbling block for us is this reconsideration process. If there was some way that the federal standard and the State law standard could be considered in one go, right? So, for efficiency's sake, as the Department's reviewing, and they're going to start with the State -- with the federal standard -- review it under that and make a determination there so as to have to avoid considering 50 State laws on each one.

But then, if denial occurs under the federal standard they review automatically under the State law standard -- that's something we could work with. Then we would need to see specific language there, but this concept that people have to be denied first and then reapply does not make sense to us.

Number one: you're going to get a lot of borrowers that just aren't going to do the second step, right? They're going to be like, "I'm denied. I'm out. I'm not going to have time to follow through," whatever it might be, right? The more administrative hurdles you put up, the less relief borrowers can --

Even if you're talking about, say, a State

AG that's making a group application, it doesn't conceptually make sense for me to have to make an application that I know is going to be denied, and then make another application following that on the State law standard. It's like -- for an attorney, it's like if you were going to -- I'm going to take the first motion knowing I am going to lose, and then I'm going to make the second motion, right? This doesn't -- conceptually -- it doesn't follow. So, I think that we could work with the concept -- the framework that Jennifer put forward -- strong federal floor with the option for a higher State ceiling on the State law standard, but we can't get behind a reconsideration process that's bifurcated.

MR. TONCHI: Any initial comments?

Jennifer.

MS. HONG: Yeah. I just wanted to affirm the idea again, to Joe's comment, that we are looking to encompass these concepts from States that have strong consumer protection laws and incorporate that into the process, into a federal standard.

You talked about efficiency. I mean, that's exactly what we're trying to build into this process. And by putting a State -- a review of State law on the front end, we felt like that would actually slow things down rather than help, again, and we talked about the various

State standards that are available. And we've put it on the back and in the reconsideration process. With -- paired with a strong federal standard, expressly to have that option available in the off-chance that a borrower is denied based on the federal standard.

In other words, if we have a strong federal standard, there would not be this need to choose between denial and reconsideration. It is just really to just wrap it up on the back end just to give borrowers that option, should they avail themselves of it -- should they need to avail themselves of it.

MR. TONCHI: Thank you. I do -- I see you, Justin, I see you, Josh, but Joe, do you have an immediate follow-up?

MR. SANDERS: Yeah, and I'll be quick. We very much appreciate the idea of creating a strong federal floor and pulling that from strong State law. I had multiple people telling me last night, "Hey, that sounds great. We want to get involved. We'll help the Department do that. Just reach out and let us know."

I am skeptical, though. That's a big job, and I'm skeptical that you're going to be able to capture everything in that federal standard, right? We're talking about large bodies of law, which is part of your hesitancy to be reviewing it all the time.

I want to hear from Josh and other borrower advocates on this, but I -- that administrative burden of the refiling gives us pause. And so, I thought our discussion yesterday was really helpful, but that's an area where we still have concerns.

MR. TONCHI: Justin.

MR. HAUSCHILD: Yeah. Thank you, Emil. I want to hit on several points here. So, first is, we're supportive of bringing back a reconsideration process broadly. So, I just want to put that out there.

I think the fact that currently there is one lacking really speaks to the interests that prevailed last time these regulations were considered. And it's pretty concerning. And I think I'd like to just, maybe, lead off with a quote here from an Army veteran that, I think, kind of gets at some of these ideas around appeal, especially in the last few years:

"The whole situation is a mess from the initial fraud and targeting to how long I've had to wait for a decision on my claim, and then the blanket denial by the past Department of Education leadership of my claim. I made a solid case and submitted sufficient evidence, and then to have that dismissed by saying there was a failure to make a legal claim is a slap in the face."

And I think that's a really important quote, not just when we're talking about reestablishing our reconsideration standard, but what that reconsideration standard should include. Reconsideration is a pretty basic procedural opportunity for folks to address what they think are concerns and how a decision was previously made. And it exists all across government judicial system.

So, it's kind of baffling why this was removed. But I also think it's important to consider what is part of the reconsideration process. It sounds like the Department is considering new evidence. We support that, but particularly in light of how some of these decisions have been made in the past few years, we think that perhaps the scope of reconsideration should be expanded to things like procedural error and misapplication of the standard to the facts presented by the borrower.

So, I think I would just leave the Department with that and I would love any feedback on how we kind of arrived at just new evidence. Thanks.

MR. TONCHI: Okay. Thank you, Justin.
Josh.

MR. ROVINGER: Thanks. First, I'll thank Justin for sharing that veteran's story, it was a

powerful statement. And I'm glad that we all got to hear it.

So, I'm going to echo some of what Joe -- some of what Justin said just to start. We are very much in support of a reconsideration process, as Justin indicated it. It is a routine right across government -- administrative law across the government.

We continue to be concerned though that, to the extent there's going to be a State standard, it's only limited to the reconsideration process. It is just adding an additional burden to the borrower after they're denied. And I go back to what I said yesterday, that if it's going to be the basis of a borrower defense claim, then make it a basis of the borrower defense claim (inaudible).

I think Justin just hit on a really important point about what's included in the reconsideration process. I also think it's worth asking and thinking about who is making the reconsideration decision. And I would be interested in hearing from the Department whether it's just going to be an entity within FSA, who's deciding the claims, and then having a discussion over whether that is the best unit to be making the reconsideration decisions.

The final thing I would note is, going back

to the discussion we were having earlier about the unreasonable delays that the Department has been -- the Department has imposed on people for years (interposing) we're just deciding the (interposing).

MR. TOTONCHI: Excuse me. Hold on one second. Someone has their mic on that shouldn't have their mic on. I just want to make sure you're heard, Josh. Is it fixed? Thank you. Go ahead, Josh.

MR. ROVENGER: Thanks. I appreciate that. So, in addition to concerns about the time it takes the Department to decide the claim in the first instance, obviously this raises new concerns about how long the reconsideration process is going to be. And then so we would ask that the Department also include not only a timeframe by which it must receive a request for reconsideration, but also a timeframe for when it's going to decide that reconsideration.

MR. TOTONCHI: Thank you, Josh. Marjorie.

MS. DORIME-WILLIAMS: So, I just want to echo Josh's sentiments, but specifically looking to this idea of a State standard -- it is the understanding that if this wasn't filed from the borrower before, then they would go find an additional or different State standard to then file for reconsideration? And if that's the case, how would a -- I mean, I don't even know that

information, so how would borrowers have access to that information or know where to go to get the information to find a State standard to then apply for reconsideration?

So, it seems -- again, I think that this is a great idea in principle, but I think the specifics of that only add additional burdens to the borrowers. And if they're in this position, it seems like an unnecessary step. And, while I understand the complexities of legal standing in states are different, if there's a way to maybe incorporate that beforehand or offer that information to borrowers beforehand, I think that that would make this process more simple.

MR. TOTONCHI: Thanks, Marjorie. Jen, do you have any initial comments?

MS. HONG: Yeah, just an issue real quick. I mean, everything you described, Marjorie, is why we left it off of the front end and try -- and are focusing on building a strong federal standard on the front end, it's because it is more difficult for borrowers and it's going to add time and inefficiencies to the process.

But we did want to preserve that option on the back end for reconsideration, which hopefully, if we get it right -- if we get the federal standard right -- this is not -- it's not an option that students will need to avail themselves of frequently.

MR. TONCHI: Thank you. Justin.

MR. HAUSCHILD: Thanks, Emil. I want to circle back to the State standard and flag something that I'm a little confused, and I don't think has been brought up yet. Of course, it looks like the State standard may be a basis for reconsideration here.

But there's this language about the borrower needing to specify the basis for using the State standard instead of the federal standard.

I'm just curious what exactly that means, because it seems to me we're already in the reconsideration process because, under the current version of the regs as proposed, the federal standard presumably didn't work for the borrower or they didn't meet the federal standards.

So, what is -- exactly what is the Department contemplating when they're saying that this -- that the borrower needs to -- rather than a State standard just being simply an accepted basis, which I thought it was, it seems like there's almost an additional step here that they need to specify the basis for using it instead of the federal standard, which, again, seems like it's already -- didn't work, so --

MS. HONG: Yeah. No, I think, Justin, that's a good point. I -- no, it's not meant to be an additional

burden for the borrower. If we can think aspirationally -
- if we're trying to subsume a strong - all the
principles that Joe talked about in terms of strong State
law in a federal standard, we would want to know if there
is a stronger State standard that a borrower is using --
the basis of that State standard, what would they presume
would be different from the review that they would get
from the State standard and from the federal standard,
just finding that out. That's all that language is
alluding to.

MR. TONCHI: Thank you, both. Just noting
Suzanne is coming to the table on behalf of the State
regulators. Please proceed.

MS. MARTINDALE: Thank you. So, yeah, I
mean, I obviously tend to agree with the comments of my
colleague from Illinois here. There are various places
through the Higher Education Act where State law is
referenced and contemplated, and the Department does have
to analyze 50 State laws. So, I think -- thinking about
principles of federalism here would make sense to me to
set a strong federal floor that ensures a baseline of
protections for student borrowers. And then any other
stronger yet consistent State laws could also be
considered on first blush when a borrower applies.

I've said this yesterday, I will say it

again today. The challenge of talking about the borrower defense sub-issues is that they really are interrelated, so we have to think about how the parts fit together. And if we all share an interest in ensuring that these claims are adjudicated in a thoughtful and prompt manner, and that means trying to figure out where to simplify.

But, I mean -- if we're talking about an additional step with partial relief, that's going to complicate -- that's going to delay the reconsideration process. I think that some sort of appeal rights should be there, but I think there are some questions here about, again, how is this really going to work in practice.

Then, by contrast, we were just talking earlier about group discharge, which could alleviate the need for an individual borrower to have to utilize this process because hopefully there will be automatic group discharges that the Department can take care of based on the evidence they have, or a State AG, or a debt collective could file, and then group discharges would take care of some of these issues.

But I am concerned about sort of the tensions here between the ways in which we're trying to better automate and streamline the processes versus the ways in which we are creating some of these extra hurdles

that will really hit individual borrowers who may be less likely to have any assistance in trying to navigate this process.

So, and I will also note, when -- back when the Department was particularly in the calendar year 2016 really trying to ramp up consideration and adjudication of claims, particularly from Corinthian borrowers, there was a special master, there was a team of attorneys who were actually reviewing the applications that were submitted, and a backlog was partly cleared.

And then, of course, with a change of administration, there was a cessation, and that's led to some of the borrowers who we have heard from throughout this process being stuck in limbo for many years, and we have heard --

MR. ROBERTS: 30 seconds.

MS. MARTINDALE: -- we've heard about the harm that has caused, and so I think at some point we should also talk about who at the Department is adjudicating these claims, but if you have a team of attorneys doing it, I think they can analyze federal versus California law, for example. Thank you.

MR. TONCHI: Thank you, Suzanne. I see Daniel and Heather have their hands up. We'll likely move to a temperature check on tentative agreement on this

concept after that. Daniel.

MR. BARKOWITZ: Thank you. I want to echo the question or concern around group versus individual, and this -- Suzanne raises this point. This comes actually from my alternate, who raises a very good point, which is: on the grounds for reconsideration, currently, the only ground for reconsideration listed is additional evidence or request adjudication under a specific State standard. So, I would like to suggest that a call-out is if a borrower's claim is denied as part of a group process, if the group claim is denied -- that the individual student be allowed to submit an individual claim, if they haven't done so before, and then that'd be specifically called out as an option under the reconsideration process. So, if the group claim doesn't reach satisfactory proof or standards of evidence or standards of proof, that the individual can add subsequently additional information and have their requests reconsidered on an individualized basis.

MR. TONCHI: Daniel, if you could capture that in the chat, that would be appreciated.

MR. BARKOWITZ: I have done so. Thank you, Emil.

MR. TONCHI: Oh, okay. Great. Heather.

MS. PERFETTI: Thank you. So, I just had a

question about the process that has been proposed. Is it intended to offer a reconsideration process of the decision using the federal standard to provide additional evidence and what other criteria may need to be met or pursue a reconsideration under a specific State standard? Is it either or (audio) is it first being reconsidered under the federal standard for reconsideration, and then, there's an additional process?

MS. HONG: No, it's either or, and it's for -- I mean, I know that we're getting to conditions for reconsideration. This is written intentionally open-ended, but yes, I mean, it could be procedural, it could be substantive.

MR. TONCHI: Thank you all. Let's take a temperature check on this concept. Oh, Dixie, I see your hand up. We'll take your comments and then we'll take the temperature check, okay?

MS. SAMANIEGO: Yeah, so, I had a quick question for the Department of Education. So, if the person gets denied in the reconsideration process, what happens to their debt that was paused, due to forbearance? Does the Department of Education immediately collect the debt for student loan payments, immediately as the decision is made? Or what kind of process is that? Yeah, because I'm imagining that it would be really

horrible if they didn't get -- they applied for the reconsideration process, they got denied again, and then they have to pay however many thousands of dollars on the spot, which most likely they don't already have.

MS. HONG: Absolutely. Thank you, Dixie. We went over that earlier. It's -- if it's denied, it's 90 days. I think that -- it's written in the previous paper, but they have -- they definitely have a grace period before going into repayment.

MR. TONCHI: Okay. Thank you all. Let's take a temperature check on tentative agreement. Again, this signifies agreement. This signifies that, at a minimum, you can live with it and support it. This signifies serious disagreement, okay?

Let me see your thumbs on this concept. I see several thumbs down. If there's a point that you have not raised yet as to the reason why you're thumbs down, I'd like Joe and Josh -- I know you've vocalized -- let me call on if it's okay. Jessica, can you voice your -- why you're thumbs down?

MS. BARRY: Sure, I just think this needs more discussion before I can make a decision on how I stand. It seems like that there's still a lot of questions that need to be resolved.

MR. TONCHI: Is there anyone else? Because

there were a number of thumbs down. That was kind of quick. Anyone else wants to succinctly state why they were thumbs down? Or if you felt it like you've been heard already, there's no need. Okay, we can move along then.

We will be moving to issue eight: "Borrower defense recovery from institutions." The first subtopic of this issue is separating borrower recoupment process. Jennifer, if you could take us through this, please.

MS. HONG: Sure. So, issue paper number eight as last -- excuse me, BD issue paper pertained to recovery from institutions. The Secretary has the right to recover from institutions the amount of relief granted to borrowers under a successful BD claim.

We've had different iterations throughout the years and how we would do this and we wanted to clarify the process for recovery, and adopt a clear limitations period. (audio) to clarify a process, we wanted to balance reasonable adjudication timeframes for borrowers with sufficient due process for institutions.

