

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
INSTITUTIONAL AND PROGRAMMATIC
ELIGIBILITY COMMITTEE
SESSION 2, DAY 4, AFTERNOON
February 17, 2022

On the 17th day of February 2022, the following meeting was held virtually, from 1:00 p.m. to 4:00 p.m., before Jamie Young, Shorthand Reporter in the state of New Jersey.

P R O C E E D I N G S

MR. WAGNER: Welcome back. It is 1:00 eastern, and we have a lot to get to this afternoon. Just one reminder as per the protocols, I want to make sure just to mention to preserve time that the negotiators should not repeat a previously made point when it's their turn to speak. And also point out that Dr. Laura Rasar King is in for accrediting agencies. And Greg, where would you like to pick up as we start off the afternoon?

MR. MARTIN: So I believe we had finished our discussions on 26, so I'd like to move to 32.

MR. WAGNER: Okay.

MR. MARTIN: Vanessa, you can do that, and we'll be bringing that up. Okay. [Inaudible] So here we, in 32, we have clarified in the section that the requirements apply to all states in which the institution enrolls. And so we'll look at that, and this is in 32. In each state in which the institution is located or in which the student and in which students enrolled by the institution are located the institution must ensure that each program is programmatically accredited if such accreditation is required by the state or a federal agency and satisfies the applicable

educational prerequisites for professional licensure or certification requirements in the state so that a student who completes the program and seeks employment in that state qualifies to take any licensure or certification exam needed for the student to practice or find employment in an occupation that the program prepares students to enter. So that was the only one we had left in this section, so I'll open the floor to comment or discussion.

MR. WAGNER: Rene, if you could stop sharing, that'd be great. Thank you. Let's see here. Okay, I see Johnson, you're up.

MR. TYLER: Yeah, hi, so can you hear me okay? I've been having internet connection today.

MR. MARTIN: You sound good.

MR. TYLER: Okay, great. Thanks. So I want to talk not so much about this provision, but about transcript withholding, which would go into this section. We have discussed this for a while throughout the rulemaking, and I want to make a pitch as to why we should say a school would not need to basically sign a contract saying it's not going to withhold transcripts as a debt collection tool or as a retention tool for that matter. So I don't want to go over the same old stuff, but I have some new stuff I want to say. I've

been looking at data because data really is important when creating policy, so as I mentioned before, if you look at SUNY's data on cases that go to the attorney general and where there is not a resolution and hence transcripts are being withheld, you see, when you look at all the students who go to SUNY, 99.25 percent of the students are paying their debts. And so I had a FOIA from Brooklyn College, which basically says the same thing. It says, look at the end of when the semester is beginning. The kids who are coming back, 3.75 percent of them have a debt. But after we use the traditional collection tools, which essentially is, we're not going to let you re-register, we reduce that down to about 1 percent. So the 1 percent who don't go back to school and end up having their cases have transcript withholding are largely people who can't afford it. People want to pay their schools to go back to school because they want their degree and they want, as you've seen here on a lot of the Zoom casts, people have their diplomas on their walls, people want to finish up at schools and they're going to find that balance. So the other thing is, so how effective is transcript withholding as a collection tool? Because I'm saying, first of all, it doesn't affect that many people, but to the extent it does, how useful is it? So there's some

data out of Ohio that says about 7 percent of people having their transcripts withheld will actually repay the debt. And the SUNY says about the same. So said in other words, like 93 percent of people who have their transcripts being withheld are not going to pay off the debt. So it's just not helping, it's not working. And so the last thing I want to talk about is just the size of this problem. So there's a data point out there by a bunch of policy wonks. It says 6.6 million people are having their transcripts withheld. If you just look at the data I've looked at, that's about 1 percent of the population that's going to school. There's about 20 million students every year going to undergraduate institutions. So that's about 200,000 students a year. And we've been spending here, we'll be spending three weeks on rules designed to protect students that involve about a million students, maybe a million and a quarter [30 seconds]. And so I think this is really an important issue for the Secretary to address. This is something that affects 200,000 students a year, and it's within the purview of the regulations of what we're discussing now. And also the arbitration provision was put in exactly for this reason in the same section and then rescinded and then it's up for nomination again. So I just think it's before this, thank you.

MS. JEFFRIES: Thanks, Johnson.

MR. WAGNER: Thank you, Johnson.

Carolyn, I see you're next.

MS. FAST: I wanted to also support the suggestion to include a provision in PPAs that prohibits transcript withholding as debt collection. And I think Johnson made a really persuasive argument about how important that is as a goal here, and it is directly related to the investment of Title IV funding and that the transcript withholding for such people who has a debt collection mechanism does also affect the people's ability to continue their education potentially, you know, re-enroll. And so the investment of Title IV funding and as well as their own funding to that point is essentially stranded or wasted through this practice that prevents people from continuing their education.

MR. WAGNER: Thank you, Carolyn. Let's see. I see on my list I have Ernest. That's who I have next.

MR. EZEUGO: Thank you, Kevin. Yeah, it feels important to really verbally support what my colleagues Johnson and Carolyn have shared on transcript withholding and the importance of taking it up as part of this rule making. It does I think fit with the themes of this rule making and the issue papers at hand. I

think it fits in the section as well, and it fits as a thing that I would hope that the Department would consider important to kind of think through its agreements with institutions and its practice. I can share to the chat the research that Young Invincibles did with the Student Borrower Protection Center, which I believe I brought up last session about the kind of racial equity impacts of transcript withholding as we found them. And as part of the [inaudible] system, I would re-up what my colleague Johnson said about the effectiveness of this collection tactic. And I would just summarize by sharing an additional piece and an anecdote. You know, when I dropped out of school, dropped out of school after my mom got sick, and I, quite frankly, I think from there I was very lucky. You know, I got a job at the Department of Education that turned into a career. I think I was much more lucky than a lot of my peers who have to make those kind of decisions. And it still took me years to pay back my institutional debt and receive my transcripts so that I could transfer because of all the other responsibilities that I had. And this is a common thing for a lot of students who want to even maybe transfer out to institutions of lower cost but can't because of transcripts withheld. And I would just urge the

committee to consider that. Yeah, and I'll share the stuff I was talking about.

MR. WAGNER: Thanks, Ernest. Kelli, you're up.

MS. PERRY: Okay, going back to certification, which is what we were talking about in number 32. Since our last meeting, there has been, we've received significant opposition to romanette two from our constituency and on a couple of different positions. One of them documented their concern really well, so I'm just going to read and leave the school's name out of the language. So, many schools have worked to ensure accurate professional licensure disclosures are provided to students, ensuring that they can make an informed decision about their education and future career plans. Yet, the proposed language requiring institutions of higher ed to guarantee that licensure prep programs meet the educational requirements of every state in which the programs are offered as a condition for receiving Title IV far, far exceeds the bounds of what institutions can reasonably accomplish with any degree of certainty. Specifically, the requirement would necessitate 1. the development of compacts and agreements among state licensing boards, 2. cost prohibitive research and subsequent revisions to the institution's curricula to

ensure each licensure program meets requirements for licensure in all states and territories where the programs are offered [phonetic], thereby increasing significantly the cost of attendance, the number of credits required, and the time to a degree, 3. the removal of the program offerings from states for which programs do not meet the requirements, therefore eliminating the students' freedom to select the institution of their choice. The institutions recognize the concern that students might be unduly disadvantaged if they were to complete a program that may not prepare them for licensure in a certain state. Our current disclosure and reporting requirements provide students with a structure that reasonably ensures that they are informed of requirements that may affect institutional choice, like many of our peer institutions. Many of the peer institutions prepare licensure disclosures in order to provide students with current licensure information. Requiring institutions to guarantee that their programs meet licensure requirements for all states and territories places an incredible burden on institutional resources when in fact the burden belongs to the state licensing boards themselves to improve consistency among and transparency within their license standards. Because state boards change licensure requirements with such

frequency and without notice, it is nearly impossible [30 seconds] for institutions to ensure consistent compliance. Further, this makes institutions liable for the students' and graduates' performance on professional examinations, leading to exam driven or restrictive curricula that only serves the most stringent state requirements or reduces potential enrollment, further exacerbating resources and funding. Finally, if an institution were to modify its curriculum to ensure it meets a myriad of licensure requirements in each state, it would be impossible to maintain a traditional number of credit hours to degree. Total credit hours, time to degree, and cost of attendance would all increase as a result of the proposed regulations. Thank you.

MR. WAGNER: Laura, you're up.

DR. KING: Hi, my comment is initially on romanette one, and I mentioned this during the last round of negotiation and nothing really changed to resolve it, so, I support romanette one, but I want to make sure that we have language that addresses the fact that new programs are not accredited before they are functional. I can't speak for every single programmatic accreditor, but I can speak for many of them that that's just not how it works. Many of them actually require a program to be up and running to be functional. That's

how we look at outcomes to make sure it's a good program before we confer full accreditation. Some accreditors have pre-accreditation, provisional accreditation. They may have applicant status. All of those kind of early statuses at a program they have, they're not accredited, but it shows that they are in good faith working through the process to become fully accredited. So I think it's important to sort of align this with some of the provisions in 602, so that accreditors can, you know, can serve the role that they're supposed to serve here, the way that we do our work. So I'm not, I don't have necessarily a language proposal for that, but there definitely needs to be an acknowledgment that the program has to be working through the process with the accreditor. Could be that the accreditor somehow certifies that they're working through the process. But we are not in the business of handing out accreditation when we have not seen outcomes.

MR. WAGNER: Thank you, Laura. Adam, you're up.

MR. WELLE: Yeah, I just wanted to speak again on the transcript withholding issue. Our office and I know other AGs offices have had a number of complaints around this issue historically. I think there's been some comments in the chat about this not

being the forum, but you know the concern is that there's language in this section below that would only prohibit transcript withholding for institutions that [audio] are facing closure, which would potentially give tacit permission that institutions can use this practice in all other scenarios. So I do want to just reiterate that you know our office believes this is a sharp and unfair debt collection tactic. The states have tried and have started regulating on this issue, including Minnesota, in prohibiting this practice as having unfair and discriminatory effects. Obviously, Minnesota's law is undermined when an out of state school through an interstate compact is entering and enrolling students in Minnesota without following that requirement. I do think you know this is going to continue to be an issue, and the Department, when it comes to giving financial aid and conditioning financial aid, shouldn't be on the wrong side of this issue. Schools have an extraordinary amount of leverage over students in this regard when students have made huge investments in their education. There's a suggestion in the chat that some schools have an obligation to collect debt. Well, I don't think any of those requirements specify the manner in which they collect debt. And so when there is an unfair and harmful practice, it should not be followed when more ordinary

debt collection procedures, which have laws and protections, are available. Again, students have taken, this is about students that have taken out federal student loan debt and completed their coursework. The Department has made their investment in the student. It seems like a basic expectation for access to federal financial aid that schools be required to provide that transcript for coursework where the student has made that, where Department has made that, investment. Thanks.

MR. WAGNER: Greg, I see your hand up.

MR. MARTIN: Yeah, I just wanted to address a couple of things here, first with respect to the transcript issue. We will be discussing that as was just pointed out in (e) where schools are at risk of closure. But to the issue at large about whether or not institutions, whether or not we should prohibit institutions from withholding transcripts for payments, we do have, we are considering that, we're looking at it. We have to, there's a number of things we have to look at, including legality. So we are aware of the concerns at the table. We are looking at it and we'll come back with a more official position in March. But right now, we're still in the process of internal discussions on that particular request. With respect to

32 romanette I, the programmatic accreditation and seeking accreditation, I can say that we encourage institutions to support their students if not yet eligible for Title IV. However, given the risk an institution may not obtain the programmatic accreditation it seeks, we do not believe it is appropriate to commit Title IV dollars to those programs, again, because the prospect of the potential for that program never to receive its programmatic accreditation. And with regard to romanette two that satisfied the applicable educational prerequisites in each state in which the institution is located or the students enrolled by the institution are located. We do understand that it adds an additional burden to institutions to make certain that the program meets those requirements in each state that the students are located who take the program. However, I do want to point out that this does, this is limited to instances where the students that seek employment in that state, there is a licensure or certification exam that is required for the student to practice or find employment, so that student is taking that program ostensibly to meet those requirements to practice in that profession, which requires licensure certification. We believe it is incumbent upon the institution if offering that program

to students in this state. And this would primarily occur, I suppose, with distance education where you are outside the state where you're located. But yes, it does become potentially burdensome if you're offering this education to students in, say, 30 different states. But that is the institution's decision to do that. Take that step to offer that education via distance in all those states, and we feel it's incumbent upon the institution then to accept the responsibility that comes with that, which is to make certain that this program, which is being offered in order for students to secure, specifically secure, that licensure or certification and get that with this program.

MR. WAGNER: Thanks, Greg, appreciate it. Let's see, next is Marvin. Go ahead.

MR. SMITH: Kind of two issues I guess I want to talk about is I put some comments in the chat on concerns about transcript withholding, and the state of California prohibits this, but I think there's only maybe one other state that's doing that right now. And I just think this deserves a lot of discussion and I'm afraid of the unintended consequences of collection agencies harassing students. Is that worse than, you know, them not being able to get a transcript? A lot of students don't even want to get their transcript. And I

do feel for the students that are subject to R2T4, and that's a whole other issue that they didn't plan on paying any money and then they suddenly get a debt. And I just think there's so much complexity to this issue that I think it deserves a whole other discussion. And I don't want to appear like, I'm not a student advocate because again, California is prohibiting this. Maybe that could be looked at as a model. On the second point, maybe I'll have to get back in line because I don't know if we're going to keep talking about transcript withholding. But you know, four-year colleges are very concerned about the expectation that they determine licensing in all 50 states to offer programs and I just think that it's already been said, and again, we're mixing up two different issues, so I'll shut up now.

MR. WAGNER: Marvin, thank you.

Amanda, you're up.

MS. AMANDA MARTINEZ: Great, thank you to the Education Department, and Greg, thank you for confirming and taking up previous speakers' and negotiators' comments about transcripts and committing yourself to taking that back to the Department and hopefully conducting a thorough analysis. As you heard, this is a large, significant problem, potentially even 10 times more. [Audio] You know, [audio]in potentially

solving this problem, you can impact millions of people, which I would assume, is the Education Department's ultimate goal. Another ultimate goal, I think, is still equity impacts here. You know, we were trying to decipher that here in this specific topic when it comes to transcripts. I just want to highlight that those, you know, however many students close to 200,000, you can potentially say that while we may not have the hard data and facts about who those students are, they're potentially more likely to be students who are first generation, potentially parents, students who tend to be older or are black and Latino students and other underrepresented students in higher education. You know, some research suggests that some of the lowest payments are about like \$200 of debt, and maybe to some disconnected from this issue or who do not come from a family or generation that has lower median incomes, which tend to be students, may not understand why a \$200 debt payment seems insignificant when actually, for those families and students who have low median incomes, \$200 to \$400 is insurmountable and could potentially waive off their entire opportunity of education or economic mobility because they have to pay for increasing costs not just for their education, but outside living costs. You know, someone once told me

that no one can take your education away, but that's not necessarily true, not true in this case, because transcripts really are a way for you to further your education. And we know that also with lower income communities and Latino students and black students, is that transcripts, you know, are we know that they don't necessarily go the traditional route of straight into a four-year degree. They're more likely to enter more than one institution to accomplish their career goals, and they need that transcript to accrue more credits to finish their [30 seconds] educational degrees. So because we know that their rates for this population, lower transcript or lower transferability, we need to solve this problem. And yes, I understand it's complicated, but [audio] truly need to put that first, forefront in their mind.

MR. WAGNER: Thank you, Amanda.

Debbie.

MS. COCHRANE: Thanks. Most of what I wanted to say was actually on some of the points that Greg had just made, so will definitely just thank him for those comments regarding paragraph 32 and the importance of those. I would also just want to address one thing that I think I heard Kelli say in the email that she was reading. You know, I think to the extent

that this would have widespread new burden on institutions, that would seem to suggest that institutions are currently routinely and knowingly enrolling students across state lines in programs that they are aware will not prepare students for employment. So to me, that underscores the importance of these provisions.

MR. WAGNER: Thank you. Let's see, Barmak, you're up.

MR. NASSIRIAN: So I want to address both the transcript issue as well as section 32, romanette two, with regard to transcript withholding. First, I want to acknowledge the thoughtful comments that Marvin and other colleagues have made about some of the complications here. But what really alarms me about the civil rights implications, I don't think middle income people understand the gravitational force of poverty and what poverty can do. Simple things that maybe a middle income person sees as an inconvenience can checkmate a low income family's ability to move forward. And I do see this issue of withholding transcripts as basically terminating somebody's entire journey through higher ed because they are, they are stuck. They had no way of anticipating the debt. The debt is unrepayable and the student's entire future is

being held hostage to the payment of a debt that could ironically be repaid downstream if they're allowed to access higher ed and enhance their wages. So I really hope the Department takes a broader view of this and its impact on communities of color. We heard a lot of eloquent comments about the disparate impact of racism in our society, of the impact on African-Americans within the job market. You know, racial justice isn't only a good idea when it's convenient, you have to do it when it's also inconvenient for you. And that's an example. Apropos of number 32 in Kelli's comments, Carolyn and I were sort of instigators of this language. We were approached during the break by our colleagues at WCET and WICHE. They did not seem to have a substantive problem with this. Rather, they raised their legitimate issue that maybe the language the Department is using of requiring institutions to ensure programmatic conformity may be a challenge in those states where the requirements are unknown or unknowable. And we will attempt to submit some language to that effect, but I did not hear from them, and I generally defer to them with regard to their judgment of what is entirely unworkable. I did not hear from them that the substance of this requirement is unreasonable. After all, the institution is choosing to go into a state to deliver

services to people that it knows reside in that state.
[30 seconds] So it seems to me that professional licensure makes a lot of sense there. Thanks.

MR. WAGNER: Okay, Carolyn, you're up.

MS. FAST: Thank you. A couple of points, and Barmak, thank you, that was really, really very helpful on both the points. With regard to the transcript withholding issue, just a quick point that was raised in the chat, but just for anyone who missed that or is watching and doesn't have access to the chat, there was a suggestion that we might look to California as a useful model and just wanted to reiterate that some proposed language that was put forward by myself and a number of others was actually based on the California statute on transcript[inaudible] withholding. So we hope that that would be useful to take a look at. And also, I wanted to echo support for the Department's proposal in 32 regarding the licensure requirements. I think it's absolutely critical, and students put a lot of trust in their schools when they sign up for a course that they will be, that it will prepare them to be employed in their state. So I think this is extremely important. I'm very glad that the Department has taken this proposal and made it here. I think it'll add enormously important protections. And just one other point here, we have

proposed, and I think it fits well within 32, some additional language that would also require that when states, that when schools are going to be offering programs in multiple states, that they should also comply with the state consumer protection laws that are in effect in those states as sort of a reasonable protection to make sure that students can get protection whether they're online or whether they're brick and mortar in a particular state. And we do realize that that can be a complicated issue because of the way that reciprocity agreements currently work in our country and in most states, except for California. And so that's why we added some language there to make it clear that where there was a reciprocity agreement in place, then there would be an exception that laws related to the state authorization, such as like an application fee or etcetera, would be exempted out to take that into account. And I just wanted to flag that as something that we have proposed for this section.

MR. WAGNER: Thank you, Carolyn, but before I get to you, Kelli, I just want to mention that, you know, the Department has addressed the transcript withholding issue and that we request that you keep your comments to the section that is currently on the table. So with that being said, Kelli, you're up.

MS. PERRY: Yeah, I would just like to respond to Debbie and Barmak's comment about romanette two. And I'm not an expert on this. In any case, I'm going based on, you know, information that we received over the course of the last month. I don't think that it's fair to say the schools are knowingly offering programs for students that don't meet the licensure requirements in the state. I think the concern is that it's limiting the students' choice. So for example, if a student, you know, if an institution is in Virginia and a student wants to take a course that a university in Virginia is offering, but they live in Georgia and that university in Virginia or the school in Virginia has said we do, you know, disclose we don't meet licensure in that state, but the student knows that and wants to take the course because they're moving to Virginia. So I think that's more of the concern is the logistics around it. I don't think that four-year institutions are knowingly offering licensure programs. I can't obviously attest to that, but I don't think they're knowingly offering programs that don't meet licensure requirements. I think it's more that the students have the choice to attend that program with the disclosure requirements that are there, that states whether or not it meets the state, because you don't know where the

student is going to move or where they want to be. So I think that's where the schools are coming from. And obviously you know the additional requirements and burdens that I talked about. Secondly, you know, I've been quiet on this whole concept of withholding transcripts for balances because I didn't feel that it was part of this neg reg that we were talking about. And I am sympathetic to students who can't move on in their careers or in their education because of them. Believe me, I am especially for small balances, but when you get into the larger balances, you know, those students received education and they received credit as it relates to those balances that they owe, and Marvin did put in the chat about the whole context of, you know, the changes that schools would have to be, that would have to be made if schools didn't withhold those. You know, you're talking about going to collection agencies early. Schools don't like to go to collection agencies with students because that affects them for the rest of their lives, you know, and can affect their credit [inaudible]. So, you know, withholding the transcript [30 seconds] to try to work with the student on collecting the debt, a debt that they actually received education for and credits for that they ultimately could transfer to another university. So, you know, I'm not

going to belabor it. You know, if it's something that is put into this neg reg, you know, obviously there's more conversation to be had about it because I think some of the percentages-.

MS. JEFFRIES: Time is up, Kelli.

Thank you.

MR. WAGNER: We have Laura up next.

DR. KING: Thanks. So I get that this issue is arcane and I'm the only one speaking to it. However, I do need to say again, Greg, you've got to understand how accreditation works. I fundamentally support the substance of what you have in 32. I want to say that. You've at least got to add pre-accreditation into that, into how it is written now, because if you look at CFR 602 pre-accreditation, the Department recognizes accreditors to confer pre-accreditation. We have to have it in our scope of recognition. There are requirements that programs have to meet in order to get accreditation that's got to be in there. It's a fundamental misunderstanding, and the words are important. And I feel like when I'm saying this, the response is always we feel like it's important to be accredited. Of course, I feel the same way, but we don't want to not include words that make that a possibility. So I get that I'm probably the only one that cares about

this, but it is important in order to avoid unintended consequences for programs. I mean, you'll essentially say that there can be no new programs, which I don't think is what the Department is trying to say.

MR. MARTIN: We'll take that back with us. Again, you're right, our overriding concern is for the possibility of students being in a program that doesn't eventually receive accreditation, and although that might not be the norm, it is a possibility. But we'll take back the suggestion that we add pre-accreditation.

MR. WAGNER: Johnson, you're up.

MR. TYLER: Thanks. Just going back to the licensure thing. You know, I view this as kind of having watched a lot of YouTube's promotions of for-profit schools that then go bust and trying to get loans forgiven. I mean, there constantly you're seeing people working during the day and going online and studying for a degree at night. And I think that this provision is going for that. And with all due respect for what Kelli has said, I think the four-year institutions are not the people that this is designed to police in terms of licensing and so forth. So I think it's really important if you're reaching out online across state borders to think about whether your student there is going to have

any chance of entering that profession. I would think that if you're, you know, having gone to a law school that had a very low bar passage rate, people start looking at what do we have to do to make sure our students access the profession that we're training them for? And so it would seem to be an institution needs to know what the licensure requirements are in another state if they're taking students from that state online.

MR. WAGNER: Thank you. Before I get to Debbie, I do see Greg, you have your hand up.

MR. MARTIN: Yeah, I just wanted to address one final time just to say about the issue of transcripts. We have heard what people have said on both sides of it. It is not currently, you know, up for consideration in the package we have before you, which is not to say that we're precluding it. It's just that we still have to think about, you know, what we're going to do with regard to it. So I think we've heard the arguments on either side. It's a very important issue and I fully understand that. And I don't, I'm not trying to cut people off or to diminish the passion people have about it. But in the interest of moving on, I think and I hope we can table that for now, and we've had a lot of great comments about it. The Department has a lot to consider, so I just want to point that out. And when we

get to (e), I know, of course, we'll bring up the release of holds on transcripts for institutions that are at risk of closure. I'd like to ask you to consider that in the context it's written just for what is in (e) at this time, understanding that there are a range of opinions and that the idea of prohibiting the withholding of transcripts is a very popular one among many of you. Just to restrict what our comments will be when we get to (e) to that specific circumstance. Thank you.

MR. WAGNER: Thanks, Greg, appreciate that. Just want to echo that, that we have had a lot of comments on the transcripts, but we're going to be moving on and address what's on the table. So with that being said, let's see, Debbie, you're up.