Firstly, we proposed to separate the process of institutional recoupment from the BD approval process. Also notable is that this proposed process would apply to new loans issued after the effective date of this rule. And then we -- yeah, we could just talk about

all of this together, but second after the Department has approved the BD claim, we would determine whether to seek recoupment and the amount we would seek to recoup.

This amount could be no greater than the amount of approved discharges but could also be less. The Department would generate a Program Review Report with all relevant information regarding the BD claim as well as liability amount that the institution would have the opportunity to respond to as with any other program review.

The Department will then take into account the institution's response and issue a final program review determination. The liabilities identified in the final program review are appealable to the Office of Hearings and Appeals and then to the Secretary, as applicable.

And then finally we are proposing adopting a six-year limitations period. The clock would stop when the institution is notified of claims during the institutional response process.

Eager to hear your thoughts on a recoupment process.

MR. TONCHI: Thank you, Jennifer. Daniel.

MR. BARKOWITZ: Jennifer, can I ask a question for clarification? The six-year limitation is

from what date? Is that from the date the loan is made, from the date the student enrolled? When does the clock begin to tick?

MS. HONG: I would assume that that would tick once the decision is issued.

MR. BARKOWITZ: So, again, my conclusion if that is true, is if we are in fact extending the ability to claim to 30 years, you're talking about six years from the 30th year of repayment?

So, I presume there's -- the limitation here has to be related in some way to when the loan was originated, not to when the claim is filed, but if not, I would argue that, again, going back to the question around documentary evidence, it can be very hard to provide documentary evidence six years after the twentieth year of repayment.

MS. HONG: Right. We're going away from the long origination date. We can circle back with you, but your concern is noted.

MR. TONCHI: Daniel, if you could capture it in the chat, that would be helpful. Thank you so much. Jessica.

MS. BARRY: Yeah, I have a couple of questions. First about the program review. And -- which office would manage the process? And would it be a

Department staff or contractor that would be developing the program review report?

And then, one last question about that, how much time would the institution have to respond to the program report -- program review?

MS. HONG: So, it is our office of Federal Student Aid that issues a program review. There are timeframes attached for institutional response to the program review. We can get back to you on what that standard timeframe is.

MR. TONONCHI: Thank you. Josh.

MR. ROVENGER: Thanks. I just want to say that the legal aid community strongly supports the Department's proposal to decouple the borrower defense decision with the recovery from institutions. We do think that this decoupling is essential for borrowers to get swift decisions and relief from their borrower defense claims.

MR. TONONCHI: Noelia. Noelia, did you hear me calling you? I apologize if you didn't hear me.

MS. GONZALEZ: Yeah, but my hand's not up.

MR. TONONCHI: Oh, it's not, okay. I apologize. You're in the upper left-hand corner.

MR. TONONCHI: Okay. Well, this stage, folks -- Oh, Jessica, you have your hand up.

MS. BARRY: Yeah, just one more thing. I wonder if we could consider giving institutions the ability to respond even if it is from a previous action. I think they should have another chance to respond because, in some cases, they may be getting an assessment of liabilities that is going to bankrupt the school. I mean, these are serious situations, so I wondered if another institutional response could be considered.

MR. TONCHI: Thank you, Jessica. If you could note that in the chat, that would be great. Heather.

MS. PERFETTI: I think that goes along the lines of the comment I was going to make about just basic elements of due process for institutions as well. And I probably don't know enough about the individual and the group process claims, so I just raised this again, whether the timeline is different depending on if it's an individual claim or a group process, or needs to be.

And then I just raised the question about the role of the accrediting agency that may oversee the institution as well. It's not clear that there is a role here, but I just want to raise that to see if there was some kind of piece for the accrediting agencies.

MR. TONCHI: If you could note that in the

chat, that would be great, Heather, thank you. Misty. Oh, Jen, actually, initially Jennifer had her hand up. Please go ahead, Jen.

MS. HONG: Yeah, just initially I just want to reaffirm -- yes, there would be a role for the accrediting agency. We would assume that we would be in close contact with the accrediting agency if the accrediting agency had accredited this institution every step of the way.

And just to be clear, there is an institutional response built into the program review. If I'm understanding, Jessica, you're asking for one in another response period in addition to that?

MS. BARRY: I'm actually saying in response to a final program review.

MS. HONG: Okay. Thank you.

MR. TONCHI: Thank you. Misty.

MS. SABOUNEH: Thank you. So, to kind of build on that and try (audio) on this, I just want to make sure -- for my constituency group we do have a lot of smaller schools represented here that -- to other people's comments -- this could have a really big financial impact. Of the 1700 private nonprofit degree-granting colleges, 332 of them have less than 250 students. And a lot of these are minority serving

historically black colleges.

So, a couple of points to be made, as Jessica said, we would like to make sure that there's an opportunity to provide updated information if the determination is being made based on a prior program review and have that new information be looked at before a final determination is made.

There's probably some additional conversation. Looks like we have some follow-up around the limitation period, but I think it would make sense if this period was the date the student was no longer at the institution. I think the timeframe is five years now, so we're proposing six. Obviously, preference would be five there.

And then, the other clarifying point -- so, the sentence about the amount being recouped. So, this is only up to the amount of the loans taken out by the student. Is that correct? Okay, so it wouldn't (audio).

MS. HONG: Yes.

MS. SABOUNEH: Okay. Thank you.

MR. TONCHI: Thank you, Misty. Michaela.

MS. MARTIN: Yeah, I just wanted to just clarify that this is not in any way tied to the other process. Only because it came up earlier and I have a feeling it's going to keep coming up, that we're putting

these two together where we're like bankrupt schools or not forgive students loan borrowers.

And I just really want to also point out that students can't file bankruptcy on their student loans. So, when we're talking about that, in this situation there's only one interested party here that can actually file bankruptcy and have relief from the debt that's attached to this.

MR. TONCHI: Thank you, Michaela. Jessica, please proceed.

MS. BARRY: Sure. I want to support Misty's five-year comment. We agree with that. And then there's someone from my constituency that has a question. I want to read it exact so I get it right.

But what does the appeals process look like with regard to the recovery from institutions? Can you help us understand the exact process?

MR. TONCHI: Thank you for that question. Please write it in the comments. I see we have no other hands on this issue.

I'd like to take a temperature check on tentative agreement on this concept. Can I please see your thumbs? Three thumbs down. Misty, Daniel, Jessica, please succinctly state the objections.

MR. BARKOWITZ: Any further --

MR. TONCHI: Sorry, sorry. Misty first. Then Daniel, then Jessica.

MS. SABOUNEH: Just two things that I was just going over. I think they're just defining that timeframe and just discussing the appeal process for using a program review.

MS. BARRY: And I agree with Misty, but I would also add giving schools the opportunity to respond again after a final program review.

MR. TONCHI: Daniel, anything to add?

MR. BARKOWITZ: I would want more clarification on when the six-year timeframe begins.

MR. TONCHI: Thank you. Okay, then let's move on to our final subtopic for borrower defense. I -- Jennifer, if you could take us through the limitation period.

MS. JEFFRIES: I just saw an interjector had a hand up.

MR. TONCHI: Yeah. I saw the hand and then I saw it go down.

MS. JEFFRIES: Oh, okay.

MR. TONCHI: So thanks, Cindy. Jennifer, if you could take us through the limitation period subtopic.

MS. HONG: So, so, we actually just

encompassed that conversation, but Daniel, I just wanted to answer your question on when it begins. It begins when the application was filed. So, the six-year limitation period begins when the application is filed. (audio).

MR. BARKOWITZ: If I can respond, I'll reiterate my concern then that, because of the other conversation on extending the ability for a student to file a borrower defense claim to any point during the repayment period, that then opens this up to request for documentation. Could be 15 years after the loan origination, could be up to 30 or more years after loan origination.

So, I would strongly urge the Department to think carefully about what's a reasonable timeframe for response if we're going to accrue a penalty against an institution for an action that they can't even respond to because they don't have documentation available to respond to that.

I just think that that sets an unreasonable standard. I completely understand the Department's desire to collect from institutions that behave badly. I'm not minimizing that at all.

But there needs to be an ability for an institution to respond, and the way this is set up, if it's six years from the date of the filing, it doesn't

give institutions any ability -- if it's in fact much later in the cycle -- to respond to that action. So, that would be my request.

MR. TOTONCHI: Jen, if you have an initial comment, please go -- proceed and then I'm going to call on myself.

MS. HONG: Great. Thank you for that, Daniel. Emil, sorry to confuse things. I had actually wrapped up the summary of both issues that were so discreet, but we can take a temperature check on each of them still if you'd like that info. Unless people want to just add limitations period.

MR. TOTONCHI: I'd defer to the committee. If you have indeed consolidated the discussion and there's nothing else -- I do see Suzanne's hand. I just want to know. We -- my instinct is -- if the Department of Ed needs further guidance on this and would like a temperature check, we will take it. So, Jennifer, you let us know. But I'll go to Suzanne momentarily. I'll come back to that question.

MS. MARTINDALE: It'll be real quick. I just want to say I have no problem with there being a limitations period on recouping against the school. I think that that makes sense.

Here, the concern's about document

retention, and so forth I think the other reason why many of us who have interacted with student borrowers, are student borrowers, are so strongly committed to seeing there being no limitations period for the borrower is that -- I don't -- I think maybe we've said this before, I forget, but there's no statute of limitations on collecting federal student loans. They follow you to your grave, and that's why this is so important.

That's also why I will reiterate support from bifurcating the process. And then the question is finding the reasonable amount of time to expect schools to retain the kind of evidence or other documents they would need to respond to a recruitment request. But I think, at the end of the day, it may just be the case that the school cannot be recouped against because they don't have the information, and that's -- I think we can live with that. Thank you.

MR. TOTONCHI: Thank you for your comment, Suzanne. Real quick I want to recognize that Stan has come to the table on behalf of Independent Students.

And number two, shall we proceed with the temperature check on the concept for a tentative agreement here? I actually say we shall. I'd like to take a temperature check on tentative agreement on this concept with respect to -- I apologize -- with respect to

the limitation period. Can I see thumbs?

Okay. So, I see Daniel, Misty, Jessica, you had your thumbs down. I also see Heather. First Daniel, Misty, Jessica, is it for any other reasons that are new that you didn't say already? Okay. Heather, could you please articulate as to why you were thumbs down?

MS. PERFETTI: Similar sentiments to the others.

MR. TONCHI: Okay. Thank you. Okay, before moving on, Josh, I understand you actually did have a hand up. You wanted to share something.

MR. ROVINGER: Yes, thanks. So, there are just three sub-issues related to borrower defense generally that we haven't discussed and that I think are worth us considering and then I'm happy to circulate it in writing after this in more detail. But I just did want to put it on everyone's radar.

The first is -- we strongly believe that there needs to be a requirement that the Department provide a detailed explanation for its decisions. It's important if the Department grants a decision to provide clarity to the borrower on what's going to happen next. As Justin stated earlier today and his hand (audio) during public comment yesterday also indicated, it's particularly important for denial, as the judge -- the

federal judge in the Sweet case said, right now, the Department's practice has been to issue perfunctory alarmingly curt denial notices. And so it's our belief that there needs to be some sort of requirement for more detailed explanation.

Second -- and I alluded to this briefly earlier -- would be adding in an explicit statement saying that the Department can reopen -- or deny borrower defense claims in the future. This is particularly important if new evidence comes to light, that would change the analysis.

And then the final piece of it is just adding in a requirement about data reporting from the Department. In particular, the Department needs to be transparent. How many discharges have happened? How many applications are pending? What's the money at stake? Where -- which states the claims are pending in? And so we would ask that the Department consider adding in some sort of requirement for this data reporting because it is such an essential tool to understanding where there is misconduct and ensuring that the Department is fulfilling its oversight responsibilities.

MR. TONCHI: Thank you, Josh. So, as you said, you'll submit those in writing for the committee's consideration. And at the appropriate point in the future

we will come back and review those as a committee, okay? Excellent, folks. We have gotten to the end, at least initially, of our borrower defense section.

At this stage, because we are early for a break, we're going to continue to push forward, okay? We are moving to issue four: Improving PSLF application process.

And, to start us off on the PSLF topic, just an overview, I'd like to pass it to Jen. I do see Todd's hand is up as well. So, I pass it to the Department of Ed, whoever would like to start.

MS. HONG: Go ahead, Todd.

MR. DAVIS: (audio) I just want to say thank you to everyone. Brian Siegel will be stepping back in for OGC as we move out of borrower defense and on to PSLF. Thank you all.

MR. TOTONCHI: Thank you, Todd, for your service. Jennifer, please take us forward.

MS. HONG: Yes, thank you, Emil. Earlier this morning, I promised you discussion on the Department's announcement on PSLF this morning, so at this point in time, before we get into the issue paper, we have invited Ian Foss from our Office of Federal Student Aid. He's the Director of Policy Implementation and Oversight. I don't know if he's in the queue yet,

Emil, but he's happy to talk about the announcement this morning and how FSA is implementing the PSLF initiatives, and then we can kind of segue that into issue paper number four, and there is attendant regulatory text with this paper as well.

MR. TOTONCHI: Excellent. I do see Ian Foss here and please proceed.

MR. FOSS: All right. Thank you, everyone. Can you all hear me?

MR. TOTONCHI: Yes.

MR. FOSS: Great, thanks. So, I am Ian Foss, as mentioned, I'm an employee at Federal Student Aid, where I work on implementing, among many other things, the Public Service Loan Forgiveness program. I'm sure you've all heard the news or read the news about the executive action to improve PSLF, and I'm here to talk a little bit about the terms in particular of what it was -- that was actually announced -- as well as spending a little bit of time focusing in particular on how we're going to actually proceed in an implementation, but questions about legal authority, questions about why the terms of the announcement are what they are, those are not things that I'm particularly well-equipped to answer for all of you.

So, with those disclaimers out of the way,

what I would say is that the announcement was comprised of a variety of things. I would say that the meatiest of them was the announcement that we would account all prior payments made by student borrowers towards PSLF regardless of the loan program.

And so, over the course of the next few weeks, we will actually begin email campaigns to email Direct Loan borrowers who have already certified employment for PSLF. So, these were people who had started doing at least some things right with respect to Public Service Loan Forgiveness under the normal program rules. So, we had already been tracking their progress towards PSLF. So, in the next few weeks, we'll be emailing them to inform them not only of the fact that they are covered by this announcement, but also specifically informing them of the -- our preliminary estimate of the number of additional qualified payments that we have determined, that they will be eligible to receive as a result of the action. So, borrowers will have that tangible piece of information in their hands in the next few weeks.

I would say it will take our PSLF servicer a bit longer to actually ensure that these updated payment accounts are reflected in the accounts of student loan borrowers. And we're talking on a time horizon here

of a handful of months, and not a handful of weeks. So, borrowers and everyone will need to be patient with us.