MS. COCHRANE: Thank you, and I wanted to come back on the question of choice. Kelli, thank you for the response in the clarification of what you think some of the concerns are. I mean, I think we have to think about this not just as a question of student choice and whether the student has every institution that they can choose to enroll. But this is also a conversation about federal Title IV eligibility. And that's a choice of where federal taxpayer investments are going to pay off. I think you know if we're worried

about the student, the—I can't remember which order you had them—but if the Georgia student who wants to enroll in a Virginia institution because they're going to, they're moving to Richmond, I think you could think of some sort of solution, like you know allowing a student to submit a handwritten attestation that they understand the limitations of licensure requirements or any associated restrictions, and they're choosing to enroll anyway for that purpose. But I don't think it's either good for students or taxpayers if students are routinely enrolling in programs that aren't going to provide them sufficient preparation, and I do believe it is the responsibility of the institution for understanding those requirements.

MR. WAGNER: Thank you, Debbie. Brad. I'm sorry, Barmak. Sorry, two Bs. Barmak, you're up, then Brad.

MR. NASSIRIAN: We get mistaken for each other all the time. Back to 32. I appreciate the fact that my institutional colleagues don't spend most of their day the way some of us do looking at giant cases of fraud. But it's really important to understand that vague hypotheticals don't actually trump known facts. The case of the Georgia student enrolling in a program that does not meet their future intended

residence in Virginia does raise the question of why did they choose that program since it's online? This is not the student going to Virginia. This is really only intended to deal with distance education. So, that's the theory, and it makes you kind of ponder how many of those cases are there. The more typical case, of course, is an institution sitting in one state, delivering subpar, entirely inadequate education everywhere else and then hanging its hat on the fact that the education meets the criteria in one state. We have examples. I cited this case of a particular law school, but a subset of law schools that deliver what is labeled as legal education nationwide even though they do not have ABA accreditation, they do not meet their students, who cannot sit for the bar exam in any state except the state of California. And of course, the nationwide delivery is all predicated, I suppose, on the theory that all these students are intending to move to California, which is decidedly not the case. This is really not, I think the substance of this should not be a problem for legitimate institutions. I do concede that maybe the word insurer needs to be modified a little bit, and we will work on language to address that concern. But I don't, I really have a hard time seeing somebody objecting. The school is in a far better

position to know what the criteria in various states are than students, and disclosures don't really cut it because they haven't worked. So that's my comment on 32.

MR. WAGNER: Brad, you're up and then if we can move on from there. Okay, take it away.

MR. ADAMS: Alright, well, I thought I was going to make it through without a comment, but I, you know, with some of the comments with Laura back and forth, I got to come in and support Laura on this. She's 100 percent right. We've got to add the pre-accreditation for folks in higher-end graduate healthcare programs. In PA, for example, you don't receive full accreditation until five years after your first class graduates. That's seven years after you start the program and about 10 years after you submit your first application. So that's just one example. D.O. has got its own rules. DDS programs have their own rules. DPT is also five years after graduation. So again, CAPTE requires that, so we've got to change that. You can't delay someone seven years based on not having the preapproved. I guess it would be a pre-accreditation, so that's very, very important. Thank you, Laura, and I support your comments.

MR. WAGNER: Laura, do you have anything new you'd want to add?

DR. KING: Yeah, just real quick, since what Brad said, you know, it could be 10 years for some agency to get full accreditation. I did want to clarify, though, for the committee that during those 10 years, that agency is intimately involved with that program. It's not like, oh get pre-accreditation and then get accreditation in 10 years, not like that at all. During that pre-accreditation timeframe, the accrediting agency is monitoring and monitoring and monitoring, and the institution is doing report after report and there's decision after decision at interim points. So I did just want to make that clear that it's not, you know, five years and then see you later. It's a very involved process, which is why I support adding pre-accreditation.

MR. WAGNER: Thank you. Alright, Greg, where would you like to go from here?

MR. MARTIN: Where do we go from here? Let's take a temperature check on (b). That was all of these provisions that we just discussed. So on 668.14(b).

MR. ADAMS: Can you clarify? So, this would be 3, 26, and 32 that we have been discussing?

MR. MARTIN: Yeah, we have been talking, remember I broke up the discussion because

there were so many of these, so we have yet to take a temperature check starting in 668; let me find it here. So there's 668. All of these stemmed from (b), by entering into a program participation agreement, that was 5, 17, 26, 32.

MR. WAGNER: So, we're taking a temperature check up through 32, right Greg?

MR. MARTIN: Right. Up through the end of (b). Up to the end of (b) for 32, where (e) begins, right.

MR. WAGNER: Got it. Up through (e). Alright, can we see thumbs? Hold them high. I see five thumbs down. Would anyone like to make any comments on the rationale for the thumbs down or we good to go? I see. There you go. We have two hands up. Go ahead, Anne.

DR. KRESS: I think there might be more clarity on why people are voting, how they're voting, if we were to take these separate by number, because my no vote is based on 26, right? So, I think the Department would get greater clarity that way.

MR. MARTIN: I can do that, I mean, normally I like to go by paragraph. I can do that, but I don't think we have time to entertain a great deal of additional discussion about each one of those if we do that. I can, I'm willing to break them out, but I, we

just don't have enough time to spend another half an hour on this section.

MR. WAGNER: So, Greg, you want to do temperature checks on each of those but no comments on them?

MR. MARTIN: Right, so we can start with what's discussed in three, if we want to do three. That's institution's program participation agreement must be signed. I'm sorry, no, that's eight. I'm sorry about that. We're going to five. I'm sorry. We're starting with will comply with the provisions of subpart L, so we're starting with (b)5. This is entirely (b). I misstated that. So, starting with (b)5.

MR. WAGNER: Okay, could we do a temperature check on (b)5 and reserve- Brad, I can't see your thumb.

MR. ADAMS: So it is just that one word in (b)5 or approve (b)5? I'm sorry.

MR. MARTIN: (b)5 and it's what's in (b)5. We did, it was just a, basically we just changed it, the subpart L. So if everybody wanted to do-

MR. ADAMS: Just making sure.

MR. MARTIN: Yeah, that's all it is. If you don't like subpart L, then I guess you're-.

MR. WAGNER: Alright.

MR. ADAMS: I wanted to vote on the fax machine earlier.

MR. WAGNER: No fax machine votes.

MR. MARTIN: I'm voting thumbs down on fax machines even though it's our suggestion.

MR. ADAMS: Full thumbs up approval on the fax machine, I think.

MR. WAGNER: Alright, Greg, I assume 17 is next.

MR. MARTIN: Yes, 17 is next.

MR. WAGNER: Alright, [Inaudible] everyone, thumbs. I don't see any thumbs down on 17. Alright.

MR. MARTIN: 26.

MR. WAGNER: 26. We'll just say, several thumbs down and no comment on those as we talked about. And then-

MR. MARTIN: 32.

MR. WAGNER: 32, yeah, thank you. And there are a few thumbs down on 32.

MR. ADAMS: We didn't vote on three, but we had a lot of conversation on three. Do we need to vote on three or does it matter?

MR. MARTIN: I think we have what we need, there were no changes over that there, and we have

the comments, so I think we'll just move on.

MR. WAGNER: Yeah. Thank you. So now we're going to move. Greg, I'll turn it back to you. We're on 32. Is it (e)?

MR. MARTIN: We're at (e) and Rene will bring up paragraph (e). Thank you, Rene. So starting here with (e), we have and obviously, the first one we're going to take a look at here would be under one, under (e)(1) at negotiators' suggestion, we have added some language regarding the teach out plan to be acceptable and ensuring that it will also be provided to our partners in the states. You see that reflected under (e)(1)(i), submission of an acceptable teach out plan or agreement to the Department, to the state, and to the institution's recognized accrediting agency. And then we move down to romanette two and the negotiators' suggestion. We have added some language regarding the, that's, we already did that, that's not what I want to do, not what I wanted to do at all. Oh yeah, we, at negotiators' suggestion, we have further specified that the records for the records plan must be acceptable, that it must include a plan for student transcripts and other Title IV records, and that the institution must implement the plan and demonstrate that implementation. So you see that reflected in romanette two, submission

of Acceptable Records Retention Plan, including, but not limited to, transcripts and other Title IV HEA records to the Department and evidence that the plan has been implemented. And moving down to, at the risk of stepping into dangerous territory here, down to romanette three. At negotiators' suggestions, we have broadened this item to include more transcript holds; you can see what we did there: the release of holds on transcripts and we removed the reference to over de minimis amounts. And then moving down to, okay, yeah, moving down to five. There we have updated the text to use more standard language on financial protection, so you can just see there that we have eliminated surety and just change it to financial protection to make that uniform across all of our regulations here. Moving down to six, at the negotiators' suggestion, we have added the reference to student complaints here. We also know that this is a non-exhaustive list, so additional reporting requirements, which may include but are not limited to cash balances and actual and protected cash flow statement, student rosters, student complaints and interim unaudited financial audits. And that is it for (e), so I'll open the floor for discussion of 668.14(e).

MR. WAGNER: Okay, let's see. First I see Adam, you're up.

MR. WELLE: Yes, I appreciate the admonition around not discussing transcript withholding. I just wanted to point out that I think, like, you know when I'm considering this part, I think it's impossible to not consider, you know, the broader impacts around transfer, transcript withholding. And so that's kind of part of what's been said on that, and I think it's part of this discussion. When I, I'm probably going to vote, you know, thumbs down on this. And the reason would be because of the implication around transcript withholding being permitted in other circumstances. So I just wanted to put that out there, and I won't say anything more about transcript withholding.

MR. WAGNER: Thank you. And before I get to Johnson, I just want to mention that Jamie is back for accrediting agencies. Welcome back, and Johnson, you have the floor.

MR. TYLER: Yeah, so the literature I've read on transcript withholding, that where other people have dug into it, the Secretary has never issued a regulation on it. So this would be the first mention of transcript withholding as anything. So I wouldn't want that to be a precedent here, especially since we've been talking about having a larger discussion about it. I think you better omit it completely, even though I am

empathetic to the people who would be affected. It just would be a bad precedent.

MR. WAGNER: Alright. Let's see, we have Barmak.

MR. NASSIRIAN: So I submitted the report from the National Student Legal Defense Network for the Department to review. The component of it that I think is relevant here has to do with the statutory basis for in this case, the 10 percent surety that the Department may require of institutions. As you will note in reviewing that memo, the statutory provision, section 498 (c) (3) (A) of the HEA reads, the only reference to this construct is, not less than one-half of the annual potential liabilities, one-half, 50 percent of annual potential liabilities, not last year's most recently completed fiscal year, but future looking. And the Department has deviated from that statutory text, both with regard to percentage in this case, as well as what that percentage is indexed to. So that's one issue. Again, I'm not an attorney. I raised that. I submitted that, for the record, so that the Department would have an opportunity to address it. But even leaving the legality question aside, why would the Department not want to receive adequate protection against the possibility of loss? I mean, the Department has time and

again, Vatterott [phonetic] 12 years on provisional certification, \$242 million dollars of losses and the Department held a 15 percent letter of credit that didn't cover, that really only covered a fraction of the amount. Why wouldn't the Department want to do what any prudent lender would do and look at the totality of the liabilities that this entity may owe it and require a surety that is adequate to the level of risk that it's undertaking? I just don't understand why after having been burned this many times, why are we still doing this sort of de minimis, timid kind of oversight?

MR. MARTIN: I'm sorry, and we have here that, you know, I would point out that the amount determined by the Secretary is not less than 10 percent of the volume for the prior fiscal year. It does give us authority to request to require more than that. But you're suggesting that it be that we'd be required, that we require ourselves to regulate ourselves to 50 percent of total liabilities?

MR. NASSIRIAN: Well, I'm not requiring that. Congress requires that, and Congress has set that percentage arbitrarily, I admit, but that's the law of the land. And yes, you do have the ability and I encourage you to use that ability. But in articulating what you index that 50 percent to, why are you looking

back as opposed to the future? Where are you basing it on the past year when the statutory language references potential liability in the future, not what they owed you, not what they did last year, but what they [inaudible]. And remember, this is a case, this becomes very relevant in the case of institutions that are in distress and have every incentive—if you know you're going to go out of business, you may floor that pedal and just go for broke. You might have, that may well be your only Hail Mary at that point is to enroll as many people as you can and take in as much money as you can. So it seems to me like you really want to, just out of prudence, not even out of legality, you really want to do a full assessment of what the liabilities are and not just Title IV. Frankly, Congress says Title IV, but I would look at the totality of their liabilities this entity is facing.

MR. WAGNER: Thank you, Barmak. Brad, you're up.

MR. ADAMS: Yes, I've got several questions in this section, but I'll start with an easy one, and this is just truly an operational question here. Not saying I disagree with it. So (e)(1) romanette one, the submission of a [audio] teach out plan or agreement. So does that just mean submission is okay? Or

do all three have to approve or do all three, is there an order you have to go through? I'm just not sure if the word acceptable means you have to get it approved or how that's going to work. So maybe help me out with that. Those aren't, and those are three big different entities there.

MR. MARTIN: The regulation is the acceptable teach out plan would be, as it says here, a submission of an acceptable teach out plan or agreement to the Department. With respect to teach out plan and Title IV funds, that would be the Department's decision as to whether it was acceptable. Of course, that would be for our purposes. States could also, you know, I think states could step in there as well to determine whether they believe that it was acceptable to them. But as you know, these regulations are acceptable to us and would have to be that would have to be submitted to the state and to the institution's recognized accrediting agency. So once it's been determined that that teach out plan is acceptable, that must be submitted to all of those entities. The intention here was to make certain that all of these entities had the teach out plan.

MR. ADAMS: Alright, and so just to confirm, so the Department's the only one that has to approve it, just submission to the state and the

regional accreditor is acceptable is the way I, the way you just described that.

MR. MARTIN: I'll ask Steve to weigh in here. That has to be acceptable to us. I don't think we can preclude a state from saying that they don't find a teach out arrangement to be acceptable. I'm not sure what impact that would have on the teach out arrangement as it is if it were to be accepted by the Department but a state were to say this is not acceptable to us, what ramifications that would have. I'll take that back unless Steve has a comment on that.

MR. FINLEY: I mean, I'll just add the Department is usually working with the state and the accrediting agency on these issues. So in the large part, whether it's acceptable to the Department is likely to hinge on whether it's acceptable to the accreditor in this state. We're not, we're usually not the lead party on hammering in the terms of the teach out.

MR. ADAMS: Okay. Alright. So I'll defer to the state folks then, but I think you answered that question. Seven, real quick, just it's a simple question here: limitations on an institution in a written agreement. I just want to clarify, does that mean new agreements going forward? Does "entering into"

mean new or is that so existing agreements are okay in seven as I read it. That's the way I read it, I guess. So, my question is I'm confirming that if you've got an existing agreement with another institution, that's okay, you just have limitations on anything that's a new agreement. Confirm that.

MR. MARTIN: I believe that's the way it's written. I will get confirmation of that, but it does say limitations on institutions entering into written, entering into a written arrangement.

MR. WAGNER: Okay, perfect. I'll get it back in line.

MR. MARTIN: It's going, it's going forward.

MR. ADAMS: Okay, thank you.

MR. WAGNER: Jamie, before we get to you real quick, just want to announce David Socolow is in for state agencies. Jamie, take it away.

MS. STUDLEY: Two quick points, underlining what Steve Finley said a moment ago. While the Department can decide when it is satisfied that the teach out plan is acceptable, accreditors may have their own determinations that they choose or are required to make about the acceptability of a teach out plan. And as he said, the Department may take that into account when

it makes its determination of acceptability. Or we may go first, or we may even coordinate on that. Second point, I hate to raise the word transcript again, but I was surprised, if I understood the—I think it was Adam and maybe Johnson—why you would object to the inclusion of the transcript item here, recognizing that if a broader solution is addressed and covers this and this is no longer necessary, it could be eliminated. But why wouldn't a step that made it possible for the Department to address releasing holds on transcripts here be a positive step, recognizing that this provisional situation may be a special one? And you know, make, take that one step, and if it's possible to identify a broader step, then double back if this is no longer needed.

MR. WAGNER: Alright. [Inaudible]
let's see, Anne, you're up.

DR. KRESS: Thank you. I have a question about number three, restrictions on the rate of growth and enrollment of students for Title IV volume. And so recognizing that these are colleges that have already, or institutions that have already been determined at risk of closure. Just the phrasing there, the growth and enrollment of students. Is there a reason it isn't just more simply restrictions on the enrollment

of students or of Title IV volume or loans? I mean, the way it's written, it's almost assuming or even promoting the potential growth of institutions that are at risk of closure. And given all of the discussions we've had about the students who are at risk, if this is an institution that the Secretary has already determined is at risk of closure, I think the last thing we would want is any growth, let alone, I don't know why we're restricting the growth.

MR. MARTIN: I think I can address that. Well, okay, so here, if we start at the top of (e), this is, we're talking about provisional certification in general and one is for, one we did for that was for institutions the Secretary determines to be at risk of closure. And then we move down to the rest of these numbers, so I think that with provisional certification, there could be a lot of reasons to provisionally certify an institution. I don't think it would be perhaps a stretch to say that every time we provisionally certified institutions is because we believe that there's an imminent risk of closure, although that might be, that might be the case. Under restrictions of growth, this just enables us to look at the school that is on provisional, and it doesn't mean that we are expecting or accepting a large amount of

growth, but just restricting part of that growth, generally what this involves. And Steve has worked a lot more with this in the field than I have, so I will defer to him. But for instance, we might prohibit a school from adding additional programs while they're on provisional certification just because we have concerns about, you know, maybe their ability to adequately administer aid for the programs that they have. So these restrictions on growth or volume are to deal with that. But most of the ones that I've seen have to do with the restrictions, have to do with adding additional programs for those reasons. So in most cases it doesn't mean that because we say restricting the growth that we're going to allow a great deal of explosive growth with just these restrictions. I think it should be looked at in terms of things that ordinarily an institution would be able to do once it's fully certified, such as add locations or add programs, where we just restrict those two things. So I think in large part it's programs and locations, but I'll let Steve add to that if he wants to.

MR. FINLEY: Just a little bit. I mean, there's relative concerns about closure and the imminence of closure, right? And if you've got somebody that really is, there's a concern that it's week to

week. I mean, the rate of growth, the acceptable rate of growth, there might be zero. Right? That is a rate. Maybe it's an irrational number if you're dividing, but it is a rate of growth for somebody that's in imminent harm of closure. So this is just creating a touchpoint to note; these limitations can be applied to deal with situations of concern.

MR. WAGNER: Alright, we have Brad up.

MR. ADAMS: Well, that's a great lead into my question, Greg, and one of my favorite things, so I'll leave alone the fact that two and three are still undefined, but, you know, Anne made her case. But I want to go to my favorite topic, number eight, for an institution that's been alleged to have engaged in a misrepresentation to students. So I ran some numbers this morning—I was having fun—postsecondary education participants, there's 2,406 institutions at the eight-digit OPEID, so that would include branches that are provisionally certified, 2,406. I have no idea how often this occurs in alleging something, but a Department operationally that can't get a change of control approved, how in the world are they going to manage this? And just for an example, Grand Canyon, I believe, is provisionally certified. They've got 100,000 students. They get one alleged comment on an ad, and now

you're going to review every single ad existing and new? That would be like a full-time by itself department within the Department. So help me out on this one, Greg, how in the world can the Department manage this?

MR. MARTIN: I don't see what is in seven as obligating the Department.

MR. ADAMS: I said eight. I'm sorry, I said.

MR. MARTIN: You mean seven, right? Yeah. I mean, yeah, you mean eight.

MR. ADAMS: Eight, yeah.

MR. MARTIN: I'm sorry, eight.

MR. ADAMS: Alleged have been to, let me just read it. Alleged or have found to be engaged in misrepresentations to students. Alleged, that's not a very hard hurdle to hit. Right?

MR. MARTIN: I mean, there certainly is and, you know-

MR. ADAMS: 2,406 locations that could happen and you're going to do every single marketing material?

MR. MARTIN: This doesn't obligate us to review marketing materials in upwards of 2,000 cases. I mean, this is in looking what this says alleged to have engaged in misrepresentations to students. It

doesn't mean, I mean, there's always a certain amount of discretion involved with things. I mean, here you have provisional certification, which the Secretary does for numerous reasons, and there is some discretion involved in that. The Department can also initiate program reviews for student complaints. Do we go and do a program review because of one student complaint? Generally not unless that was a very serious complaint that we had. But I mean, it's always possible. Students complained about schools all the time; that runs the gamut from every type of school in the country. We could initiate program reviews as a result of student complaints. We don't do so in every case. So again, there's discretion. If 100 students complained about a school with, might that precipitate something? Perhaps. Here, we're looking at if we see a pattern of misrepresentations to students, what we believe are aggressive recruiting practices, you know, and violations of incentive comp. So I mean, I think for the alleged are found to have engaged in misrepresentations if a school is engaged in practices that we believe are misrepresentation. That's a very important thing for us to get a hold of, ahead of because these could be instances where students are being given information upon which they have a reason to rely that is

inaccurate. They're making decisions about this. So we want to see in that case what types of materials institutions are providing these students with. And it does not obligate the Department to review the recruiting and marketing materials of 2000 students.

MR. ADAMS: So additionally, in (a) I still, you know, I submitted language, I do think the word "substantial" needs to be in front of misrepresentation; allege is a very, very low bar to clear. And I also believe that we need to delete aggressive recruiting practices because it's still not defined. I'm not against that, but we've got to define it, and we've seen no definition on what that is at this point. And that's come up several times throughout. So I'll resubmit my proposed text to number eight and into the chat. Thank you.

MR. MARTIN: Thank you.

MR. WAGNER: Thank you, Brad. Let's see, Johnson, you're up.

MR. TYLER: Thanks. Yeah, with respect to number eight, I mean, having done a lot of discovery against the institutions that engage in deceptive practice, they don't give you stuff that you want. The government's giving out Title IV money, it seems completely legitimate for the government to ask you for

marketing materials if it feels like it's on a threshold of information. I just find that hard to believe. So, I support that. With respect to Jamie's question as to why we would be against this, so, there are only two statements that I've ever found where the Department of Education has talked about transcript withholding, in 1998 and 1996, and they basically endorse it. It's in the handbook. So if we go forward and this is never touched on again, we're going to be left where the only time that the Secretary has ever said anything against it is in this situation. I just don't, you know, I hope we'll get it, address this in a regulatory fashion. But if it comes down to a regulation that may be a court's only information that they have, that it's only applicable in extreme situations where the school is in consideration of being shut down. And I just don't want that to be a precedent here. Thank you.

MR. WAGNER: And we're going to take Adam next on sections one through nine, and then I'll turn it back over to Greg. Take it away, Adam.

MR. WELLE: Johnson made my point, so I won't have to say anything about transcript withholding. Thanks.

MR. WAGNER: Alright. No problem, Adam. I appreciate it. Greg, you want to take a

temperature check on (e) one through nine?

MR. MARTIN: Yes, we can do that. And I do understand that the reason for some people's, some negotiators providing thumbs down there will be as a result of the transcript. So I'll stipulate that. Okay, go ahead.

MR. WAGNER: Okay, if you could, please hold your thumbs high so we can see them. Alright. One, two, three, four, five. Five thumbs down. Okay. Thank you. Alright, Greg, would you like to move on to (f)?

MR. MARTIN: Yes, please. We'll wait for Rene to bring that up, please.

MR. WAGNER: Thank you, Rene.

MR. MARTIN: And okay, so we are now in (f). The first thing we see in (f), a change that we made was we had an erroneous reference there, and we fixed that, we removed it rather. 668.28(b) is reserved, so that's the only the only change there. And then we move over to, oh, I'm sorry. My mistake there. So also in (f)(1). No, I'm sorry, that was all for (f)(1). I just was, got a little confused there. So then we go to the next area where we have made changes is in (f)(4). So that is the institution may not advertise that it operates as a nonprofit institution for the purpose of

Title IV until the Department approves the institution's request to convert to nonprofit status. So we've added this provision as a requirement for institutional advertising when a nonprofit institution seeks to convert to for-profit status. And that is everything for (f), so not much, but the only substantive one there would be in four. So in the interest of going paragraph by paragraph, I will open it up for discussion on that.

MR. WAGNER: And this will be on (f) one through four. Let's see, we have Jamie up first.