The best thing that we can advise borrowers to do at this time is to ensure that their contact information on studentaid.gov is up to date. That is the portal that we'll be using to push messages out to borrowers, particularly for borrowers from the FFEL Program or the Perkins Program who maybe haven't interacted with us directly on studentaid.gov before. They may not even have accounts. So, taking that action today is the best way to ensure that they get proactive personalized messaging from us.

But there are other steps that borrowers could need to take in order to set themselves up for this program. Of course, not all borrowers have consolidated their FFEL Program loans or their Perkins loans, and so converting those to the Direct Loan program is absolutely a condition of being able to receive credit for payments made or periods of time spent in repayment on their FFEL program loans or their Perkins loans, and then, of course, individuals who haven't yet certified employment for PSLF or who maybe haven't certified all of their employment for PSLF, because, at least in our experience, PSLF borrowers learn the rules as they go, and so, know not to certify employment from, say, before they

consolidated their loans because there was never a point before. Well, now there's a point. And so, individuals who maybe haven't certified employment from before they consolidated their loans should certainly do so to ensure that we have complete employment history for them.

Those are the only ways that we'll really be able to apply this waiver to borrowers, but borrowers should not need to do anything specifically to get credit under the waiver besides consolidate their loans if they haven't already and certify employment.

We're actually using our national student loan data system -- data set -- for those of you in the financial aid community, to calculate the number of additional qualified payments that borrowers will be eligible for.

So FSA is actually doing the maths here, and we will be the system of records, so to speak, for the number of payments that borrowers should be able to get as a result of this waiver.

But that is just one of the things that we announced today. There are certainly more. So, we certainly plan on also simplifying what it means for a payment to qualify for PSLF. So, things like being off by a penny or late for a few days on making your payments, under normal PSLF program rules, can cause a borrower to

not get credit for PSLF as a result of such rules. This waiver allows those periods to count when they normally would not.

In addition, there are certain barriers to military borrowers who are seeking to qualify for PSLF, as many of you know. Active-duty members of the military are also oftentimes eligible for deferments and forbearances, but also, as I'm sure most of you know, those periods of times don't typically count towards PSLF.

We will be working towards including those periods of time towards PSLF. Obviously, the borrower is working for a qualified employer if they're in active-duty military service. So, we'll be working towards offering members of the military credit for that period of time.

We are also planning on helping service members and other federal employees certify their employment more easily. Like most of you know right now, everybody needs to fill out paperwork to demonstrate they work for qualified employment under Public Service Loan Forgiveness. Going forward, that's something that we're hoping to eliminate, the need for members of the military and federal employees to send new data matching agreements or other data that we have access to through -

- with other federal agencies so that those individuals won't actually need to go to their HR office in order to ultimately certify their employment.

We also plan on making a concerted effort to review denied PSLF applications and to identify and correct errors and processing where we find them. So, we will be doing a few different types of checks first of our administrative data to see if there are any patterns that we can glean that suggest that there are areas that we should dig into more deeply to look for errors, but we will also be engaging the services of an external organization to come in and actually review our operational practices with respect to PSLF as we seek to move forward with the program.

Last few before I take questions, because I'm sure there are many. We plan on working to simplify the PSLF application process over the course of the coming year. We plan on trying to improve the quality of our qualified employer database so that it's easier for people to certify employment. And we're working diligently to try to finally enable a full digitalization of our PSLF process through the help tool, that would not only allow borrowers and employers to sign PSLF paperwork where that's still required, but also then digitally submit that paperwork to wherever it ultimately needs to

go for processing. So, that there's no more printing, scanning, faxing, many other 20th century technologies that don't have any place today.

And then of course, we are all here -- you are all here to discuss rulemaking. And so, as you consider the agency's proposal, as you consider what we might do with our PSLF regulations, I think it is just important for everyone to bear in mind that we have these waivers that are going on right now. They dovetail and intersect with certain aspects of our regulations, but these are our waivers of normal regulations. That means that they are temporary. These are not permanent modifications that were being announced.

And so, the permanent changes those are things that will come by and large to the regulatory modifications that are being addressed today. And with that I will pause and take any questions that folks have.

MR. TOTONCHI: Thank you for that presentation and for the information. Before we proceed with the questions, just a few things I want to note. Persis is back at the table on behalf of Legal Aid. Jennifer is at the table on behalf of student loan borrowers, and, alright, Suzanne is here on behalf of Suzanne and State regulators. Justin, please proceed.

MR. HAUSCHILD: Thanks, Emil. in the

interest of full disclosure. I actually have maybe what would be fairly considered three kind of separate questions. I don't know if that's good for me to just rifle off all three or if you guys want to cycle through and come back to me, but -- your -- okay, alright. I'm just going to go --

MR. TONCHI: Go ahead, proceed.

MR. HAUSCHILD: To begin where Ian left off, he had mentioned these are waivers of authority and I know -- in taking a look at the fact sheet -- there are certain of these changes that are -- have pretty clearly delineated timeframes. And some of these others, maybe not so much or maybe I just missed them.

So, I'm wondering, are these all reliant on essentially emergency authority right now that to the extent that we might need to consider them within this process? I don't know if that question makes sense. Are there -- is there anything here that is maybe more permanent in nature that the Department's doing without emergency authority?

MR. FOSS: So, I mean, I know our Legal Counsel is here who can talk more about our authorities, but certainly there are improvements that we are making that are purely operational and that in no way require sort of any consideration really of legal authorities.

Things like digitizing the PSLF help tool is an example of one of the things that obviously is not a waiver of rules, does not require any particular consideration, but Brian, I don't know if you'd like to chime in at all on the other topics.

MR. SIEGEL: No, I think the announcements by the Department today indicated that certain changes we're making to the requirements of PSLF rely on our authority under the Heroes Act which allows us to modify or change regulations and statutory provisions during a national emergency, and the Department has -- is executing -- is using that authority in regard to some of the changes that have been announced today.

MR. HAUSCHILD: Okay, I appreciate that. I think I'm just trying to kind of make sure I've got a good distinction between which ones are on that emergency authority.

But the next question I had was for the changes concerning military borrowers. Specifically, I'm curious if the Department plans, when they're implementing this, to also look at former service members in their data match. Of course, now it would be veterans, but would have perhaps time and service now being credited, and whether or not they plan to combine that with -- for instance, I would -- ECFs, they may already

have for these veterans working in other -- in public service positions of post-transition.

MR. FOSS: Certainly, we plan on pulling in as much history as we possibly can. There are some details that we don't have finalized yet, such as exactly how far back we will be able to go, but we will go as far back as our data will possibly allow us to go to automatically certify payments towards PSLF.

But like I mentioned, exactly how far back, that is right now, I think, actually, that's uncertain.

MR. HAUSCHILD: Okay, great. That's actually it for me. Thanks so much. I appreciate it, everyone.

MR. TOTONCHI: Thank you. And I see about five hands. We will definitely take those comments. I just want everyone to keep in mind that obviously, we're going to continue this -- the discussion on this subject matter as part of our subtopics discussions as well. I'm just moving forward, so don't feel like this is the only opportunity to discuss this stuff, okay? Persis.

MS. YU: Thank you. And thank you, Ian, for being here and discussing these topics, of course, for the Department's announcement. I think this is going to be a huge relief for a lot of folks, especially a lot of the folks that I work with.

I do have a number of questions. Some of

them big picture, some of them operationally. In terms of the consolidation for FFEL borrowers, one of the questions that I have is certainly what guarantees will they have that, if they do consolidate their loans, they will then be eligible for these payments to count. Certainly, we know that one of the problems has been about employment. You've said, as long as they're in qualifying employment, these will count. But of course, that has been one of the barriers for folks, is being able to certify or have the Department agree that their employer is in fact a qualifying employer. And somewhat to that point as well, since a number of these folks, will have been in employment that was fairly lengthy ago, whether or not the Department is willing to consider self-certification of that employment, given that folks may have moved on several jobs from that time. So, we would want to make sure that those folks who were operating under the assumption that their time wasn't counting would now be able to have that count.

The other question that I have, kind of operationally, is about qualifying payment. We've seen a lot of folks have trouble with servicers being able to frankly count, and wanting to make sure that there is some process that borrowers can go through in order to make sure that the count that their servicers transfer -

- we saw that in that 60 Minutes interview this Sunday.

I've experienced this personally with payments not counting properly. Isn't there some process where borrowers can somehow challenge the count, or at least get an accounting? I've had clients spend over a year trying to just get their servicers to provide them with some kind of payment history. So, wondering what the Department can do to help facilitate that process, or count time that -- if there is some dispute between the borrower and their servicer about whether or not time would count -- to put that in the favor of the borrower.

And then, just to wrap up, my final comment is that a lot of the issues that have been identified by the Department as problems for PSLF are also problems for income-driven repayment. And as we -- a report that we did showed very few borrowers have received cancellation under income-driven repayment, largely for similar reasons. They were in a FFEL -- they had a FFEL loan as opposed to a Direct Loan. They were in the wrong kind of repayment plan. They were confused. They were steered into forbearances instead of income-driven repayment, and whether or not the Department has any plans to do any similar type programs for low-income borrowers who are not able to get relief under the

income-driven repayment plan. So, thank you.

MR. TONCHI: If there is not an immediate reaction to that, I can note that and I would ask Persis if you could drop that in the chat as well.

Look, folks, I do see a number of hands here. I want to make sure you have the chance to ask your questions. If you could try to zero on -- zero in on the questions at this stage, and then we may get to the point, depending on time, where we may ask some of you to drop your questions in the chat, or answers from the Department at a later point, okay? Just a heads-up on that. Suzanne, please proceed.

MS. MARTINDALE: Sure, I'll try to keep it brief. I have a concrete question, and then a comment about communications to borrowers. So, I'll start with my concrete question, which is -- thank you, Ian, for presenting on this announcement. I echo what Persis said about how this is going to be really game changing for a lot of people. So, if FFEL payments are going to count with the caveat that ultimately borrowers need to consolidate -- understand that, that's very common. I must -- e-mailed another colleague who spent the first couple of years -- certified employment, thought she was good, but didn't know she had to consolidate, so she lost a couple of years. So, this is going to help

someone like her. Do those FFEL payments still need to have been made on a qualifying repayment plan? Did they have to have been on IDR while making the FFEL payments for them to count?

MR. FOSS: No, and I was waiting for this question. Really, I just wanted to give myself a chance to stop talking, and hear from all of you. But this is some of the core of what the waivers (audio). So, we are not actually looking, for the purposes of this waiver, at the concept of a payment. We're looking at periods of repayment. So, we're looking to see whether or not the grace period has expired, and whether or not the loan was in deferment or forbearance.

And between that and qualified employment in the 2007 date, that still applies to the program -- that is -- those are the data that we're using to effectuate this waiver. So, to answer your question more directly, no, for this period of time, a repayment plan does not qualify. It does not matter, rather.

MS. MARTINDALE: Great. Happy to hear it. Okay, and then, my suggestion about or my comment about borrower communication is -- there is a lot of confusion out there. There are direct communications that people receive from the Department assuming they've signed up, gotten the FSA and etcetera while people are also

getting information directly from their loan servicers. Now, of course, I think everyone knows that we're going to be in the middle of a mass servicing transfer where approximately 60 million borrowers are going to be transferred away from some of the contractors that are exiting the system. So, new contractors or organizations as part of a multi-state regulator group that's working with the Department and the CFPB to make sure that those transfers do not result in errors or loss of key information, particularly for PSLF borrowers.

So, I guess my -- it's a comment/worry -- but also my suggestion would be that the Department focus heavily, heavily, heavily, through its own channels, and also by working with the servicers to make sure the borrowers are indeed signing up for FSA accounts if they have not done so already. So, that more of the communications are coming directly from the Department -- because I can tell you anecdotally, when I talk to people who are borrowers, they're still getting conflicting information from their own servicers to the extent that we can get more borrowers to be relying on and getting more frequent information directly from Department branded e-mails. I think that will help reduce some of the confusion, not just because of the changes to this program, but because we are in the

middle of a mass loan servicing transfer that's already causing problems. So, thank you for that.

MR. FOSS: Of course. We're very cognizant of loan transfer issues that are long-standing, upcoming, etc. Registering for an FSA ID is absolutely part of what we recommend students do, particularly, for FFEL program borrowers and Perkins borrowers who don't have a history with interacting with us on studentaid.gov. And so, we're looking for avenues to reach all of these borrowers. But, by nature, we don't have their contact information, so it's a little bit roundabout. But it is very much on our minds.

MR. TOTONCHI: Thank you. I see Dixie, Daniel, Jennifer, and Joe -- and then, I'm going to -- we're going to stop there in terms of the questions right here. If you have questions beyond that, put them in the chat, please. Go ahead, Dixie.

MS. SAMANIEGO: Yeah, so, I actually wanted to call out to everyone's attention that I strongly believe that there was a violation of organizational protocols, specifically a violation of Section 5 (e), under the section of Advisers, where it says, "With approval by a consensus of the primary members of the committee, individuals who are invited by a primary member but who are not members of the committee may

participate in committee or subcommittee meetings as needed and appropriate.

And I think, while I appreciate the presentation Ian just gave a lot, and it provided a lot of perspective, and a lot of context that I don't have personally, because I'm not a borrower, I think that there was a clear violation of protocols. But also, that we also need to give the same leniency that we gave to Ian, right? and the negotiator to specifically the students in this committee to also ask to have a presentation by borrowers, defrauded borrowers, and also specifically people who have used PSLF loans, because I personally do not have that context nor that familiarity with the process of getting a loan. And if I don't, and I'm here, the folks who most likely have this loan do not as well. And so, I would appreciate that context.

And also, I don't appreciate that we weren't able to also have asked -- to have had a presentation on things that the students here have made clear, and not just students, but other negotiators have previously made clear yesterday and the first day of the session, that while we are here, we cannot represent all millions of higher ed students, right?

And me just alone, while I tick off many of the boxes that the Department of Education was probably

looking for, I don't tick off borrower or defrauded borrower. And I would -- while don't have a negotiator for those two sectors, I would want, at least at the bare minimum, to have a presentation on that. Because the Department of Education was able to present on the announcement today, and at the very least and what this committee and the Department of Education owes, myself, Michaela, and Jennifer, and our alternates, Greg and Stan, at the very least, we are -- we deserve to have context provided to the stuff that we don't have experience with.

And so, I point out the violation of the protocol, but I also ask that we are able to have a presenter on topics that I am not familiar with and nor are the other students on this committee familiar with. Thank you.