MS. STUDLEY: Just a simple issue. I have no problem with the piece that says that an institution must be clear about its status with the Department. But as somebody who's tried to explain it a number of times, the difference between IRS, a nonprofit designation for IRS tax purposes and what it and the Department's determination about whether it will provide its own version of nonprofit treatment to an institution is confusing. And I don't know if there's an opportunity in this rulemaking to consider making that clearer or finding some way so that it's understandable because if you looked up, if I made a gift to this place, would it be tax exempt? It is very possible that there's an institution where the answer is yes. The IRS would say you would be exempt. That contribution would be treated

as a contribution to a nonprofit. At the same time, the Department has not determined to grant it its nonprofit treatment, which has certain characteristic provisions. I don't need an answer that's complicated, but if there's my second choice, if it's not possible in regulatory language, would be to give us a phrase so that it's easier to explain for students and their advisers who could be confused about which it is and so that other regulators know, you know, is it both are nonprofit? Yes, check two boxes. One is, one's not, I think could be helpful. But I'm not asking for an answer on the fly, Greg.

MR. WAGNER: Thank you, Jamie. Brad, you're up.

MR. ADAMS: You know, I don't have a dog in this one, but I'm curious on number four on the institution may not advertise that it operates as a nonprofit institution for purposes of Title IV. So I just got to ask the question, does purposes of Title IV mean the nonprofit institution can advertise they're a 501(c)(3) for IRS purposes? Is that what that essentially means, that that's okay?

MR. MARTIN: I wouldn't want to say that the regulation provides some type of imprimatur to advertise in any specific way. I think when you talk

about advertising that operates as a nonprofit for the purpose, there becomes a reasonable person test there. Obviously, if you see it, you know, let's make it an easy one. If you see an advertisement for an institution on a television commercial where it obviously is seeking to enroll students and the school also participates in Title IV, you know, and may or may not say, you know, the usual Title IV available for those who qualify or something like that, that there clearly is a tie there. So and it would obviously be an instance where the institution is trying to advertise it's not-for-profit status as a selling point or something for, you know, to attract students. We do say for Title IV purposes because obviously we don't determine IRS tax status. That's the IRS's determination. But we are saying here that they cannot do that until we, we are making it clear that there is a difference, until the Department approves the institution's request to convert to nonprofit status., we can't, we represent itself for those purposes. I don't know that we can take all the nuance out of this, Brad. You know, would the institution go on TV and say they are 501(C)(3)? You know, however, for the purpose of Title IV we are not. I guess they could do that. I don't think you would. I'm not sure that would happen, but we'll take the language,

we'll take the concerns back and see and review it. But I think as written, it would be one of those, maybe, you certainly would know it when you see it, I think in most cases, but we will take the concerns back.

MR. ADAMS: Yeah, I mean for me, I think more people across the country know what a 501(c)(3) is, you know for Title IV purposes. That's just, you know again, but you all, yeah, just come back to us with an answer. I really am not up or down on this one. I just thought that was an interesting addition. So thank you.

MR. MARTIN: I mean, you know, you could say for Title IV purposes or also that, you know, I also want to add the Department's saying we don't consider you a nonprofit until the Department has approved the institution's request. I mean, if you're making a nuanced statement, could they advertise that as having met the tax status, but then put a disclaimer on there, however, the Department of Education has not approved us to operate as a nonprofit. I think that would have to be something our attorneys will look at on a case by case basis.

MR. ADAMS: Yeah, and I think it'd be more prevalent in the Google ads. You know, just the bottom 501(c)(3) nonprofit. Just a quick little

disclaimer that would be on the TV ads.

MR. MARTIN: Yeah, I don't think we've explored it to that level. But as I said before, we will have a discussion about that.

MR. WAGNER: Okay, Johnson.

MR. TYLER: Hi, yeah. So, I have two comments. I think I really support four. I haven't run into this problem with the clients, but just trying to understand if an institution is a for-profit or nonprofit, you can't tell by the website because they are edu and they're all treated the same. So you've got to go dig around to find out. Most clients don't do that, and I can say that if they see something with an org on it at the end of the website, they may think it's a nonprofit. We get this all the time with scams involving debt relief services where they funnel people into for-profit entities but they're a collector of information that then sends them to these places. So, you know, making sure that institutions are where people are clear what the institution's mission is, whether it includes shareholders or simply education, I think is an admirable and correct thing for the Department of Education to take a stance on.

MR. WAGNER: Thank you, Johnson.

Before I get to you, Barmak, just wanted to mention that

Yael is joining us for state attorneys general. Thank you. Barmak, go ahead.

MR. NASSIRIAN: I have to confess that that I don't have an overarching sense of how the different pieces of these regulations dovetail with each other if they do dovetail with each other. I'm a little confused with this section because it appears to address interim behavior between approval as a 501(c)(3) by the IRS and recognition of the entity as a nonprofit by the Department. Let me ask that, is that correct or is it something else?

MR. MARTIN: I don't, the rule says, the rule does not obviously obligate the Department to recognize. I don't think it necessarily presupposes that we will just because of the 501(c)(3) status that we will ever recognize. It's possible that we will never recognize that institution as a-

MR. NASSIRIAN: Right, but-

MR. MARTIN: -not for profit. So, I don't think it necessarily means it's always an interim. It's always a limbo type situation where it's always between what it could be. There's also the possibility the Department will never recognize it as having converted.

MR. NASSIRIAN: Well, this is, look,

if it's a nonprofit, if it's a for-profit, triggers a change of status that the Department ends up denying, it remains a for-profit I assume. If it's for-profit and it actually satisfies not only the IRS, but the Department that it is in fact now a nonprofit, then that's a separate set of issues. And the question then becomes are you imposing some new constraints on that entity based on its legacy status? And then, of course, there is that interim period where the entity is an IRS 501(c)(3), but not yet. No adjudication has been made as to its status with the Department. I'm just struggling to understand what this is attempting to address.

MR. MARTIN: Well, what it's addressing is that the reality that just because it has the appropriate IRS status to be considered not for profit does not mean that we recognize it as such. And they can't-

MR. NASSIRIAN: Why can't you just say that? I guess that's what I'm struggling with. Why can't you just simply say you are what you are until we tell you you're something else?

MR. MARTIN: We cannot tell the IRS what it can do and not for not-for-profit organizations, that's why this is limited to Title IV purposes. And, you know, I don't think we can, I mean, even if we deny,

even if we don't approve it, they remain 501(c)(3) for IRS purposes, right? It's a matter of what the Department, I mean, with the Department, with us, I don't really see it as being interim. You know, when they get that status, they can ask us for a conversion, a not for profit. But until we approve it, it's they remain for-profit irrespective of what the IRS has, what the IRS does. I see Steve has his hand up, so I want to defer to him.

MR. FINLEY: Yeah, there is an interim status here where there's a prerequisite that the institution that seeks approval to be recognized as a nonprofit for Title IV must already have the 501(c)(3) designation, right? But this is just addressing that interim period. There's reporting requirements that still apply to the for-profit entity because until the Department recognizes it and approves the change of status, it is still a for-profit entity. And it is important to address this issue about how advertising its status because that could mislead students and that's why that's there.

MR. NASSIRIAN: So just to, that's a very clear answer. Just so I'm clear, this is not articulating substantive criteria for approval. This is simply addressing that period of pendency during which

the Department is making a determination whether the applicant is in fact now a not for profit entity.

MR. FINLEY: I think that's correct.

MR. NASSIRIAN: Okay, thank you.

MR. WAGNER: Thank you, and Brad, you're up.

MR. ADAMS: So in (f)(2) here you know we're proposing that the institution seeking nonprofit will continue to meet gainful employment requirements for at least two years under new ownership. Is that a point the regulation gets approved? Is it, is it retroactive? What is the intent here on this one?

MR. MARTIN: We're saying the institution must continue to meet the gainful employment requirements of subpart Q of this part until [interposing] accepted and reviewed? Well, obviously it presupposes subpart Q being the new subpart Q being in effect. So if it's subject to the gainful employment rules, would have to continue to meet those requirements to complete fiscal years under the new ownership or until the Department approves the request to convert, whichever is later. So that's in recognition of our proposed subpart Q.

MR. ADAMS: So, it would be sometime after July of '23 then I guess, said another way. Let's

start applying.

MR. MARTIN: If those rules went into effect at that point, yes.

MR. ADAMS: Okay, and then 90/10, not being part of that two-year. Just curious if that's a regular regulatory reason or?

MR. MARTIN: I'm not sure where you are, Brad.

MR. ADAMS: Same point, two, though, you're saying you've got to meet GE for the next two years, but you're not saying you have to meet 90/10 for the next two years. It's clarifying that's the intent there. These are for-profits that convert to non-profits, they had to meet 90/10 up until the conversion date. And then we're saying two years after the conversion date, you're subject to GE. Which I still struggle with because GE is for for-profits only, and if you approve them, I don't know how you subject them for two years after. Because they're no longer for-profit, but we can argue that-.

MR. MARTIN: There's no reference to 90/10 here.

MR. ADAMS: Okay, so 90/10 ends once the conversion starts.

MR. MARTIN: Steve, I want to ask

Steve about that. When we, it ends, they're subject to 90/10, I'm trying to think, do we have any rules in the, do we have anything in 90/10, Steve?

MR. FINLEY: It's defined in (f)(1) right above it, Greg.

MR. ADAMS: I missed that.

MR. MARTIN: [Inaudible] data, okay.

MR. ADAMS: Oh, it's the 668.14 reference?

MR. MARTIN: Right. I'm sorry. [Inaudible] We just moved, we just, what we did there was, thank you, Steve. I see what you're talking about in which the institution 90/10 was struck out. But we have 668.14, which is the program participation agreement reference to 90/10.

MR. ADAMS: Thank you. I should've gotten that.

MR. MARTIN: So, I'm sorry. Yes, it does.

MR. ADAMS: I just saw the reference.

MR. MARTIN: There is the reference there in 90/10 until the Department approves. It is until the Department approves that request to convert and it is [inaudible] fiscal years.

MR. ADAMS: Thank you. Sorry about

that. I missed the reference.

MR. WAGNER: Two quick things. One, Carney King is in for students and loan borrowers, and then we're going to take David, take a comment from David and then do a temperature check on (f)(1). David, take it away.

MR. SOCOLOW: Yeah, it's a question for the Department. I know this whole Section (f) is about for profit converting to nonprofit. But is there any other place where there's contemplation of similar rules for a for-profit converting to public status? Or would this be the right place to put it?

MR. MARTIN: For-profit converting to a public, to public status.

MR. SOCOLOW: Surely the Department has considered that prospective problem.

MR. MARTIN: I don't know we, I'll take that back with us. I don't know that we have if we've had discussions about that that I've I recalled them, but I'll certainly take that back. So you're talking about a for-profit entity that would not only seek to convert to not for profit status, but be public, right?

MR. SOCOLOW: Yes, convert to public status. I mean, I think there's three statuses, public,

profit, and proprietary, and you've got one conversion discussed here, and there's another possible thing that can happen.

MR. MARTIN: Okay. Yeah, I don't I don't know, we don't have anything on it. I don't want to speak to that right now until I've taken that back and we have some more discussion about that. Thank you. Could you put that in the chat, please?

MR. WAGNER: Okay, Greg, you want to take a temperature check on (f) one through four?

MR. MARTIN: Hold on one moment.

MR. WAGNER: You want to, you want to go to (g)?

MR. MARTIN: Just hold on a second, please. Okay, I do, before we get to that point, I have something here, I just was prepared for us by some of our people. I just wanted to say this clarification of our communication, with conversion to not for profit status, we are not restricting institutions from saying they are 501(c)(3). And further, although the Department has not yet approved, some phrasing we have here is not yet approved an institution's request for recognition as a not for profit institution, the Department does not take a position with respect to whether the institution or its owner, its owner's 501(c)(3) tax exempt stays

with the Internal Revenue Service. However, the institution would have to refrain from identifying itself as a nonprofit institution in any advertising publications or other notifications. Use of the term nonprofit may be potentially confusing the students and the public, who may interpret the use of nonprofit to mean the Department has granted the institution nonprofit status under its regulations. The Department does not take a position regarding statements in reference to IRS status, such as 501(c)(3) tax exempt organizations as designated by IRS. So I just wanted to point that that would be just some clarification of the Department's position on that. So yes, going back to this, we can take a temperature check on, I believe, I'm confused here, (f) right, correct?

MR. WAGNER: Yeah, (f) one through four.

MR. MARTIN: (f) one through four, correct.

MR. WAGNER: If everyone could hold their thumbs up so we all can see, that would be appreciated. Looks like there are no thumbs down. Greg, I'll turn it over to you.