MR. TONCHI: Thank you, Dixie, for your comments and for voicing your concern. I suppose what I would do is I'd encourage, if there is a perception of an inconsistency in the protocol, feel free to call it out earlier. So, for example, prior to -- here, prior to in speaking here if there is an objection, feel free to raise it there, and we can take a vote. Okay? But I appreciate your (audio) concern. We'll be mindful. Thank you. Let's continue --

MS. SAMANIEGO: (interposing) I also have that asked, though. I have that asked of having a presenter, defrauded borrowers, borrowers, and specifically people who have experience with PSLF loans. I have that asked, and I know that Jennifer as well, and Michaela, and our alternates, Greg and Stan also have that asked. So, if we awarded, right? -- we gave the space for the Department of Education to have Ian come here, at the very least we should also have students with those experiences come and present on that, because I cannot represent those students adequately because I do not have those experiences.

MR. TONCHI: Thank you. We appreciate that, Dixie. At the appropriate time, we can discuss that. Right now, we have limited time on this topic. There are just a few more questions, we're almost there. But we'll discuss when to raise that topic for appropriate -- so we can address it appropriately. Okay? Daniel.

MR. BARKOWITZ: Thank you. Just a couple of questions, Ian, if I can. First is on loan consolidation. I know that loan consolidation was mentioned -- previous loan consolidation, and I have some practical questions, which probably are beyond the scope today, but I just want to name them. One is, how

is the Department going to be able to determine what percentage for a situation where a student may have made 10 years of payments on one loan, but not on another? How is the Department going to determine that? And what portion of the consolidated balance pertains to which? And along those lines, if in fact part of the consolidated loan is forgiven, will the loan remaining be re-amortized, or will it be -- payments be required of the original loan balance? So, I don't know if you have any thoughts about that. I can certainly also take them offline if that's easier.

MR. FOSS: I think it's an important question to address, and that's clearly, I think, one of the reasons why I'm here. So, I'm happy to address it now, and if there are more questions, they can certainly be handled offline as appropriate under the protocols.

To answer the question directly, a consolidation loan, as you know, is one loan that repays most of the time multiple loans. PSLF is what we call a loan-based benefit, meaning that each underlying loan to a consolidation loan before it's consolidated could have a different qualified payment count. One could have five. One could have six. One could have zero.

What we are doing for the purposes of this waiver, and to solve that very thorny problem, is in

certain ways removing ourselves from the problem. By looking at all loans the borrower took out and stitching together every period of repayment, on every loan that they consolidate, adding all of that up, and then attributing it to the new consolidation loan going -- so that that is the qualified payment count that the borrower has kind of at the point that that loan was disbursed, i.e., the other loans were paid off, and so that loan will have one payment count going forward, and will be adding up all of the periods of discreet repayment on the loans that are consolidated to derive that count. I don't know if that makes sense.

MR. BARKOWITZ: So, Ian, did for (inaudible) the question. So, one loan has been in repayment for, let's say, 10 years now, and the other is three years, what's going to happen to that combined balance? Will the combined balance be forgiven?

MR. FOSS: So, assuming that the 10 years and the three years totally overlap, and the borrower consolidates tomorrow and certifies employment, theoretically, that entire loan would be forgiven from the point of consolidation going forward. And in our preliminary data, we did find borrowers who were going from zero to 120.

MR. BARKOWITZ: Okay, that's helpful. The

other question is, I note currently -- and again, I echo the comment that was raised earlier about the servicer changes -- but I wonder if there is a possibility of ongoing notice about the number of qualified payments. I note that to date, you know, again, payment qualification notwithstanding, the communication from servicers and the Department has been very limited in terms of number of qualifying payments. So, to alleviate some of the concerns, I wonder if there's an ability to encourage or grow the amount of notification that's taking place. I'll leave that as it is.

And the last point I'll make -- and again, I'm conscious of time, and I see Emil's face looking at me, so I'm trying to speed through this, so -- to be conscious of time -- the last thing I'll say is I respect and appreciate the temporary nature, but I would urge the Department to find a way to make this permanent. I understand that this is being done under CARES' authorization, and with that in mind, I would still say there's an ability -- if there's total goodwill -- there's an ability to use that authorization to make this a permanent change. And I would highly encourage the Department to think carefully about that, or to include these changes within the scope of the Neg Reg that we are discussing in this timeframe. So, thank

you.

MR. FOSS: And Daniel, to your point about communications, I would just echo that we agree with you. And one of the things that we're actively seeking to do right now is to have much more robust information about PSLF reported to our organization, FSA, so that we can integrate it into more communications, be that through studentaid.gov, through the PSLF help tool or indirect communications to borrowers. So, we agree with you, and we're taking steps to enable exactly that kind of experience.

MR. TONCHI: Thank you. I see Jennifer and Joe have their hands up. And Marjorie, you might recall that I said that Joe would have the last comments, and that any other questions would be -- if you could put them in the comment section, that'll be great. Jennifer, please proceed.

MS. HONG: Hi, everyone. I think it's detrimental to say that what Dixie brought out is what needs to be recognized. I, myself, was also elected to be here with all of you. I also check out a lot of those boxes just like her, but I have no idea how we're going to get the FFEL borrowers to start being able to register for government aid, and how you're going to find them.

So, now we have all these other borrowers who we are representing. We're basically representing 17 million post-secondary students, and they don't have a voice here. Because all the knowledge that I have, and all the boxes I check, I don't check those. And I think we need to figure out how Dixie's point needs to be brought up, and how we need a presentation, because if I have all this knowledge to be in the same -- well, Zoom room, right? It's not a real room -- with all of you all, then we need those voices, and we need to be honest and represent them to the best of all our abilities. And I think that's going to go with Dixie's point. But thank you, Dixie. We were like in the same wave. Thank you.

MR. TONCHI: Okay. And thank you, Dixie and Jennifer, for your points. Allow FMCS to convene as a facilitation team, and respond accordingly. Okay? We will respond at a later point on this topic that you had both raised. So, thank you for your concerns. Joe.

MR. SANDERS: Thanks, I'll be brief. Lots of FFEL borrowers were at one point serviced by Conduent. I know there are issues with information that Conduent did or did not transfer to other servicers. Does the Department have the ability to count Conduent payments? And if not, how do you plan to do it?

MR. FOSS: Yeah, so, I think it's important

to recognize that what we are not doing as part of this waiver is trying to count payments. We are trying to count periods of repayment status on a loan, which we will do, not through loan servicing histories that are transferred between servicers to load into servicing systems and enable the servicing of the loan. Instead, what we will be doing is using information that servicers and guarantee agencies have regularly, and for decades now, reported to the National Student Loan Data System on a regular basis. And so, I don't mean to discount the issue that you're mentioning with respect to Conduent payment histories and transfers. I just don't believe that that issue will present itself in this case because we're using a completely different set of data for the analysis.

MR. SANDERS: Thank you. I do want to say, too, excited about these changes. Great work, looking forward to working with you all on PSLF going forward. And lastly, I read student borrower complaints every day. It informs my practice on a regular basis, so I think it would be helpful to have the type of presentation that Dixie and Jennifer mentioned (inaudible). Thank you.

MR. TONCHI: Okay. At this stage, folks, I want to thank Ian for being here, and for the

presentation, for everyone's comments associated with this topic. We are going to take a brief break. It is 2:21. Let's round up to 2:35. Please return at that time.

(Recess from 2:21 p.m. to 2:35 p.m.)

MR. TOTONCHI: Right, I hope everyone had a good break. Let's get rolling with discussions on improving PSLF application process. I understand that the first subtopic is remove application requirements. Jennifer, if you could take us through that.

MS. HONG: Alright. Thank you, Emil. I'm just going to ask Vanessa to please cue the proposed regulatory text for issue number four. We are on issue number four for improving the PSLF application process. And so, while she gets set up, I'll just start talking.

First of all, just want to ride this wave of enthusiasm for the temporary waivers we just provided under PSLF today, and let's just make some of them permanent.

Briefly, under Section 455 (m) of the HEA, the Secretary must cancel outstanding balances on eligible loans for borrowers who are employed full-time in a public service job after they make 120 qualifying payments. We all recognize that very few borrowers who applied for PSLF have received forgiveness, and we are

proposing several regulatory changes pertaining to the application process. Payment counting and eligibility in FFEL loans, which so long as FFEL borrowers avail themselves of the action to consolidate by October 1, 2022, this announcement is a moot issue.

With that, I'll start with the first issue that Ian alluded to. And that has to do with data matches that we -- that are available to us. Vanessa, if you want to go to page six. And that is removing application requirements when the Secretary determines they do not need one. Again, another opportunity for automation based on data that we have. The two populations we're thinking of currently are federal employees and servicemen and women. And so, that language is there for you, and happy to hear your thoughts on automating the process for those populations.

MR. TOTONCHI: Okay. Thanks, Jennifer. Bethany, you're up first.

MS. LILLY: So, strongly support this. I think it's a great idea. I'm curious if you're thinking about other data matching as well. The IRS has, of course, tax status data on all the non-profits out there, and I mean, every year I click through and sign permissions, so that ED and IRS can share my tax data.

So, I've always been a little confused as to why ED doesn't just do that automatically, and also identify, because you have the employer tax identifier numbers. 501 (c) (3) is another classifying employees. I know we're getting into the definition of employers later on, but that's always been one of those things that I think makes a lot of sense for ED to do. So, I strongly support this, but I would encourage ED to think more broadly about it. And obviously this sets it up so that ED -- if ED does develop that capacity in the future, if they can do that. So, I'm glad to see that.

I'm also continuing to be slightly confused why we have this provision in the Public Service Loan Forgiveness piece, but we don't have it in other places where ED is automating things. So, I'm just putting a pin in that, I know that that's outside of the scope of this discussion. But I want to put a pin in that because I continue to be confused about that point. So, thank you.

MR. TONONCHI: Bethany. Justin.

MR. HAUSCHILD: Yeah, thanks, Emil. We also are very supportive of this. It looks as Jennifer, I think, alluded to there being kind of an extension, or with -- kind of keeping in mind some of what's already happening under executive authority. I just -- I think

we just want to make sure that when we're talking about data matches here, that it's as broad as possible. Particularly, when we're talking about service members and veterans. So, making sure that former service members, veterans now post-transitioned, who are still working in public service and have been submitting ECF's, that there is a cross-check between essentially the data match in the past service credited, and where the -- that borrower may be now in their post-transition public service work.

And the second thing -- I'm not entirely sure if this is the right place to bring it up -- but we're also curious about an idea of the deferral or forbearance law on application pending, knowing that there have been some extremely long wait times, and we'd be curious to hear folks' thoughts on whether or not it might be appropriate for these borrowers to essentially go into a deferral or deferral or forbearance once the application is submitted in that waiting period.

MR. TONCHI: Thank you. Joe, please proceed.

MR. SANDERS: Thank you. Has the Department considered data sharing agreements with State agencies to identify their employees?

MS. HONG: I think we've considered it and

this language is deliberately open ended to allow for any kind of future data matching with other eligible entities. If you have more data on that, Joe, happy to hear it.

MR. SANDERS: I would just say I think that there may be State agencies that would be interested in doing that. Here in Illinois agencies are very interested in getting their employees enrolled. I know California has been doing some stuff around that, too. And it's an employment retention issue as well. It's a benefit to employees to have this stuff (audio).

MR. TONCHI: Thanks, Joe. Marjorie, please proceed.

MS. DORIME-WILLIAMS: Yes. So, I'm really just going to second everything that Joe and Bethany just shared. And I also think it's important -- I don't know if "full disclosure" is the right word -- but speaking for myself, I am a borrower who's in the process of trying to navigate Public Service Loan Forgiveness, I even found my physical rejection letter in denial. So, I'm happy to talk about that process. I think it's important to keep in mind that as negotiators, while we are representing specific constituencies, we're also people, right? I'm a mom, I'm a single parent, there are other things going on.

So, Dixie, I really appreciate your point about who's sitting at the table, but I think it's also important to recognize that maybe we can just ask folks to share and I'm happy, and maybe between this session and the next I can teach a class about Public Service Loan Forgiveness.

It's part of what I do anyway, and I certainly appreciate the efforts of the Department to make this easier, because I know myself as a professional who works in higher education, this is very difficult.

So, I can't imagine certainly for other borrowers what this looks like.

One of the other questions, though, is also thinking about this process of automation. And I know we haven't gotten to the point where we're talking about defining sort of borrowers and systems and organizations, but again, one of the questions that I got from some of my constituent members is, "I don't even know if I qualify."

And again, these are folks who are professionals, folks who work in higher education. And so, I think as we're in this process, it'd be really important to -- Jennifer, I think I appreciate that the language is open ended, but maybe in enough specificity, so people know, okay, "this program is meant for me," or

at least, "I can apply and get feedback and information that's helpful instead of just yes or no," which is what's happening right now.

MR. TOTONCHI: Thank you, Marjorie. Persis.

MS. YU: Thank you. And I will again second or third or fourth the praise of automation in general. I think that whatever we can do to make these processes as easy as possible for borrowers is the direction we need to go. And so, I support any automation and expansion of the automated databases.

I'm also curious if there are other ways that we can also simplify the process where automation is not possible, possibly looking at whether or not borrowers can self-certify their employer, where there -- where they may either have trouble with it or because we're -- again, this is a ten-year program. And so, borrowers may not have contact with those employers.

So, what choices will those borrowers have to make it easier and then, again, I'm not sure how this will interact with the announcement today, but again, we're looking at something that goes back ten years, so making sure that all of these changes will be retroactive. So, will we be -- if we're automating things, is there a way to look back for -- since, I guess, 2007, to make sure that we're capturing all of the

people that can't possibly be captured with automation? And all the other rule changes we're making.

MR. TOTONCHI: Thanks, Persis. Jeri, you're up.

MS. O'BRYAN-LOSEE: I'm along the same lines. I put some proposed text in the box -- in the chat box. Just drawing your attention to that, and -- because right now you can check a box on the old form you have to fax in. You can check a box that says my employers won't help. So, but anything automation, so I don't have to fax this later today would be great. Automatic submission would be great.

MR. TOTONCHI: Thank you. Seeing as there are no other hands right at this moment, I will ask for a temperature check for tentative agreement on the proposed redline language. So, can I see thumbs, please? Remember to put it right next to you face. Some of you are hanging out down here and over here. Okay, thank you. I don't see any thumbs down. Jen, if we could proceed with the next subtopic of payments counting. Please proceed, Jennifer.

MS. HONG: Yes, okay, payment counting. As you all know, we just feel that the rules here are a little too restrictive. They don't match how we treat a qualifying payment for IDR. This can lead to confusion for the borrower, the servicer and the Department.

So, our goal here is to align with IDR and allow payments to count even if they are late or made in installments. We also want to adopt a current practice in codifying regulation about allowing borrowers to pay ahead up to the recertification date on IDR.