MR. MARTIN: So we will move on to (g) in both one and two here of this section. We've

clarified that reports related to agency action servicing agreements and/or IRS communications be submitted within 10 business days. While negotiators proposed 14 business days, we have used 10 business days to comport with current agency practice, so we look at and that's the, in (g), an institution is initially certified as a nonprofit institution or if it has undergone a change of ownership and seeks to convert to nonprofit status, the following conditions will apply to the institution upon initial certification or following the change in ownership. In addition to any other conditions the Secretary deems appropriate, the institution will submit reports to will submit timely reports on accreditor and state and authorization agency actions and any new servicing agreements within 10 business days until the Department has accepted a review to approve these financial statements and compliance audits that cover the two fiscal years. And then two, the institution will be required to submit reports of communications from the Internal Revenue Service or any state or foreign related tax exempt or nonprofit status within 10 business days so long as the institution participates as a nonprofit institution. So that's the entirety of (g). Will open that up for comment.

MR. WAGNER: Okay. Comment on (g).

David, you're up.

MR. SOCOLOW: I just, that same point that I mentioned about (f) in the chat and mentioned it also belongs here in (g) as well.

MR. WAGNER: Thank you, David. Jamie.

MS. STUDLEY: Minor technical question. I did not take the time to go back and determine whether the 10 days matches the timing by which the accreditor is already obligated to tell the Department about actions relating to institutions. So, the Department may already be getting this. And is it, you know, just I have no problem with being sure that you get that notification, but do you need to ask for it if the Department, if the accreditor is required to give it to you? And do you want and need that extra set of things? And if so, if there's a reason that it is helpful to the Department, it might be useful to just check the 10 business days matches or allows time for the accreditors' notification to then let the institution, to let them notify you.

MR. MARTIN: I'm not sure-

MS. STUDLEY: [Inaudible] question to take a look at.

MR. MARTIN: What do you mean, about the 10 business, about the 10 business days here?

MS. STUDLEY: Yeah.

MR. MARTIN: Well, this has to do with the institution's requirement to notify, it must submit [inaudible] statement. Yeah, within, I don't, we just change this. Is there any, I'm just not sure I understand the concern you have with it, I guess. I'm a little confused.

MS. STUDLEY: It doesn't say within 10 days, 10 business days of what. So has the accreditor, the accreditor has an obligation to tell the institution. But is it the date of our action, the date the institution must know? I can give this to you offline. I just think that it's a little unclear about what, within 10 business days of what because the action and notification date may be different for the school and you may already be getting this from the accreditor such that I don't know that you need to burden the school or yourselves on that point. It's a very minor-

MR. MARTIN: Oh, you're talking about when, you're saying when the accreditor takes the action, accrediting agency takes the action and then when it notifies the institution? It currently has, we have it written here. It's incumbent upon the institution that irrespective of what the accreditor does, but we'll certainly take that back if you want to

write, if you want to write that up, if you think it's redundant.

MR. WAGNER: Thank you, Jamie. I don't see any additional comments. Greg, would you like to take a temperature check on (g)?

MR. MARTIN: Sure.

MR. WAGNER: One and two?

MR. MARTIN: Sure.

MR. WAGNER: Okay. Okay, so if everyone could raise their thumbs up so we can see them on (g) (1) and (2)? That'd be great. No thumbs down on G. Back to you, Greg.

MR. MARTIN: Okay, so we have for the remainder of this section we just we have nothing in, and here's my favorite lettering schemes again, nothing in (h), (i), or (j). We've updated some cross references here, which is all that we have, all that we have done in K. So I'd like to move on to 668.43 if we can, institutional information. And this will take us to the end of the paper. So, thank you, Rene, for pulling that up. This is 668.43, institutional information. The change here at negotiators' suggestion, we have added back this disclosure and sought to make it more streamlined. We agree that institutions should assess whether they need licensure requirements across the

country and should make that information accessible to students. And so we're looking in 668.43(a)(5)(v) . And if an educational program is designed to meet educational requirements for specific professional licensure or certification that is required for employment in an occupation or as advertised as meeting such requirements, a list of all states where the institution offers the program and where the program meets such requirements and a list of all states where it does not meet such requirements. So I'll open it up for discussion on that addition to 668.435.

MR. WAGNER: Renee will bring it to you. Barmak. Debbie Cochrane is back in for state agencies and then Barmak, you're up.

MR. NASSIRIAN: We're going to add the words "and programmatic" to this to make it conform with the way you had it. You labeled it under gainful, I assume?

MR. MARTIN: What are you suggesting, Barmak, just to be sure?

MR. NASSIRIAN: In gainful, the same section was called "institutional and programmatic information." I assume that's the one that you, that's the one you're going to keep, right?

MR. MARTIN: Well, this is just, oh, I

see oh, you mean in oh, I see what you're saying. In this-

MR. NASSIRIAN: The section, the section label, the section name is going to be "and programmatic."

MR. MARTIN: "And programmatic," right, yes.

MR. NASSIRIAN: Right.

MR. MARTIN: I see what you're saying, the way it was renamed, in the way it was named in gainful employment, not [inaudible].

MR. NASSIRIAN: That's the one that [inaudible]

MR. MARTIN: Yeah. Correct.

MR. WAGNER: On my mute button, I'm sorry. Anne, you're up.

DR. KRESS: Sure. So just a clarification question. So as I read this, it says is advertised as meeting such requirements, a list of all states where the institution offers the program and where the program meets such requirements and a list of all states where it does not meet the requirements. So are you saying that a college or an institution—let me ask this question a different way. Is that second part a list of all states where it does not meet the

requirements? Those are also states in which the institution offers the program, correct? Because that's not what it says.

MR. MARTIN: I understand that and given our current, given what's currently proposed, an institution wouldn't be allowed to have a program offered to a student in the state where it doesn't meet the requirements. So, well, I see what you're saying. We'll take a look at that.

DR. KRESS: Okay, thank you.

MR. WAGNER: Thank you. Brad.

MR. ADAMS: I just wanted to state in closing that 668.43 is a great place for a GE metric for all students. Thank you.

MR. MARTIN: Thank you, Brad.

MR. WAGNER: Okay, let's see, we have Jamie and then Debbie.

MS. STUDLEY: I think Adam's question may have cleared out several kinds of underbrush, but if it were done this way, I was going to ask whether there was a third category, which is we don't know or we haven't determined. But you're saying that it may be possible that there's, if Montana is not on my list of places where it's offered, I don't have to say it does not meet Montana requirements.

MR. MARTIN: I don't want to say that yet. I want to take that back with us. I think there is a wording issue here with how it's going to mesh with our, with the proposed requirement that in order to offer the program to a student who is in a different state that it would have to meet the licensing or certification requirements of that state. So then if it's being offered to that student it necessarily meets those requirements. There could be, but as a matter, but this is a, you know, disclosures or information listing to students, to prospective students that it just doesn't meet the requirements in these states. You know, it could well be something useful to students just when they're exploring which programs they might be interested in, having a list of states that it doesn't, that it doesn't need. Even though the potential for schools to offer the program anyway in those states may not exist, it still would be of interest to students, whether or not it meets the, you know, whether or not it meets the requirements in that state.

MS. STUDLEY: You may want to consider a blanket if it's not listed here, what does that mean? But if you don't want to demand that an institution, if there are no students and it's not being delivered, go to the trouble of determining it does not satisfy. Maybe

it does. They just haven't ever had a place schools in the northwest that want it. But, but it's not a task they have done. They have not made an affirmative determination that it does not meet what you need. What you want to be clear is you cannot assume that it meets any but the ones where we have said that it does.

MR. MARTIN: Okay, we'll, we'll take that back.

MR. WAGNER: Debbie.

MS. COCHRANE: I'm not going to offer specific language because I know that probably you need to go back and look at this in light of some of the other issues in 32, but I just, I would really encourage the Department to think beyond just certifications that are required because I think really there are a number of certifications beyond, like, hard and fast requirements that would practically increase employability or the lack of which would decrease employability. So I think it makes sense to keep that separate from the types of requirements that are discussed in paragraph 32, but I think it is still an important consumer disclosure.

MR. WAGNER: Thank you. Kelli, you're up.

MS. PERRY: And as it relates to five,

aren't these disclosure requirements already required in 668.43? So, I guess I question why we're adding them again. I mean, in light of the conversation that we had earlier as well, I mean, I don't necessarily think the constituency I represent agrees with this, but that these disclosure requirements are already required.

MR. MARTIN: Yeah, I think, let me take this back. I want to go back and review other areas of state auth and 43 before I comment on that.

MS. PERRY: Thank you.

MR. WAGNER: Thank you. Johnson, you're up.

MR. TYLER: Yeah, I just want to, I agree with what Jamie said, which was essentially, if you're not reaching out to students in other states and you have no history of it, this is more. There are lots of disclosures. You don't want to not only burden the institution, but you don't want people just to stop reading disclosures. So I did read this way, this being fairly encompassing of obligations here. I would just try to change the wording so it doesn't unnecessarily burden things. On the other hand, you know, as Barmak gave the example, if you want to go to an accredited school in California and you're going to do it online, you're not going be able to sit for a bar exam anywhere

else. And people should know that if they're doing it online, obviously so.

MR. WAGNER: Thanks, Johnson. Marvin.

MR. SMITH: Yeah, I just wanted to make the point that I think the unintended consequence of this is making four-year publics think about whether they really want to offer programs with the burden that would go along with this requirement. So I think that's a major concern, and I understand what you're trying to do, but there's maybe unintended consequences of administrative burden on this.

MR. MARTIN: We'll take that back. I do want to say that, you know, it is our feeling that, you know, in all these instances, we don't compel a school to go and provide education in other states; that's an institutional decision. So it's always up to the institution, whether or not they want to do that. When an institution takes the step to provide, you know, via distance education to students in other states, then it becomes is it a burden to determine to make these determinations and to make certain that the licensing requirements are met where you're advertising the program, as well as providing an education to meet those licensure certification requirements? Yes, we can see that as a burden, but it is one institutions take on

voluntarily and you know with the expanded student base that comes with offering these programs this way comes the responsibility to students. I think that it's about it comes down to why are students taking your program that's educating those students for certification or licensure? Presumably to get that certification or licensure and obtain employment. And understanding that it's possible that somebody who lives in Georgia seeks to relocate to Virginia. Obviously, nobody would ever leave Pennsylvania, but I'll leave that out. But, I do think that when schools decide to do that, it is the Department's position that it's incumbent upon those institutions to make certain that those requirements are met. But I will take back that concern.

MR. WAGNER: Thanks, Greg. Carney.

MR. KING: Yeah, I just want to reiterate that I support any kind of measures of transparency for students, so I do appreciate this requirement.

MR. WAGNER: Great, thank you, Carney. Alright, Greg, you think it's time for the temperature check on, was it 668.435?

MR. MARTIN: (a) (5). I'm sorry.

MR. WAGNER: (a) (5). I'm sorry. It was an I or a J.

MR. MARTIN: It wasn't I or J, but I blew it anyway. So yes, it's (a)(5).

MR. WAGNER: Alright. If everyone can hold their thumbs up, please. Alright, we have one thumb down. So, let's see. That should complete certification procedures. Back to you, Greg. Do you want to start with the next topic?

MR. MARTIN: Yeah, we're going to start with change of ownership and control, but before we do that, I need to take a brief break, so can we have five minutes?

MR. WAGNER: Understood. It is 2:56 eastern time, so we'll take a five minute break and come right back at 3:01.

MR. MARTIN: Thank you very much.

MR. WAGNER: Thank you. Alright, welcome back from that short break. We just got through certification procedures. I'm going to turn it over to you, Greg, and we can start the next topic.

MR. MARTIN: And our next topic is changes of ownership and change in control. So we'll be pulling up the regulations there, and the first place that we're going to go to where we have any changes here is in 600 under definitions, 600 point, I just want to make sure I get this right, 600.25. So this is under,

I'm sorry, this is under, and I should say this is under, oh no, this is right under distance education. This is number six. So we're starting with distance education, one, two, three, four, five, six. The problem with this is in definitions. Things are numbered a little bit differently than they are in other sections. So it can be a little confusing. So we're starting in six, and we have added language here to conform to the forthcoming amendments to regulations to address prison education programs, so you can see that reflected in six, except for an additional location at a correctional institution, as described in the definition of an additional location in this section for an institution that offers on-campus programs and distance education programs. The distance education programs are associated with the main campus of the institution. For an institution that only offers distance education programs, the institution is located where its administrative offices are located and approved by the accrediting agency. So I just want to point that out, and that is to account for changes made in prison education. And we did achieve consensus there so that regulation will stand as it is. And then we move down to the definition of a nonprofit institution under (1)(iv). And this is in response to negotiators' comments; the

Department has proposed to add language clarifying that this language is non-exhaustive. So in romanette four when the Secretary makes the determination regarding that earnings, the Secretary considers the entirety of the relationship between the institution and nonprofit entities and its ownership structure and other parties. And in four and then going down to, okay, I think that's it for not for profit institutions and that is it for the definitions then in 600.2. So I'll stop there and open the floor for discussion.

MR. WAGNER: Thank you, Greg. Before I get to you, Yael, I just want to mention that Donna Mangold is in for the Office of General Counsel. Welcome. And I, let's see, Yael, you're up first.

MS. SHAVIT: Thanks and apologize if I'm a little turned around right now. But I think there was proposed language here with respect to the definition of nonprofit that would have expressly included arrangements such as leases, longer term leases between previous owners and entities with the new nonprofit as an arrangement that would not qualify as nonprofit. And I really want to emphasize this inclusion language that was included and that we supported in part because we have actually seen this in practice: that institution, that one of the points where the previous

for-profit entities or the owners of the for-profit entities maintain close financial relationships with the new entity. That should be of great concern to the Department and are of great concern to us are included in these long-term leases of all of the brick and mortar, you know, campuses and equipment of the previous institution. And these are problematic arrangements. So I was hoping that you might be able to provide some insight as to why that suggestion wasn't included. Greg, you're on mute.

MR. MARTIN: We still, we still have that in consideration; some of them we have not been able to put in yet, and so we will address that. Donna, you want to speak to that at all?

MS. MANGOLD: No, just to tell you that leases are something that we are looking at anyway, but we'll take the issue of having it in the regulations more specifically back and look at it, but it is something we look at now for sure.

MS. SHAVIT: Thank you. I appreciate it.

MR. WAGNER: Thanks, Donna. Brad, you're up.

MR. ADAMS: I'm back up in six here, the first part, and it's not about the correctional

institution. I just remember there was a lot of back and forth about why we want the distant ed program associated with the main campus to be approved in the same state. I know this could be an administrative burden to comply with this proposal and move our distance ed programs to the main campus. We'd have to seek additional approvals from states and creditors. I just don't recall getting to consensus on six, so maybe I'm forgetting, but I remember a whole lot of back and forth of being a heavy lift if we're going to really do that. Jamie is shaking her head. So yeah, so did we, did we resolve that issue? [Inaudible].

MR. MARTIN: But where are you in six, Brad?

MR. ADAMS: I'm in six. Not what you added in six. It's the statement that says for an institution that offers on-campus programs and distance education programs, the distance education programs are associated with the main campus and it must be located where the administrative offices are located and approved by its accrediting agency.

MR. MARTIN: Right, for an institution. I see what you're saying for an institution that offers only distance education programs. The institutions are located where its administrative

offices are located and approved. Right.

MR. ADAMS: That's just not the way it works in operation today. And we didn't really resolve that. So I just want to call-

MR. MARTIN: We'll open it up if you want to. I certainly will entertain comments about that.

MR. ADAMS: I mean, I just, we hit on this for a long time in week one, and I just don't think we got to a resolution. So maybe I'll defer to Jamie next because I know she and others had some things on this one.

MR. WAGNER: Barmak, you're next. Then Jamie, if you want to join, join the queue.

MR. NASSIRIAN: Yes, I'm on the same provision and have the same concern. It's worrisome to suggest that an institution's location, that an online institution's location could be a storefront in the least demanding jurisdiction it can find when it is actually delivering education to significant numbers of residents of another state. It seems to me that this issue of location has to be tied to where the education is being delivered, and if it is in more than one state, maybe we can peg it to where they had the largest number of students for the previous X many years. But tying it to headquarters just doesn't make a lot of sense to me

because headquarters can move. We have not regulated higher ed institutions that way. In general, higher ed institutions don't tend to move physically when there is brick and mortar. It is very easy to just move an office from one state to another state across the country. So this creates forum shopping and a real race to the bottom, leaving students unprotected in the state where the institution may be delivering the most, the most education.

MR. MARTIN: And Barmak, do you have suggested language for how that, how you would-

MR. NASSIRIAN: I submitted, I'm not wedded to the language I submitted. I defer to the wisdom of the group, but I suggested as a policy proposition, if you had to pick a state for an institution that does not have a physical presence anywhere, that state would be where it enrolled the largest number of institutions during the previous X many years. I don't care how many years, but to make it workable to just suggest that they should be under the jurisdiction of whatever state they did the most business in.

MR. MARTIN: Thank you. Any other comments on that?

MR. WAGNER: Thank you, Barmak. We

have Brad up.

MR. ADAMS: I'll go behind Johnson because I've got another section, so.

MR. TYLER: Thanks. Yeah, I would just echo Barmak's statement. You see it, saw this with credit card companies. They all went to either North or South Dakota. I can't remember which it was. It didn't have a cap on interest rates. And so it's, you know, if there is no physical place, they're all going to, they're going to find a very sympathetic, profitable place to move to and it won't serve the students well.

MR. WAGNER: Brad.

MR. ADAMS: I'd like to confirm something, you know, a few days after the first session on January 27th, I asked the Department for a clarification about the nonprofit definition, and what I'm looking for here is a public institution, is a type of nonprofit institution for the Higher Education Act. And so what I'm exactly asking is do we consider public institutions a form of nonprofit and will they comply with number four as that it is in under main campus one section four. Into that nonprofit institutions, generally not an institution that does nonprofit include publics in that definition they're in four. Last sentence. You know down to 600.4 right below it, it does

say that, but I just want to confirm that with the Department.

MR. MARTIN: So you're talking about one romanette four?

MR. ADAMS: Yeah. Last sentence.

MR. MARTIN: For purposes of participating that, for purposes of participating in the federal student aid programs?

MR. ADAMS: Yes.

MR. MARTIN: Okay. A nonprofit institution is not an institution that has an obligor, either directly or through any entity that has ownership on debt owed to a former owner or institution. I'll, I'll, or for, either directly or through any entity in its ownership chain [ph] enters into or maintains a revenue-based agreement with a former owner of the institution or a natural person related to or affiliated with the former owner. So you're talking about an instance here, Brad, where a public institution may have those things. I'll ask Donna to respond to that.

MR. ADAMS: And I asked if we could send that question to Donna back on January 27th, so hopefully she got a chance to look at that.

MR. MARTIN: I'll give her a chance to respond.

MS. MANGOLD: A chance to get off mute. The definition under the HEA does say other nonprofit, which we believe means that a public has to be treated in the same way as a nonprofit.

MR. ADAMS: Okay, well that answered my first question, so then in romanette B, when we talked about revenue-based agreements, I assume then Purdue University, University of Arizona, University of UMass, University of Arkansas are now subject to gainful employment? Am I reading that correctly? Because they have revenue-based servicing agreements.

MS. MANGOLD: Let me take a look. This has to do with how we evaluate whether a school can convert, and we are, and these are the categories that we deem to be examples and will be looking at all of them in terms of new conversions.

MR. ADAMS: New conversions only going forward?

MS. MANGOLD: Well, we'll take back the issue in terms of looking backwards.

MR. ADAMS: I'll get back in line.

MR. WAGNER: Barmak.

MR. NASSIRIAN: Wasn't somebody else ahead of me? Okay, I'll go. I'm interested in the same provision, and I'm concerned that not all, I don't know

that publics are necessarily 501(c)(3)'s. So, it seems to me like you really need to take a look to ensure that these provisions apply not only to entities that convert to 501(c)(3) status but also entities that purport to be public institutions. Whether you apply it retroactively or not, it seems to me, I just want to emphasize that we had conversations elsewhere with regard to financial responsibility specifically, where the definition of public needs to be firmed up. It would be non-controversial now. It won't be non-controversial for very long because publics are headed in an ominous direction here. So I hope you can make those conforming changes there as well. Thanks.

MR. WAGNER: Thanks, Barmak. Brad, you're up.

MR. ADAMS: So, I just want to go back to the question, and I do think there is statutory guidance and Donna referenced it, Barmak, so I do think you don't have to be a 501(c)(3) to be considered a nonprofit. You actually just read 600.4(a) right below it. It says an institution of higher education is a public or other nonprofit education institution. So to me, that's your answer right there. They are nonprofits. So back to my question here. If you're not a nonprofit based on a revenue-based agreement, and by definition, I

guess you qualify for GE as a for-profit and it doesn't say a retroactive date. I'd like to continue the discussion. We know these are in place. I just referenced four of them that are active in place right now. Are they subject to GE if this rule passes as-is?

MS. MANGOLD: We need to take a look at that issue specifically with regard to the GE question you're raising.

MR. ADAMS: I think they should be.
Thank you.

MR. WAGNER: Thank you, Brad. Jamie, you're up. You're on mute, Jamie.

MS. STUDLEY: Barmak's point about the location question and where education is delivered, I don't want to do dueling hypotheticals, but if an institution is based in New York and it provides distance education and its students gradually over time shift south and west, your theory would, your approach would require that New York state institution to move someplace. Its students are no more or less fixed than an institution and the students move too. So a simple approach like where your students were for the last five years, the largest number of students for the last five years could change, and you'd be asking an institution to move every year. And while I can solve that by saying

one of the top five or one of the top 10 where your students are located, I think the point is we need better ways to get at the quality of the institution and the variety across states and recognize that there are both federal and accreditation reviews in addition to the state level. Even if you're frustrated, which I understand some people are with all three of them, the solution is so potentially distracting, confusing, unhelpful to quality control and accountability of an institution to move around in that way that I think we should focus on better ways to accomplish that. And I have a footnote, just some of the things that Brad is saying, and while I respect the importance of answering those questions, some of the assumptions you're making about the nature of agreements are, to my knowledge, not accurate, so I don't think, I just want to be careful that people don't assume they that he is accurately describing the nature either of the status or of the arrangements that at least some of the institutions are involved in. Donna does, but not all. Not everyone knows all.

MR. WAGNER: Thank you, Jamie. We have Barmak and then Brad. Just want to give everybody a quick time check, it is 3:22. We do have, 3:23. We have public comment coming up in seven minutes. So Barmak and

Brad, you guys are up.

MR. NASSIRIAN: I appreciate Jamie's comments, and I agree with her that we do need some sort of a more nuanced approach. It's just that I don't think a storefront should qualify. You're essentially allowing the institution to select who its authorizer is going to be and to which state's consumer protection under current, particularly under current reciprocity agreements. You're basically allowing the institution to select whose consumer protection laws it's going to apply nationally. So I see that as a problem. I concede that focusing on the students retroactively may not be the best solution, but that's the best I could come up with. I would welcome some more, some more dialog on the topic at some point.

MR. WAGNER: Thank you, Barmak. And Brad.

MR. ADAMS: You know, I don't know all the specifics of the West Coast deal that maybe Jamie does, but I do know Purdue acquired Kaplan for a dollar and entered into a 20-year revenue share agreement, and UMass paid a sizable amount of money for Brandman. I need to look into more on the Arkansas Grantham deal, but I just want to point out that we need to apply these rules consistently to all programs. I mean, in all areas

of higher education, and we can't just separate out ones because we like them or they're big names or they have big basketball teams. So I want to be clear on this. By the way it reads, we need a clear definition of whether or not Purdue is considered a for-profit from this point forward. Thank you.

MR. WAGNER: Thanks, Brad. Let's see, I don't see any other comments. Greg, do you, would you like to take a temperature check on, was it 600.2, the definitions?

MR. MARTIN: Sure.

MR. WAGNER: Okay. We have everyone's thumbs up high on 600.2, the definitions. Okay, I don't see any thumbs down. Thank you. I'll turn it back to you, Greg. Just be mindful, we, it's 3:25.

MR. MARTIN: Alright. Just looking at 600.4 briefly, I think we can probably get this list, get, go through this even if we don't finish discussion on it. So if we can have Rene pull up 600.4. Here we are. Institutions of higher education, and we have made a change here in (a), we have deleted the word private to match the statute exactly and lighten [ph] some confusion about the text from some negotiators, so an institution of higher education as a public or other nonprofit educational institution. And that is the only

change over the last amendatory text that is in 600.4. So we do have a brief amount of time if we have any comments about what is there.

MR. WAGNER: Okay.

MS. STUDLEY: I have one comment. We would have been, we would have done a better job writing that sentence than Congress did.

MR. MARTIN: Well, we just won't tell them that, right?