This ensures paid ahead status isn't an issue but prevents someone just making 120 payments all at once and qualifying. And that language you will find - excuse me -- Vanessa, on page four.

MR. TOTONCHI: I see, Misty, that your hand's up. Let's just nail down this screen share here. Okay, thank you, Vanessa. Misty, please proceed.

MS. SABOUNEH: Let me know, Jennifer, if this isn't accurate, but it's my understanding that when a student applies for Public Service Loan Forgiveness, they have to actually be employed at that time at a qualifying employer, regardless of whether they've made their 120 consecutive payments. If that's the case, I would propose that, if a student has made the 120 qualifying payments at the time they filed, that would be -- it wouldn't matter.

MR. TOTONCHI: Thank you, Misty, for your comment. Suzanne. And just to note, Suzanne is sitting in for State Regulators.

MS. MARTINDALE: Thank you. Yes, actually,

to Misty's point, I believe in the FAQ that was issued this morning, there was a clarification that you do not need to be currently employed at an eligible employer to get the relief, and under today's announcement -- Jennifer, please correct me if I'm wrong on that. So -- and I agree that that should not be a requirement. I think if you've made the payments, you've made the payments, you did what you were supposed to do, you should be able to get them cancelled.

And I will just say I'm in strong support of this language. I have heard from so many people that didn't know about this "paid ahead status" thing and were very confused as to why they'd be penalized for trying to pay ahead. And so, I think that the goal here is that if you've done ten years of public service and have been repaying your loans, you should be able to get them cancelled. So, I very much appreciate the inclusion of this language. Thank you.

MR. TONONCHI: Thank you. Jeri. I actually see Brian's hand is up. Do you have an initial comment, Brian?

MR. SIEGEL: Yeah, the requirement that the borrower be employed in a public service job at the time, but -- the statute requires that the borrower be employed in a public service job at the time of forgiveness.

That's why the requirement is in current regs. The action we took today is designed under -- or is taken under -- our emergency authority, under the Heroes Act. Without a statutory change, we can't change that permanently.

MS. O'BRYAN-LOSEE: Thank you. I was almost excited for all of the retirees I know who are getting current social security garnished, just because they didn't do their paperwork in time, so I've got a lot of work to do this afternoon.

So, I just want to thank -- say thanks for being as liberal as possible with all of this.

One of the biggest problems is -- to me, that I encounter -- is that people do not know the difference between an IDR and a servicer -- other service plan that they've been in, because loan servicers have been such bad actors in situations. So, as liberal as we can be for as long as we can be will be incredibly important to so many of us. I just want to throw that out there.

MR. TONCHI: Thank you, Jeri. Bethany.

MS. LILLY: So, this is a question that stems from a conversation I had with someone who had their Public Service Loan Forgiveness application denied for lack of payments last night, and specifically this question relates to -- I support the text as is, but the

confusion seemed to be about transitioning between eligible jobs and the payment happening to fall during that kind of gap in the transition.

Obviously, their employment during the month was for eligible employers, but the payment happened to fall outside of that.

And so, to the -- echo the themes that folks have already covered, which are, please expand this as broadly as you possibly can and align it with IDR. I understand that interest, but I think that's a subset of issues here that I just wanted to flag for folks. And aside from that, that's my one comment.

MR. TOTONCHI: Persis.

MS. YU: So, I wanted to go back to the issue about -- for -- being in qualified employment at the time of forgiveness, and wonder whether or not there is any flexibility given that we know that there's been a lot of variability in the amount of time the servicer has taken in order to actually process these applications.

That seems to create a pretty harsh burden on a borrower when they have no control over how long -- especially the servicer -- actually takes to process their application. It has taken some borrowers and sometimes more than a year to get those applications approved.

And so, whether or not there can be some time limit, whether what -- if their application is submitted and the Department or servicer hasn't responded within a certain timeframe, can it be considered to be the same employer? I just think that there's a lot of protections and this leaves borrowers very vulnerable.

MR. TOTONCHI: Thank you, Persis. Michaela.

MS. MARTIN: Yeah, in the draft changes that we were (sent) before, it's proposing a change to that, though. It says then, (i) -- what was -- (i)(b) at the time that -- and then it said, "remaining principal and accrued interest are forgiven," but that's crossed out with "borrower applies for forgiveness."

So, are we not saying at the time of forgiveness -- at the time of forgiveness or when they apply? And just to show -- I don't know -- if that's helpful -- if you can see that, because I don't know how to read the sections very well in this.

MR. TOTONCHI: It's very difficult, Michaela.

MS. MARTIN: (interposing) I tried. Yeah, that was a part of the document. So, are we not trying to change that right now?

MR. SIEGEL: I can just respond briefly. We will get to the more -- to the substance [sic] --

substance of all these changes later, but we are -- for purposes of these regs, we are proposing to treat the application as the time of forgiveness, to address the issue that Persis mentioned.

I was responding to the idea that, no, we can't just go off credit payments, just because a borrower was -- has worked for a public service employer for 120 months, even if they're not working for them at the time they apply.

MS. MARTIN: Okay, so just to be more clear (audio). You're saying that it's a change in definition of what it means when the time of forgiveness is then, not a change in when -- in that fundamental kind of regulation, right?

MR. SIEGEL: Right, because of the delays that there have been between the time of the application and the Department's (audio).

MS. MARTIN: And it would be then -- Congress that would have to change it if we wanted to say, "If you did your ten years of public interest and you pay those, and then now you happen to no longer be working there, and still owe," they would have to fix that?

MR. SIEGEL: Yes.

MS. MARTIN: Thank you.

MR. TONCHI: Great, thanks, everyone. Let's have a temperature check for tentative agreement on the proposed redlined language. Let me see everyone's thumbs.

So, there are a couple of people whose thumbs I don't see. I'm going to assume you're here if I can't see your thumb.

Okay, I don't see any down -- thumbs down. Thank you for that feedback, everyone. Okay, moving along. The next subtopic is, "allow certain deferments and forbearances." Jennifer, could you take us through that, please?

MS. HONG: Yes. So, basically, again, we want to align this with IDR as well as count military service, economic hardship, and cancer. We're open to discuss other statuses as well.

The point is that we want to land on the same changes here as well as for IDR.

It'll also be helpful to be clear which deferments and forbearances should suffice for counting a payment, and which ones might be able to count as a payment and employment.

For example, military service should tell us enough for payments and employment, but economic hardship would only tell us about payments. So, I -- this

is also on page four of the regulatory text, maybe (audio). Yes, there you go. Thank you, Vanessa.

MR. TONCHI: Bethany.

MS. LILLY: I asked this question about the announcement from this morning as well. So, I'll just ask -- I dropped it in the chat. So, I'll re-drop it in the chat now, but -- deferments when folks are switching between payment periods or payment plans, I know that a lot of folks got trapped in a three-month deferment period when they transitioned from PAYE to REPAYE.

And I would assume that we could count that forbearance period, because -- obviously, that's folks who are in the payment plans, they're just kind of going through the bureaucratic mess -- that's the polite way to put it, I guess -- that was the transition between payment plans.

So, I want to flag that as an option. I also really appreciate the inclusion of cancer treatment here but I would say that there are plenty of other folks who go through other types of medical treatment.

For instance, if you have a -- get into a car accident and you end up with a spinal cord injury, if you have a traumatic brain injury, if you have other types of contexts there, I think, obviously, that's -- I mean, if we're counting cancer, to my mind, we should

also be counting other conditions like that, and so I'd want to broaden that for deferments for medical reasons. And I think that would be fairly easy for the Department to verify because folks could provide a note from a doctor or something along those lines.

MR. TOTONCHI: Thank you, Bethany. Daniel, if you could comment.

MR. BARKOWITZ: Thank you. So, I appreciate the inclusion of the several deferments. I wonder if we should be also viewing the timeframe that it takes from application to determination and if we should go back to similar language that we've used or talked about in the borrower defense repayment, that between the period of time that an application is made and the decision is made -- is that period deferred or forborne payments during that period? And would that period count toward the 120 payments?

It seems, again, a bit disingenuous to have someone complete an application, wait 90, 120, 180 days, continue to make payments during that timeframe.

I would prefer to see, once the application is made, for those payments to be forborne, but then, if a decision is negative for those to count as payment periods during the timeframe. So, I'd ask the Department to think about that as well.

MR. TONCHI: Okay, thanks. If you could write that question in the comments, that would be great, Daniel, thank you. Persis. Persis, did you lower your hand?

MS. MACK: She's on mute. Persis --

MR. TONCHI: Oh, she's on mute. Okay.

MS. YU: Sorry, I'm on mute.

MR. TONCHI: Sorry, couldn't -- didn't see where you went.

MS. YU: Yes, sorry about that. So, yes. So, I am piggybacking off of Bethany's comment about the deferments and forbearance time between repayment plans, but also, we'd like to talk about the recertification time.

Historically, there has been a significant amount of deferment or forbearance time between -- in a recertification and I -- that, for a lot of folks, that's added a lot of time onto their total repayment, and I think that that time should count, especially if it is time that is due to the servicers' processing.

In addition, we also have examples where servicers have steered borrowers away from income-driven payments and other qualifying payments and have placed borrowers into deferments and forbearances. And I think that there needs to be a way that we can capture that

time in -- into the cancellation program as well, since it's so well documented by a number of State AGs, as I'm sure Joe will talk about, as well as the Consumer Financial Protection Bureau. Thank you.

MR. TONONCHI: Justin.

MR. HAUSCHILD: Thanks, Emil. Just wanted to express our strong support for counting military deferment and forbearance here. I just wanted to put some numbers on that for folks. According to a 2020 report by the Student Borrower Protection Center, the average military deferment can actually last as long as 30 months, which is somewhat incredible when we're talking about potentially two years of forgiveness during a period of time when these individuals are performing public service in uniform. So, I just want to express our strong support. Thank you.

MR. TONONCHI: Thank you. Joe.

MR. SANDERS: Yeah, similar to what Bethany and Persis discussed, State Attorneys General have documented instances of forbearance steering, instances of extended periods between PAYE and REPAYE, and, in general, instances of situations where forbearance was not the appropriate repayment plan for the borrower.

Finding a way to capture those instances of inappropriate forbearance, I think is something that

would be very valuable to borrowers. The states that have documented this type of activity in lawsuits include Illinois, California, Massachusetts, Pennsylvania, Mississippi, New Jersey, Washington. So, these are -- these allegations are widespread.

And I know that in the instance of Massachusetts lawsuit, the Department has come up with some kind of a way to credit some of those payments to them. I'm wondering whether that is potentially a template or a model that could be applied to their situations.

MR. TOTONCHI: Thank you, Joe. Jen, did you have a response or a comment?

MS. HONG: Right, not to Joe's point. I was just looking back to Bethany's question about expanding beyond cancer deferment. I just wanted to point out that deferments are specified in statute. So, we don't have a whole lot of flexibility with expanding the deferments, but maybe in forbearance.

MR. TOTONCHI: Thank you.

MS. HONG: I'm understanding the cut -- counting between these delays, the delay in time, cut that one. But as far as the cancer treatment, all the deferments are codified in statute.

MS. LILLY: Heather had a point in the chat

about FMLA being counted as full-time employment already but not as a qualifying payment. So, I don't want to get messy on this. I think just the general sentiment -- however you guys would do it -- is that, since your -- since the deferment recognizes the cancer treatment is important, I would want other medical conditions to also be recognized in however you guys want to structure that. I'm flexible on that. So, thank you.

MR. TONCHI: Thank you, Bethany. Joe, I see you have a lingering raised hand, or is that a new comment?

MR. SANDERS: It's a very quick thing based on what Jennifer just said. Am I correct that you're only counting deferments under this new proposed language and not forbearances as -- is that right?

MS. HONG: Trying to get off mute. Sorry. No, I think -- Vanessa, if you want to scroll down with that "forbearances" just over there, right. Yeah. Both.

MR. TONCHI: Now, I really am assuming you have a lingering hand up, Joe. At this stage, I'd like to --

MR. SANDERS: No, no, sorry. It's a comment (interposing).

MR. TONCHI: It is still a comment? (interposing).

MR. SANDERS: No, no, no. No, no, no, I'm good. Thanks, Emil. Sorry.

MR. TONCHI: Thanks for the clarity. At this stage, I'd like to ask for a temperature check for tentative agreement on the proposed redline regarding subtopic "allow certain deferments and forbearances." Please, show me your thumbs.

I see Persis and Joe have their thumbs down. Quick succinct points on your down thumbs.

MS. YU: I think there are critical categories that are missing in this category.

MR. TONCHI: Do you want to expand on any specifics, Persis?

MS. YU: The ones that I mentioned before: the -- the steering into forbearances, as well as the time period in between recertification.

MR. TONCHI: Thank you. And, before Joe, Jennifer, a quick comment.

MS. HONG: Yeah, just -- I just want to make sure we capture -- I mean, part of the point of this discussion is to capture the other options that you guys have in mind.

MR. TONCHI: Yeah, so Persis, if you wouldn't mind -- I know you've now said it twice, but if you can now put it in the chat, that would be great, and

we could capture it. Joe.

MR. SANDERS: Similar to Persis, a lot of people got put into inappropriate forbearances and it would be great to see some way to count that.

MR. TOTONCHI: Thank you for the feedback. Moving along, the next subtopic is, "Stop the clock restart upon consolidation." Jennifer, could you start us off?

MS. HONG: Yes. We wanted to get your thoughts on stopping the clock restart upon consolidation. We're concerned that the clock resets on direct loans when the borrower consolidates. And we're proposing at least giving credit for the -- basically just pausing the clock restart, including those that are also non-Direct loans as well.

So, the language on this was kind of more of like a subtle kind of interpretation that we had taken. And I want to say -- it's on page three of the proposed text, and striking some of that language under part B, C -- wait, subpart C and capital B "at the time". I think it's captured under there. We captured it at any time, at any point. But it is to get your thoughts on stopping the clock restart upon consolidation.

MR. TOTONCHI: Thank you. Marjorie.

MS. DORIME-WILLIAMS: So, this is, well, my,

again, personal perspective. Yes. And I think the challenge with this is that often borrowers don't know that that's what's going to happen. So, you -- you might have 10 different loan servicers, and so, you might consolidate, and then find out, you've been making payments for 5 years and that's all gone, and you're starting over.

So, I don't even really understand the purpose for why that was the case, but I certainly support any language that would give borrowers credit for any payments made, even if they've consolidated their loans afterwards.

MR. TONCHI: Daniel.

MR. BARKOWITZ: Much like Marjorie, I also have a personal story in this particular area, and this was an issue that I faced as well with the clock restart.

So, I'm personally -- I'm highly supportive of this. I just can't help to call out, though, and ask the question on the cha -- As part of this section, I also know that much of the language around PLUS loans has been stricken. So, are we to read that as an inclusion of all PLUS loans under loan forgiveness? That section does talk about excluding PLUS loans, and again, personal interest, but as a PLUS borrower, I'm certainly interested and, on behalf of PLUS borrowers who would be

interested in having that question answered.

MR. TONCHI: If you could, at this stage, Daniel, put the question in the chat. Thank you. Bobby.

MR. AYALA: I just want to echo Marjorie and Daniel's statements (audio) in total support of this, but also kind of relay some stories that I've heard about people abandoning -- even wanting to restart or put their loans into consolidation because of the restart. And a point of clarification is, was this the issue that was addressed with the announcement today and so we're looking to expand this into rulemaking because it is temporary? Or -- okay, I can see -- so, is that a "yes"?

MS. HONG: Yes, Bobby. I mean, several of the proposals that we're enacting today under the temporary waivers, to the extent possible, we've included them here for permanent change -- permanent proposed change, depending on how we feel about all these things. So, there are some issues that we may be limited on because we don't have the wide authority that the temporary waiver provides. But for the most part, many of these issues are similar. And I see my good colleague chiming in here. Brian.

MR. SIEGEL: Yeah, right. I was just going to address the PLUS loan question quickly, but I'll leave it (interposing).

MR. AYALA: That was actually one of my follow-ups. So, I'm glad everybody's kind of bringing that up. So, I'll just -- I'll stop talking. Thanks.

MR. SIEGEL: Okay. PLUS loans are eligible for Public Service Loan Forgiveness. The language we are proposing to strike regarding PLUS loans relates to income-driven repayment plans, which PLUS loans are generally not eligible for.

That's been one of the restrictions or limitations that has made it harder for borrowers to -- for PLUS borrowers to reach Public Service Loan Forgiveness. PLUS loans, Parent PLUS loans, cannot be repaid under some of the income contingent repayment plans or the income-based repayment plan. And that is statutory.

MR. TONCHI: Jeri.

MS. O'BRYAN-LOSEE: Hi. I was one of the people who had to decide if I was going to go into Public Service Loan Forgiveness because I had two loans that in an application process were moved into Public Service Loan Forgiveness, but my FFEL loan was not. So, I had been making tons of payments without knowing that my FFEL loan had not been moved. And thankfully, I was credited through the temporary loan forgiveness program 91 payments, which helps, but I had to decide if it was

going to be worth it for me to even go into the loan forgiveness.

So, I just want to say that. And just one other point about the Parent PLUS loans that are only eligible for people in ICRs right now, Income Contingent Repayment, it would be great -- again, I represent about 37,000 professional staff and faculty -- and it would be great for our younger members, whose parents helped them through public service or through their education, but took out Parent PLUS loans, and the parents don't work in public service, but the student does, and the person who took out -- so, the person who took out and signed for the loan did not, but the student that benefited from the parent being able to help them, they are only able to use Public Service Loan Forgiveness if they're in the public service. So, if there was a way to be able to revert that back to the student, so that then the loan would be in public service, no matter what.

If I'm not making any sense -- I feel like I've gone off the rails a little bit on this -- but all you Parent PLUS loan people, you know what I mean.

MR. TONCHI: Thank you, Jeri, for your comments. At this stage, I'll ask for a temperature check for tentative agreement on the subtopic of stop the clock restart upon consult -- upon consultation, and my

apologies. Let me see your thumbs.

Okay, I do not see any down thumbs. Thank you for the feedback. Just before we move on to the next subtopic, just a quick note, we only have several people -- actually five people -- in the waiting room, and we are about 15 minutes away from public comments. So, to those who are in the audience who will be making a public comment or would be added to the waitlist, please join the waiting room so we can make sure we have a robust public comment period today. Okay, let's move on. The next subtopic is about the lender notifications. Jennifer.

MS. HONG: Great. So, I again apologize to Jeri because we -- just don't have any proposed language. We will come back with all the FFEL language changes here.

But for those borrowers that for whatever reason do not avail themselves of consolidating prior to next October, we want to make sure that lenders send annual disclosures to borrowers informing them of how they may access PSLF benefits, and to respond to any verbal or written questions about PSLF from borrowers.

I take it back. I think we do have this in this section. The disclosures would include information about consolidation and the steps to take if the borrower

wishes to pursue consolidation. Again, we just want to make sure that borrowers are well-informed and are provided consistent information from their lenders. And let me just check back in the language. I think we did do that.

MR. TOTONCHI: Okay. Let's just take a quick look.

MS. HONG: And we did. That's on the last page.

MR. TOTONCHI: Remember that can be shared. Thank you. Alright. Excellent. Any initial comments or questions? Michaela.

MS. MARTIN: This could have been an answer to another question and I apologize if it was. Are folks able to -- if they are not -- I'm going back to -- if they're not currently working where they were when they made that eligible payment, but made an initial application that was denied or delayed to such an extent that perhaps they did actually qualify, are they able to still resubmit that when their initial application was submitted during the time they should have qualified?

MS. HONG: Can you walk us through that one model another time Michaela?

MS. MARTIN: Yeah. So, I think --

MS. HONG: (interposing) -- that scenario

again?

MS. MARTIN: -- there are a lot of instances where folks were -- have applied, right? And were either denied or -- it's just taken a very long time when perhaps some of those should have been, because that processing rate was so low and so long that they might no longer work where they did in that initial application that, potentially, maybe shouldn't have been approved. Are they able to reapply, even though they may no longer be at that place of employment? Or is this you have to be working there at the time of application (audio)?

MR. TONCHI: Brian.

MR. SIEGEL: As part of the announcement today, the Department announced that it was going to be looking at a lot of those denials from the past, so -- and hopefully, that process will catch any that should have been approved and were not. It will also look into developing a reconsideration process and -- which would allow a borrower who was previously denied to say, "You made a mistake." So, I -- hopefully, those processes will address the problems that have occurred in the past and the changes we are proposing now -- well, we expect to eliminate that going forward.

MR. TONCHI: Thank you, Brian. Persis.

MS. YU: Thank you. So, I recognize that the

announcement today is intended largely to address some of these concerns. But one of my concerns is that disclosures are just often insufficient to protect borrowers' rights. They can get buried, I -- and so, I guess one of my questions is, what remedies do borrowers have if they are not given proper disclosures or if they have asked for information or --? We've seen a number of different cases where borrowers have -- were FFEL borrowers in particular have been given inaccurate information. And so, what can we do to ensure that where that happens or where information is kind of slipped in there but not made readily available that we can make sure that borrowers are able to get their qualifying payments?

MR. TONCHI: Thank you, Persis. I just want to recognize that Greg has come to the table on behalf of Dependent Students. Jaye.

MR. O'CONNELL: So, the placement of the disclosure for FFEL -- as I'm reading this, I just want to be sure I understand -- is within the bill statement section. But there's a reference to an annual disclosure in the issue paper. So, just reconciling those two things. Bill statements are more frequent than annual, and I think that's where you put this, which I don't have a concern, I just want clarification.

MS. HONG: Thanks for pointing that out, it is consistent with the issue paper. We were thinking of annual disclosure, so we'll make sure to have that in the right place.

MR. O'CONNELL: Okay.

MR. TONONCHI: Bethany.

MS. LILLY: Well, I want to echo Persis' point about folks needing more help than just a notice, and I appreciate it in the issue paper that ED said that they would commit to responding to any verbal or written questions about Public Service Loan Forgiveness from borrowers. I would -- I do think -- I just really want to echo Persis' concerns there. I think, folks are not going to -- a written notice is not usually enough for most people, and actually getting some help and having folks answer questions is really important.

MR. TONONCHI: Joe.

MR. SANDERS: Hi, just to quickly build on what Persis and Bethany have laid out, State Attorneys General have brought a series of claims based on affirmative misrepresentations by servicers, even in instances where the Department says you need to tell them that there are repayment plans too, so the Department says disclose.

Presumably servicers do put that in, but

then their agents are at times incentivized to pick up calls quickly, and so there are misrepresentations made in those calls that are contradictory to the disclosure. So, I think that providing borrowers with more is probably needed in order for (audio).

MR. TOTONCHI: Thank you, Joe. Jeri.

MS. O'BRYAN-LOSEE: Hi, thanks. Yeah. I just want us all to remember that we have huge populations of people who were dissuaded in the last -- especially in the last administration's treatment of people trying to get Public Service Loan Forgiveness and trying to get people to re-register and maybe even believe in some of the correspondence they may get, because -- bad actors, let's just say. So, I think we just need to keep in mind it goes back to what Bethany said and what Persis said about getting it out to people, and especially those people who are affected and may have had that experience.

MR. TOTONCHI: Jennifer.

MS. HONG: Just quickly in response to that. The issues we're discussing here with this committee are effectuating regulatory change, but as Ian described earlier today, there's a lot of things happening operationally to improve the program and to conduct the types of outreach and communication to borrowers that you all were just describing. So, that is happening on FSA's

front.

MR. TONONCHI: Jeri, do you have another comment? Okay. Justin.

MR. HAUSCHILD: Thanks so much. I just kind of wanted to add on to some of the sentiments that are already being conveyed about notices and disclosures. I think it's important, I'm not sure it's necessarily sufficient, but I also think -- I think this is what maybe Jennifer was alluding to. It's important to consider how these communications are getting out to borrowers. I think there are some estimates that there's, for instance, in a loan -- service members, 16,000 service members with loans that would qualify for consolidation but that aren't Direct Loans, so presumably some or many of those are -- old FFEL loans. And of course, service members are moving relatively frequently from place to place, and so the nature of how these disclosures are getting to these individuals is an important consideration. Thank you.

MR. TONONCHI: Brian, I see you raised your hand.

MR. SIEGEL: Yeah. As someone who's worked on these programs for too many years, the Department in -- under many different administrations has tried different ways of communicating with borrowers. And all

in good faith, we've tried emails, regular mail, phone, (audio), social media, every possible way. Sometimes borrowers just don't pay attention to this and don't read the material. So, anything -- we've reached out -- under this administration, we've reached out to Attorneys General and other state regulators, and certainly we'd encourage all the groups around this table to reach out to the people that you contact with, and just -- as we make more information available, remind your members and people you contact with that the information is available. So, any way you can help us in getting that information out would go a ways [sic] toward making sure the borrowers have the information.

MR. TONCHI: Thanks, Brian. I just want to recognize that Dixie was pushing -- yeah, here's Dixie, okay. Dixie's back on behalf of Dependent Students. And I want to point out that we have about two minutes, so I'll either have to call it, right at public comments, or, if Persis, Bethany, and Dixie can be quick, we can maybe get all three of your comments in.

MS. YU: I will try to be very quick. I think the point that Brian raised underscores why "disclosures" is insufficient. The folks that we work with -- they are low income, they have unreliable access to Internet, to email, they move quite frequently, and so

communicating with them is a challenge and in getting --. So, disclosures are insufficient and a lot of FFEL owners do not have the financial interest of getting these borrowers into these programs, and so, it's important to build into the regulations some kind of safety valve so that we can count the time, if they are missing time because of somebody else's misconduct.

MR. TOTONCHI: Thank you. And I want to see if we can sneak in a temperature check before this. Bethany.

MS. LILLY: I will be really fast. I just want to say that this is one of the reasons that I have been harping on automation this entire time, because that is the way we get to folks. It's not sending them notices, it's not doing all the rest of it. It's automating the process as much as we possibly can.

MR. TOTONCHI: Dixie, you have the final comments.

MS. SAMANIEGO: Alrighty, I'll be quick. So, I also really want to emphasize the point Persis and Bethany just made. Super, super important. Also, coming from low-income communities and having -- knowing of folks who are under these different loan programs -- we're all poor, we're all people of color, all first gen. And the issue is not us, the issue is on the Department.

And so, kind of, the way that Brian and -- I'm not trying to characterize you or what you said -- but the way it came off, to me, is that it's our fault, and we have -- we're at fault, when we're not, when low-income people are not, when people who are receiving these communications are not, and the onus falls back onto the Department of Education and not the people under these programs. And so, the miscommunication very clearly is on the Department of Education and not the people under these programs, point period blank, and that's what I wanted to say.

MR. TOTONCHI: Thank you. Unfortunately, folks -- Jaye, unfortunately we won't be able to get to your comment now. I'm actually going to postpone the temperature check until tomorrow morning. We'll pick up from this tomorrow, okay? Thank you for everyone's participation.

We're now entering our 30-minute public comment period. I believe our first public commenter is U.S. Representative Kathy Manning. Representative Manning -- here you are. Good afternoon, Representative Manning. Can you please speak so we make sure that we can hear you? Can you hear me, Representative Manning?

Representative Manning, can you hear me? Is her audio enabled? It is enabled. We don't know what the

problem with the audio is, we'll see if we can clear it up.

Can we please admit the next person? I understand that the next commenter -- public commenter is, and I apologize if I don't pronounce this correctly, is Mikyeila Cordero (phonetic) representing herself.

MS. CORDERO: That is correct.

MR. TONCHI: Ms. Cordero, please proceed. Are you able to turn on your camera?

MS. CORDERO: I can. So sorry about that.

MR. TONCHI: That's okay.

MS. CORDERO: Can you see me now?

MR. TONCHI: Please proceed. Yes.

MS. CORDERO: Okay. First of all, I want to thank -- I'm going to take a moment to say thank you for allowing me to share my experiences today.

As you mentioned, my name is Mikyeila Cordero, I attended the International Academy of Design and Technology from 2003 to 2006. Like others, I was following my dreams and had supportive parents who wanted me to have the education needed to attain them.

As I share my experience, I'm going to leave names out, but should you be interested in additional details, I'm available at your convenience.

The International Academy of Design and

Technology promised me the world and fell short on every promise. The areas that they thrived in, however, were their abilities to use high pressure, sales and marketing tactics to increase admission, and frighten potential students into believing that they would be unable to start school if they didn't sign up in that moment.

My parents received multiple phone calls in a day stating that I would not start on time if they didn't encourage me to sign up in that moment. In addition, the Financial Aid Department was encouraged to pressure family members and students to take any measures necessary to finance those dreams. They used military benefits allotted to me from my father, who served in the army during the Vietnam Era. They pressured them into taking out continuous loans, under the guise that tuition costs would increase if there was ever a point I had to take a break from my education.

During my education, it became apparent that this was not going to be worth the investment. I spoke with the dean of our Department who assured me that they were working on their accreditation, and that they would start a Master's program that would be instituted that would help me go even farther in my career.

At this point, there were two options for me: continue down the path so I had some sort of degree,

or drop out and owe tens of thousands of dollars for nothing. After my graduation, I had to rebrand myself to show off skills to even be employable. The job placement opportunities they promised were nothing more than a D-ring binder in an office that consisted of entry level retail opportunities. The salary expectations they set were not accurate, nor were the merchandise manager or buying positions that they stated most of their graduates would receive.

I had potential employers laugh in my face when I said I went to school at the International Academy, and others basically said that they had no knowledge of the school. In 2016, I attempted to enroll at ASU and was told that not a single credit would transfer and apply at their school, and I would need to start from scratch, or the equivalent of a high school senior, which included retaking my SAT. After that experience, I learned and educated myself about the borrower defense to repayment application and submitted it.

MR. TONCHI: 30 seconds.

MS. CORDERO: I waited for four years hoping for some sort of resolution, and it was during this time that I found out how many students were in the same position as me. That should be comforting, but it's

infuriating.

In 2020, I received a letter declining my application, and have since spent my time talking with attorneys, congressmen, and groups of students online to find a resolution. My request to you is that, as you have these discussions, you think of the veterans' families and students that suffered financially and emotionally at the hands of these for-profit institutions. What should have been a bright (interposing) --

MR. TONCHI: Thank you. Time's -- Time's up, I'm sorry. Thank you --

MS. CORDERO: (interposing) Yeah. It's time?

MR. TONCHI: -- for your comments.

MS. CORDERO: Thank you.

MR. TONCHI: I would now like to call U.S. Representative Kathy Manning. Representative Manning, you have three minutes for public comments.

MS. MANNING: Good afternoon, I'm Congresswoman Kathy Manning. I'm proud to represent North Carolina's 6th Congressional District. This negotiated rulemaking is an opportunity to protect student borrowers from burdensome debt resulting from institutional fraud and misrepresentation. It's also an opportunity to reorient the Department's implementation of the Higher Education Act to better fulfill congressional intent.

Despite bipartisan, bicameral opposition, a new borrower defense rule took effect last year that cut in half a borrower's window to file a claim. The rule also eliminated the ability of students enrolled at the same fraudulent institutions to obtain group discharges and eliminated the right of appeal. Under the existing rule, just 3 percent of the loans associated with misconduct will be canceled, and even before this rule went into effect, Department officials regularly dismissed borrower claims after only cursory reviews, leaving hundreds of thousands of claims languishing.

The current Department of Education has the chance to right this wrong by restoring critical borrower protections and putting in place new regulations that restore borrowers' finances and deter fraudulent colleges' behavior. Establishing a default position of adjudicating claims on a group basis, as the Department now proposes, will also help guard against the kind of backlog that has stymied borrowers for too long.

Another welcome proposal is the Department's suggestion to treat misrepresentation of an institution's tax status as something that can give rise to a borrower default claim. My constituents have expressed concern about the stark changes at St. Andrew's University since it came under the control of a for-

profit college magnate and his associates. Since takeover, St. Andrew's has -- St. Andrew's enrollment has increased by more than 90 percent, largely by adding career-focused online programs, typical of for-profit institutions, subverting St. Andrew's non-profit liberal arts educational legacy.

My concern with shadow for-profit actors drove my introduction, along with Representatives Lucy McBath and Sara Jacobs, of the For-Profit College Conversion Accountability Act. Institutions like the now-defunct Center for Excellence in Higher Education, Corinthian Colleges, ITT, and (interposing) --

MR. TONCHI: 30 seconds remaining.

MS. MANNING: -- demonstrate why the need for increased protection for students and stronger accountability is required. The often-sudden demise of fraudulent for-profit colleges demonstrates the need to reform closed school discharge process. Affected students are disproportionately lower-income Pell Grant recipients, and Black and Latino students. Very few are able to transfer all of their credits to stay on track to complete at other institutions. I welcome the restoration of (interposing) --

MR. TONCHI: I'm so sorry. (inaudible).

MS. MANNING: I thank you for the

opportunity to speak to you today and I hope you will read my full testimony when it's submitted. Thank you.

MR. TOTONCHI: Thank you. Our next public commenter is Tasha Berkhalter (phonetic), veteran. Ms. Berkhalter, can you turn on your camera, please?

MS. BERKHALTER: Can you hear me?

MR. TOTONCHI: We can hear you.

MS. BERKHALTER: Okay.

MR. TOTONCHI: Are you able to turn on your camera?

MS. BERKHALTER: I don't think I can.

MR. TOTONCHI: No problem. Please proceed. You have three minutes.

MS. BERKHALTER: Well, good afternoon, my name's Tasha Berkhalter, and I am an Army veteran from Lima, Ohio. I would like to tell you a bit of my story. After serving in the Army for more than five years, I was honorably discharged for medical reasons.

I wanted to find a path in my life to make things better for myself and my family. My goal was to pursue a career in the FBI as a criminal behavioral analyst in forensics. I went to ITT Tech from 2006 to 2010, earning a Bachelor's Degree of Science. At the time, ITT Tech seemed like a good option. It was advertised that they were a high-tech criminal justice

program, and admissions staff told me that the GI Bill that I received from the Army would cover my full tuition. I was told that they assisted in job placement after graduation, and I would have a job in my field in no time.

The first red flag I encountered was when I tried transferring to a different school my sophomore year. I was told not only that my credits would not transfer, and the books we were using were outdated, but that I would have to start completely over.

After being frustrated and speaking to my Chair at ITT Tech, I relied yet again on the promises that they made to me, and I decided to stay and finish my degree. Unfortunately, my trust put me back in a position to continually be lied to by ITT Tech. It was not a high-tech school at all, yet I still had to foot the bill for a low-quality education. The GI Bill did not cover my tuition, and I had to take out additional federal and personal student loans to pay for my schooling.

Whenever I told employers at job interviews I went to ITT Tech, I was instantly shown the door, and I wasn't the only one. I graduated with about 50 students, and of that 50, I know of only two that have been able to find jobs in the field that we went to school for, but those jobs don't require a degree.

Being married with four children and one on the way has been a challenge because it's hard to provide a comfortable life for them and to keep a stable home with consistency because I cannot find a job in my field.

I used my whole GI Bill, yet they still made me take out additional loans, and I still have no real degree. I have no GI Bill to go back to school, and an extreme amount of debt. I have dealt with -- I'm sorry -- I have dealt with stress, anxiety, and depression over the whole ordeal for years. It's been a strain on my marriage, my children, and my livelihood. I didn't just miss my one shot to use my GI Bill, I was overwhelmed by my student loan debt. I've lost homes -- (interposing).

MR. TONCHI: 30 seconds left.

MS. BERKHALTER: -- I had about \$100,000 in student loans, and I was successful, finally -- as of September 7th, they just approved my borrower's defense application, but I did want to stand for other veterans that have been treated unfairly, and I thank you for your time.

MR. TONCHI: Thank you for your comment, Ms. Berkhalter. Our next public commenter is Nadine Santos, from the -- a graduate student of Full Sail University representing herself. Ms. Santos, are you here? Ms. Santos, if you are here, please turn on your

video if possible. Oh, excellent. Good afternoon, Ms. Santos. Can you please turn on your audio to make sure we can hear you?

MS. SANTOS: Yes, I'm here.

MR. TONCHI: Excellent, you have three minutes to comment.

MS. SANTOS: Alright, thank you. Good afternoon, and thank you all for giving me the opportunity to speak with you today. My name is Nadine Santos, I was born and raised in Long Island, New York, and I am a graduate of Full Sail University. I've graduated with my Associate's in Recording Arts in 2001, and I am currently the vice president of Programming and Artist Relations for Music Choice, and I love my job. I am so grateful for all that I have been able to experience throughout my almost 20-year career in the music industry, from programming some of the biggest radio stations in the country, to working with some of the biggest names in the business, to now running the programming for music television across almost 60 million homes in the U.S. now. I'm very blessed, and yet very aware that my success came from the foundation that was built off of my education at Full Sail.

I started off at a traditional university and then moved on to a smaller college first, but I

couldn't find my place where the education focused on music and my passions in a real way until I came to Full Sail. I ultimately spent money and wasted time at traditional colleges for an industry that is anything but traditional.

It's important to me that people understand that schools like Full Sail even exist, and the opportunities within these fields are there because of the educators and the staff who understand what these non-traditional career paths entail, from both a technical and a business perspective.

I've worked with Full Sail grads, I've hired Full Sail grads, because I can confidently say that, in the music world, there is no student more qualified or prepared than ones that come from this foundation.

I was educated and prepared for the future steps with realistic expectations that I had to pay my dues, because nothing in life or this business is guaranteed. My education and work ethic would have to combine to create the success that I desired.

I've worked in programs and in recording studios that mirrored what was happening at the moment in the business, and all of that set up to launch my career with the highest success opportunity possible. If I had

to do it over again, I would have made the decision to go sooner, had I known, because of the quality of the education and the real-world experience.

Full Sail graduates learn and work in settings that mimic the realities of the business, so once you step into the real world, it's not a shock. That type of education is priceless when competing (interposing) --

MR. TOTONCHI: 30 seconds.

MS. SANTOS: -- a creative career, and I just wanted to say thank you for the time to listening to my story, and hopefully my comments today help you to understand that not all institutions are created to help you really achieve your dreams, but Full Sail's a place where you're prepared to achieve it and make it reality. I'm forever grateful for my education and all the amazing alumni and staff that I've met through Full Sail. So, thank you again.

MR. TOTONCHI: Thank you, Ms. Santos, for your comment. Our next public commenter is Mike Burgess, director of policy and outreach at the Disability Rights Center of Kansas.

MR. BURGESS: Hi, everyone, and --

MR. TOTONCHI: Hello.

MR. BURGESS: -- thank you for the brief

introduction. Again, I'm Mike Burgess, the director of policy and outreach with --

MR. TONCHI: Three minutes.

MR. BURGESS: Yeah -- the Disability Rights Center of Kansas, and I appreciate the opportunity to take a couple of minutes here to briefly hit on -- follow the discussion on the first day regarding the Total and Permanent Disability program, and I think that is a wonderful program. I appreciate the Department taking the steps that it has to try and make this work better for individuals with disabilities.

Part of my work at the Disability Rights Center, and more the Protection and Advocacy System in Kansas, along with the Client Protection -- Client -- the CAP Program, Client Assistance Program. And so, part of the work that we do is trying to help all the different programs that impact people with disabilities and make them work better, so, like I said, we definitely applaud the work that you're doing. I just want to encourage -- I know that there's been some discussion with improvements, and I just want to support those as much as we can to help improve -- expand the program for folks who've had a disability for five years to try and make the program as automatic as possible, to look at documentation requirements, as we know, across -- as a backdrop. People

with disabilities to do their activities of daily living, they have added medical and service provider appointments. Just daily life is a lot harder.

And then you look at -- they typically may interact with as many as 20 different agencies and providers, it's just a lot of -- So, anywhere where we can eliminate and reduce burden and paperwork is a win, so I just want to encourage you to continue to do that everywhere possible.

As far as eligibility goes, if you can expand the number of SSA categories, that would be great, expanding the allowable SSA documentation. And, I'm sorry, that just got to -- with only three minutes I'm trying to cover -- hit the finer points as quickly as I can.

But one other piece that I think was part of the discussion, but I want to reiterate it, too, just to look at -- well, this administration -- I want to applaud the efforts that you're doing -- if you can put some of these pieces into the regulation, like that automation, the data match, and some of those other pieces to help make those more permanent, that would be a win. So, I have -- there are a few other things, but, again, I think you get the high notes of what I'm trying to -- the point I'm trying to make here, and I appreciate

the time to address this, and I appreciate the work all of you do, having followed this process. You guys are very thorough, and I appreciate the very thoughtful approach that you're doing to try and help make all of these programs work for everyone, both from the user perspective as well as the administration of them, so thank you.

MR. TOTONCHI: Thank you for your comment, Mr. Burgess. The next commenter we have is Joshua Blumm, veteran. Hello, Mr. Blumm, can you hear me?

MR. BLUMM: Yeah, I can hear you.

MR. TOTONCHI: Excellent. You have three minutes to make your comment.

MR. BLUMM: Okay. I'll just dive right in. My name's Joshua Blumm, I'm from Chico, California, and I'm the son of a Marine Corps veteran. I decided in 2019 that I wanted to go back to school to get my MSW in social work, and I wanted to work for military families through the VA, and that is when I found Walden University.

When I was enrolling at Walden University, I made it clear to them from day one that I intended to use my father's GI Bill benefits to pay for my tuition as well as any student loan debt that might accumulate in the process. Walden told me I was eligible to use my

father's GI Bill benefits at their school, and they even connected me with the Walden office that handles veteran certifications to help me get signed up. Walden also encouraged me to take out student loans via FAFSA, and they -- as I waited for my benefits to kick in and said that I would be reimbursed by the VA at the end of -- a year later -- in the form of a lump sum payment.

They collected my father's information, including his official military discharge form, and his DD214, and sent all of my paperwork to VA at the end of each quarter.

By the time the VA informed me over the phone that I was too old to use my father's GI Bills, I was already four terms into my studies. I had taken out student loans, and I was pretty invested at that point and too invested to start over at another school. Walden's administrators deliberately misled me, completely pulling the wool over my eyes in order to get me to enroll.

Now I have student loan debt totaling more than \$60,000, and anger that they not only deceived me, but also my father, who was only trying to help me pursue something that I was passionate about. Now he feels this sense of guilt because I have student loan debt. He's also angry that we were deceived by the veterans' office

and administrators at Walden, but especially because they were supposed to be on his side, to say the least. I now know that Walden has a history --

MR. TOTONCHI: 30 seconds.

MR. BLUMM: Okay. Yeah, I now know that Walden has a history with this type of activity after I did some research on them online, and that's why I'm asking you today to make sure colleges like Walden cannot get away with misleading and lying to veterans and their families, especially the administrators in their own veterans' office. My father served this country honorably and for a very long time, and this is the thanks that he gets. So. Thank you for your time.

MR. TOTONCHI: Thank you for your (audio) comment, Mr. Blumm.

MR. BLUMM: Yeah. Thank you, I appreciate the work you guys are doing.

MR. TOTONCHI: (audio) is Nicole Wilson, veteran. Hello, Ms. Wilson, can you hear us?

MS. WILSON: Yes, I can hear you.

MR. TOTONCHI: Great, you have three minutes.

MS. WILSON: Okay, so, good afternoon. My name is Nicole Wilson. I'm from Akron, Ohio. I have served in the military off and on from 2002 to 2020,

serving active duty in the United States Navy, Navy Reserves, and the Ohio Army National Guard.

I wanted to be a nurse for 12 years to help families not go through what I did before my mother passed away. I have been going to school trying to achieve this dream now for 11 years, and unfortunately, after two terrible experiences with for-profit colleges, (audio) has delayed my dream and drained my GI Bill benefits and left me with massive student loan debt.

I first attended Brown Mackie College to earn my LPN. At Brown Mackie, they promised a quick, flexible program, but in reality, the program offered no flexibility for working adults. My graduation date was delayed because I had to retake courses after missing just one day of class.

In addition, I was told when I first had my visit at campus that the GI Bill would cover all my expenses, but after I enrolled, the financial office informed me that my first advisor was incorrect, that I would have to take out student loans to cover my balance.

When I finished Brown Mackie College, the Nursing Board informed me that I would need -- I would likely need to take additional remedial courses before I could take the NCLEX, because Brown Mackie had not adequately prepared me for the exam. Most students in my

graduating class did not pass the exam, and few are actually working in the field despite Brown Mackie's promise of 95 percent placement in the field of study.

After my experience at Brown Mackie, I decided to pursue my RN. Many schools had long waiting lists for their programs, so I ended up attending Bryant & Stratton College. Bryant & Stratton promised students could be a nurse in just two years, and that the school had no waiting list. The schedule would be flexible for working adults. In reality, the school had no flexibility, the program took longer than two years, and the quality of the program was extremely poor.

MR. TOTONCHI: 30 seconds.

MS. WILSON: We had to participate in clinicals that were two hours away because no local hospital believed Bryant & Stratton students were adequately instructed. The best instructors from Bryant & Stratton left to teach elsewhere after being asked to teach classes they were not qualified to teach. In closing, both schools did not adequately prepare me for what I was trying to go to school for.

MR. TOTONCHI: Sorry, time is up, Ms. Wilson. Thank you so much for your comment.

MS. WILSON: Thank you.

MR. TOTONCHI: Our next commenter is Erich

Renner representing himself. Good afternoon, Mr. Renner.

DR. RENNER: (interposing) much for the opportunity to speak. Can you all hear me?

MR. TONCHI: Yes, you have three minutes.

DR. RENNER: I'm Dr. Erich Renner, I'm a pediatrician specializing in newborn care at a public safety net hospital. I'm an instructor in pediatrics at our affiliated medical school, and I'm a borrower, and I'm an enrollee in the PSLF program.

Although I graduated from medical school 12 years ago, followed with residency at a not-for-profit hospital, and have worked at this public hospital for my whole career, that loan estimates I'm currently approximately four years away from qualification for forgiveness. I'd like to advocate for a group of usually included stakeholders that appear to have been omitted from the rule language modification currently under consideration, that is, medical and dental interns and residents, and those of us that have occupied that role. Specifically, I'd like to suggest that deferments and forbearances during months of active public service in internship and residency count as payments, as is being considered for the Peace Corps and military borrowers under proposed rule changes.

More broadly, I'd like the Department to

continue the past practice of inclusion of interns and residents with other important groups as future rules are considered.

Medical interns and residents enrolled in PSLF provide vital public services during their period of deferment or forbearance, which can last three years, four years, or more. They secure the public health by working long hours on the front lines of emergency medicine, inpatient hospital care, primary preventive care, and mental health services.

They work an average of 80 hours per week while supporting their families and carrying a median medical graduate debt of \$200,000 per student.

34CFR, 682210N and 211H already recognize medical residents' vital service and financial hardships alongside those of the Peace Corps, members of the National Guard, and other armed services. The group is specifically enumerated in the rule change currently under consideration, and as it stands, we're allowed similar forbearances and deferments. We utilize the same form for application. But we're so far admitted from the benefits of this rule change.

Public health workers like us should not be disadvantaged by exclusion from the prospective improvements in PSLF rules, especially as we re-

demonstrate our commitment to our communities and our nation by tackling the challenges of the pandemic, and building back better in its aftermath.

I'd like to propose the addition of rules language in §685.219 to reinstate the inclusion of medical and dental interns and residents in consideration with the other vitally important borrower groups in the language under consideration. I also urge the Department and the committee to extend consideration to the other groups enumerated in §682.210 and .211 -- (interposing)

MR. TONCHI: 30 seconds.

DR. RENNER: -- who provide services during their forbearance like public health service workers, rehabilitation trainees, targeted teachers, full-time volunteers, and the NOAA Corps.

Thank you for your time and attention to the very important work in improving the PSLF program and for helping to make good on the promises made to me and my colleagues as we entered public service more than a decade ago. I stand available to the committee and to the Department if there's any way I can contribute to this important work. Thank you so much.

MR. TONCHI: Thank you for your comments. I understand -- I understand that we are moving to our waitlist for the first time, because we had two speakers

who did not appear. Our first waitlist speaker, and I believe our ninth speaker for the public comment, is Kim Tran, representing themselves.

MX. TRAN: Hello. Hi.

MR. TONONCHI: Welcome, welcome. You have three minutes for your comments.

MX. TRAN: Okay, thank you. My name is Kim Tran, I am a former student from the New England Institute of Art, and a representative for students who attended the Art Institute, as well as the general representative for the defrauded students who filed for their borrower defense application.

These students waited for more than five years, but there's still no updates. In the previous hearing I attended several months ago, I pointed out that the Department of Education already has documentation of the -- sorry -- already has documentation of the Art Institute's fraudulence.

As a representative and borrower myself, the last update we ever heard on our application was a confirmation email upon submission. How will you handle the borrowers' application piling up in the coming years? We are aware of the mass discharge approved for the students who attended some highly known for-profit schools so far, but this does not give me the faith that

the Department of Education will properly review each application carefully.

There is still plenty of us who waited for years to hear back. Why is the process so difficult when these for-profit schools did not deliver any promises they made? These schools preyed and burdened us with a lifetime of debt. Monday's hearings felt disheartening for us borrowers when the students' nominees' experiences were not explored for their qualification.

There is a reason why we believe that the students we nominated would have been fit for the committee. What will it take to allow the students borrowers to participate? We already worked hard proving our loans should be discharged, but I didn't think we would have difficulty gaining represented on the committee.

There is no fairness when the affected are unrepresented. You had already available students who were nominated and openly available to attend and fully commit to participate in the rulemaking. You are creating a rift between the borrowers' trust and the Department of Education. What do you have to -- what do you fear would happen when the student borrowers join the committee? How much longer do the borrowers need to wait for the students to get a response on their application?

Something needs to be done to expedite the process. Students should not expect to wait for years once the submission begins. For the years we waited, we miss out on many opportunities of important life events and milestones that could have happened, but we are still stuck with these loans. The biggest tragedy --

MR. TOTONCHI: 30 seconds.

MX. TRAN: I'm almost done. The biggest tragedy is losing all the time that we cannot get back because we put all of our time into fighting for our right to discharge these loans. Our lives are on hold, and we want to move on from it. This is why I believe we need more student borrower representation on the committee to happen before the end of this week. Thank you for your time.

MR. TOTONCHI: Thank you for your comment.

MX. TRAN: Yeah.

MR. TOTONCHI: We are at time, so that would be the final comment of the day. I want to thank the public commenters' further comments, I want to thank the committee for its excellent, hard work all day today.

In terms of closing, we will get started again at 10:00 a.m. Eastern. Please make sure to use the appropriate link for the Thursday meeting. We will pick back up with PSLF, from where we left off. Thank you all,

and see you in the morning.

Appendix

**Department of Education, Office of Postsecondary
Education**

Zoom Chat Transcript

**Affordability and Student Loans Committee - Session 1,
Day 3, Afternoon, October 6, 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 Daniel (P) -Fin Aid Admin (he/him) to Everyone:

Can we arrange for the a/c to be turned up in the
room? LOL

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

LOL

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

My alternate Suzanne Martindale is going to join to ask a question

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

We would like state law considered at first consideration.

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

I want to suggest another option for reconsideration. If a student is included in a group claim and the group claim is denied, the student should be able to ask for reconsideration as an individual applicant with additional information as needed.

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

By law I meant standard

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

Echoing concerns re: Joe and Josh

From Jeri (P) (she/her), Student Loan Borrowers, Primary
to Everyone:

so many operational questions outstanding.

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

+1 joe and josh

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

What is the six year limitation period from? Is this
from the date of loan origination, the date of filing
of the BDTR claim, or the date of decision? If
anything other than the date of loan origination,
then I would share concerns about the maintenance of
records.

From Heather (P) - Accrediting Agencies to Everyone:

Due process considerations (distinctions between

individual or group in terms of timeline, etc); and role of accrediting agencies is unclear.

From Joe (P); State AGs to Everyone:

Great point Michela.

From Michaela [P] Ind. Student (she/her) to Everyone:

Thank you

From Jessica (P) Proprietary Institutions to Everyone:

What does the appeals process look like with regard to the recovery from institutions. Can you help us understand the extract process.

From Jessica (P) Proprietary Institutions to Everyone:

Please consider giving institutions the opportunity to respond when a final program review is used.

From Michaela [P] Ind. Student (she/her) to Everyone:

The alternate for ind students is coming in for a few

minutes.

From Persis (P) Legal Aid (she/her), NCLC to Everyone:

I am rejoining the table for legal aid

From Jeri (P) (she/her), Student Loan Borrowers, Primary to Everyone:

Student aid <https://studentaid.gov/> to make sure your contact info is correct and <https://studentaid.gov/pslf/> for PSLF

From Jeri (P) (she/her), Student Loan Borrowers, Primary to Everyone:

Switching with my alternate Jennifer

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

Employment | Request for further clarification about who does and does, or which organizations, meet the criteria for PSLF.

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

Does the department also plan to include forbearance periods for non-military folks? I'm thinking specifically of the required forbearance periods when a borrower transitions between eligible payment plans, like from PAYE to REPAYE

From Rachelle Feldman to Everyone:

+1 on Bethany's question.

From Greg, A - Dependant to Everyone:

+1

From Persis (P) Legal Aid (she/her), NCLC to Everyone:

Questions for ED re Announcement 1) Consolidation - is there anyway that borrowers can know that their time will count prior to consolidation; 2) How will ED handle disputes on payment histories to ensure that borrowers will get all of their time counted; 3) Will borrowers be allowed to self-certify employers if they are unable to get information given the

amount of time that has past; 4) Does ED have any plans to provide similar relief related to IDR for FFEL borrowers (or even Direct) who have been in repayment for more than 20-25 years

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

Also, very curious what this means for folks in default? Are there any limitations on their access to this relief?

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

I would also support Dixie's proposal to have PSLF borrowers and borrowers going through the borrower defense process to present to us.

From Persis (P) Legal Aid (she/her), NCLC to Everyone:

I second Bethany's question - and wonder about defaulted FFEL borrowers who are ineligible to consolidate

From Jeri (P) (she/her), Student Loan Borrowers, Primary to Everyone:

I am back thanks Jennifer!

From Brady - FMCS to Everyone:

Asking everyone with outstanding questions that aren't fully answered or we can't get to today to add them to chat for the record.

From Rachelle Feldman to Everyone:

Question for ED: Will you please send us specific clarification on how you will count the periods of repayment as "payments" on a loan? I think a document that explains which periods will count and how that math will be done (every 30 days=payment?) would really be helpful.

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

Quick note from fellow regulators: please consider relief for parent plus borrowers

From Persis (P) Legal Aid (she/her), NCLC to Everyone:

Agree with Suzanne

From Jeri (P) (she/her), Student Loan Borrowers, Primary
to Everyone:

Agree and the way parent plus loans interact with ICR
and PSLF

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

Ditto to Bethany's point.

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

+1 Joe - CA has 250k state employees!

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

I am also a denied PSLF borrower.

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

And would be happy to share my story as well.

From Jeri (P) (she/her), Student Loan Borrowers, Primary

to Everyone:

for consideration: REVISED PROPOSAL: (i) A borrower shall provide information about the borrower's employment and employer on a form approved by the Secretary. However, such form is not required if the Secretary has sufficient information in the Secretary's possession to determine the borrower's employment and employer.

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

+1 on retroactivity

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

+1000

From Will (A) FFEL Agencies to Everyone:

Misty - can you add your thoughts to the chat?

From Heather - PSLF Advisor to Everyone:

"is employed in a public service job at the time of such forgiveness"

From Heather - PSLF Advisor to Everyone:

Perhaps the date of application can be considered to be the date of forgiveness, even if processing the application takes time. My view is that the statute supports such an interpretation.

From Persis (P) Legal Aid (she/her), NCLC to Everyone:

Thank you for that clarification!

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

time of application is a reasonable result - thanks for clarifying brian!

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

Has this redlined version been sent out to the group?
I don't see it but may have missed it.

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

Everyone:

We got it in an email Misty.

From Jennifer - ED negotiator to Everyone:

<https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/pslfproposedregtextappprocess.pdf>

From Kayla, FMCS Facilitator to Everyone:

This language was emailed out by FMCS on October 1.

From Kayla, FMCS Facilitator to Everyone:

If I need to resend to anyone, please let me know.

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

Would like this to include forbearance/deferment between payment plans.

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

Add as a deferment or forbearance option the time

between when the application is filed and then a decision is made. During this time, the borrower should not be expected to make payment especially if the time is longer than 30 days. Those period should count and payment should not expected while a decision is being made.

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

Got it thank you!

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

Would like the cancer treatment deferment to be broadened to include serious medical treatment. Could borrow FLMA language and think it would be easy for ED to verify

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

+1 on Daniel's addition as well

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

Agree with Daniel and Bethany.

From Heather - PSLF Advisor to Everyone:

FMLA leave is counted as full-time employment already, but not yet as "qualifying payments" unless payments are in fact made

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

thanks, Heather!

From Jeri (P) (she/her), Student Loan Borrowers, Primary to Everyone:

may be a way to help caregivers as well

From Persis (P) Legal Aid (she/her), NCLC to Everyone:

Would want to see time counted when borrowers were steered into forbearances or deferments, as well as the time between annual recertification, switching repayment plans, as well as steered into other repayment plans.

From Joe (P); State AGs to Everyone:

Agree with Persis RE finding a way to count payments for borrowers inappropriately placed in forbearance

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

PLUS Loan -- is the department removing the exclusion of PLUS loans from loan forgiveness? It appears so.

From Heather - PSLF Advisor to Everyone:

Direct PLUS Loans are specifically included as eligible loans in the authorizing legislation.

From Heather - PSLF Advisor to Everyone:

Parent PLUS loans are not eligible for IDR plans unless consolidated, and then only ICR.

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

Correct, so Heather under this proposal any repayment plan would qualify?

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

Yes, on page 8

From Rachelle Feldman to Everyone:

Good point Jeri, will be very important it comes from ED.

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

Yes to automation!!

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

Agree with Bethany.