MR. WAGNER: And we have Emmanuel joining us for a comment.

MR. GUILLORY: Hello. Yeah, I believe this was pretty much clarified in the previous discussion, but I just wanted to make sure because we were hearing some concerns about the way this was drafted, and I understand now that you're just taking the exact language that's in the HEA. But is it your intent to treat all public institutions as if they are 501(c)(3)'s? Because technically, not every single public institution is a 501(c)(3).

MR. MARTIN: I don't believe so, but I'll let Donna address that.

MS. MANGOLD: I'm sorry, can you give the question again?

MR. GUILLORY: So what I've been

hearing back from folks is they were a little bit confused as to why in 600.4, you added the word other and now I understand that you did that because in the HEA it says it's a public or other nonprofit institution, but is the intent of the Department to treat all public institutions as nonprofit institutions since every single public is not technically a 501(c)(3)? The vast majority of them are, but not every single one.

MS. MANGOLD: And we have to maybe take a look at the language again to see whether it makes sense to actually for purposes of public to include that as the same kind as the requirement as it is for other nonprofits. So that might solve that issue. But we need to take a look at that.

MR. GUILLORY: Yeah, further clarification would be great.

MR. MARTIN: Thanks, Donna. I think we have to cut it off soon, I'm saying, so we probably ought to forego any more comments until tomorrow.

MR. WAGNER: I was just going to say the same thing, Greg, which was probably a good stopping point. We can carry over tomorrow with 600.4 and we'll, should be ready for public comment momentarily. It's 3:28 eastern.

MR. ROBERTS: Alright, Kevin, shall I begin admitting folks?

MR. WAGNER: Yes, please. Who do we have Brady?

MR. ROBERTS: Our first speaker is Jessica King representing themselves. They are a veteran.

MR. WAGNER: Thank you. Good afternoon, Jessica, can you hear me? Jessica, can you hear me?

MR. ROBERTS: She's logged in under Jen, so Jen, can you hear us? Oh, you just muted yourself, but alright, take it away, Kevin.

MR. WAGNER: No, go ahead. Jen, can you hear us, or Jessica?

MS. KING: My name's Jennica. That's why I'm-

MR. WAGNER: Oh, Jennica. Okay, welcome.

MS. KING: Hi, everyone. So sorry. Just I'm pulling up my little statement here. They said to stick with it, so.

MR. WAGNER: Alright, you-

MS. KING: Can everyone hear me properly?

MR. WAGNER: Yes, we can hear you, thank you. You have three minutes for public comment, which will begin when you start speaking. Go ahead.

MS. KING: Alright. Good afternoon. My name is Jennica King and I'm an Army veteran and the spouse of an active duty service member. I used my GI Bill to attend Ashford University. One reason I went there is that they stressed that they were military friendly and that my GI Bill would cover all my tuition. I trusted them, so in December 2016, I enrolled in the bachelor's degree program for psychology. Pretty soon, I found out that military friendly was just empty words to get me to sign up. There was nothing special that veterans received, and actually, I felt mistreated. The school made me feel irrational when I asked about my financial aid and other administrative questions. They were short and rude with me, and the counselors and military representatives that were promised were nowhere to be found.

MR. ROBERTS: Jennica, it looks like you got muted if you want to unmute yourself.

MS. KING: Okay. Trying to see where was the last part you guys heard?

MR. ROBERTS: It was only for about for about 10 seconds if you just want to walk back.

MS. KING: Okay.

MR. WAGNER: Were nowhere to be found.

MS. KING: Okay, mistreated, okay. So, the school made me feel irrational when I asked about my financial aid and other administrative questions. They were short and rude with me, and the counselors and military representatives that were promised were nowhere to be found. Even the instructors were not responsive to the mental and physical injuries commonly faced by veterans. But the biggest problem came in April 2020, when I was a few months away from graduating. I learned that my GI Bill benefits had expired in March, but the school did not tell me so I could take steps to find other benefits or ways to cover my tuition. Instead, Ashford just put a balance on my account, expecting me to pay out of pocket. I was shocked that the benefits were gone when I was promised they would cover everything, and I was furious that they were not lifting a finger to help me find a way to finish my degree. Then, when I reviewed my balance, I realized the problem was worse than I thought. I found out the school was not applying the full military discount that the recruiters have promised and I had received earlier in my time at the school. Also, I discovered I was being overcharged for courses and being charged a higher rate than I was

told when I enrolled. This meant that my GI Bill benefits were exhausted long before they should have been, and I owed a debt that never should have been there. When I finished the program, Ashford told me that they would not give me my transcript and degree if I didn't pay the balance they claimed I owed. This was a major problem because I was hoping to continue my education at a different school or get a job, and I really needed my transcripts and degree to do that. The bottom line is that Ashford made promises to get me to enroll at the school that did not turn out to be true. I would never have gone to Ashford if I had known that my GI Bill was not going to cover all my tuition, and that Ashford is unfriendly and unhelpful to military veterans, especially those experiencing issues like PTSD. I hope that you write strong [30 seconds] I hope that you write strong policies to protect veterans and stop the type of recruiting and financial aid problems that I experienced at Ashford. Thank you.

MR. WAGNER: Thank you, Jennica, for your comments and for your service.

MS. KING: Thank you. No problem. Bye.

MR. WAGNER: Who do we have next, Brady?

MR. ROBERTS: Alright, Kevin, I just

admitted Arty S., who is representing themselves.

MR. WAGNER: Okay, great.

ARTY S.: Hi, this is Arty. Can you all hear me?

MR. WAGNER: Yes, Arty. There you go. If you could, if you're comfortable, enable your screen, that'd be great. If not, you have three minutes for public comment, which will begin when you start speaking.

ARTY S.: Okay. And I'm with AYA, I wanted to say.

MR. WAGNER: Okay, go ahead.

ARTY S.: I'll go ahead and start. Thank you for this opportunity to speak and to share a sliver of my student loan experience for the purpose of advocating for gainful employment and financial responsibility. As a child of working class immigrants whom I saw in multiple uniforms a day as they switch shifts between places of employment, my student loan experience has been a dark cloud of shame and guilt hovering over the past 12 years of my adult life. Higher education was supposed to be the great equalizer, the mechanism to break the cycle of overworked and underpaid people of color. It was supposed to be the tool that empowered generations like mine, the most diverse at its

height to give back to the country they love, build a foundation solidified by opportunity and make up for the burdens of our parents who sacrificed in the face of inequities to give us the American dream. The higher ed dream was taught to me throughout my formative years. I now understand that this dream was illusory. The path I was encouraged to take was not cultivating a manifestation of this dream. Rather, it was targeting me to fall prey to the harsh and oppressive impact of student loans for others to profit. To illustrate a real life example that I wish were only in theory, I graduated from college in 2006 from a well-known public university. There were no job prospects for me when I graduated, and then I also went to law school. The job outcome after law school was the same. At the time, neither entities offered much viable, relevant help in the job realm. The way you made it was by who you knew or the cushion of generational wealth. The rest of us were left to our own devices struggling. I ended up taking a position at a nonprofit with a starting salary of thirty two thousand dollars. The curious part is that it took me two degrees to get to a position that someone else could get with a bachelor's degree due to the connections they had or the familiarity they had with the sectors landscape by virtue of who they were in the

society, likely a non-person of color. What I mean to say that me as a South Asian, I did not have awareness or access to a variety of career paths because I didn't know anyone in diverse industries. So it took a lot more resources, including time and settling for salaries to even make it into a field, which I was overqualified. \$100,000 plus in debt plus interest in a thirty two thousand dollar income is not viable. It is not possible to build a future with this. Furthermore, this is not the deal I made when I signed up for loans. In fact, I was reading an artifact received in high school from the 2000s that discussed if education was worth it. It pushes that higher education was more valuable than not having a degree and showed a scale of an average on average, how someone makes with a degree. With a post-grad degree was supposed to be 96 to 144K with a high school degree was 46K. I graduated law school and started at a salary of thirty two thousand. That is below both the post grad and undergrad degree averages. I believe that if there were accountability practices like gainful employment available, this would not have happened. This also goes to show that opportunities are not the same for everyone, especially working class families and those who are black, indigenous or people of color. As such, because not all borrowers and working

class families are more likely [30 seconds] and experience more inequities in access to jobs, as well as salary and careers, the U.S. Department of Education needs to insert accountability measures to ensure that these groups are not oppressed by predatory loan tactics and promises of a dream which society has not yet made a reality. Reinstating gainful employment will help ensure that these student borrowers are no longer just targeted, groomed and exploited for gain. Then I had more, but it's going to be too long. Thank you all so much for the time.

MR. WAGNER: Thank you for your comment.

ARTY S.: Thank you, and can I submit these like these comments via email as well?

MR. WAGNER: Sure.

ARTY S.: Okay, thank you all so much, I really appreciate this.

MR. WAGNER: Thank you. Brady.

MR. ROBERTS: I just admitted David Rhodes, who is here representing the School of Visual Arts.

MR. WAGNER: Alright. David, connecting. Hello, David, can you hear us?

MR. RHODES: I can hear you.

MR. WAGNER: Great, welcome. You have three minutes. You have three minutes for public comment, which will begin when you start speaking, so you have the floor. Go ahead.

MR. RHODES: Thank you. Good afternoon, my name is David Rhodes. I'm president of the School of Visual Arts, SVA, in New York City. Thank you for the opportunity to comment on the gainful employment regulations. In Anthony P. Carnevale's most recent paper on ROI for low income students based upon long-term earnings, SVA ranked 998 out of 3,110 institutions. Even though SVA ranks in the top third of institutions, since the 2014 GE metrics were applied only to for-profit programs and short-term programs and used only short term earnings, some of SVA's programs failed. If the same metrics were applied to degree programs at public and not for profit institutions, it's almost a mathematical certainty that some would score lower than SVA's programs and fail the metric. Therefore, it is difficult to see how this advances the Department's goal of ensuring that low income students have access to programs that can benefit them over their working lives. Recently, the Secretary updated the College Scorecard median earnings data. SVA's graduates earnings increased from \$29,900 dollars for six years after graduation to

\$50,066 dollars ten years after graduation, exceeding the median for all four-year colleges. Given the volatility of results, depending upon the date chosen to measure earnings, it is difficult to justify that earnings shortly after graduation are a reliable way to judge the quality of a program whose benefits accrue over a lifetime. Ultimately, the 2014 GE rule, as constructed, is complicated and out of date. At a minimum, the Department's current proposal has not cast the net wide enough to protect students from programs at all institutions that would fail the metric. If the Department truly wants to put students first and center students in this discussion, it would use its existing authorities to develop a programmatic debt earnings metric widely available to prospective students for all programs that did not arbitrarily impact [30 seconds] and not others. Thank you.

MR. WAGNER: Thank you.

MR. RHODES: Thanks for the warning.

MR. WAGNER: Thanks for your comments.

MR. RHODES: You're welcome. I now disconnect. Is that it? Thank you very much.

MR. WAGNER: Alright. Brady, who do we have?

MR. ROBERTS: I just admitted Warren

Rosenberg, who is here representing the College of Westchester.

MR. WAGNER: Great. Welcome, Warren.

MR. ROSENBERG: Good afternoon.

MR. WAGNER: You have, I just want to let you know you have three minutes for public comment and will begin once you start speaking, so take it away.

MR. ROSENBERG: Wonderful. Thank you. The regulations being considered by the Education Department are directed toward continuing to unfairly and unjustifiably punish colleges in the proprietary sector for outcomes that are in fact often better than those of many institutions in the public and not for profit sectors. For institutions like the College of Westchester, which are members of New York's Association of Proprietary Colleges, or APC, outcomes, as cited by third party sources are among the best in New York state in the nation. For example, the 2022 U.S. news ranking lists the College of Westchester as one of the top 20 regional colleges in the north, with two other APC colleges rated within the top 40. Within the U.S. News New Social Mobility category, the College of Westchester has been ranked as the number one regional college in the North among all sectors, with another APC college making the top 20. In a Georgetown University research

study released just last month, highlighting colleges where low income students get the highest return on investment, the College of Westchester, again as an example, was ranked number one in the nation among private for-profit colleges that grant associate degrees and serve more than the national median share of Pell students. And we are not alone. The government's own data released by the National Center for Education Statistics shows that through the two decades between 2000 and 2020, the cost of undergraduate education, and that's exclusively tuition and fees, has increased by 167 percent at public four year institutions, by 126 percent at private, not for profit four-year institutions, while increasing by only 44 percent at proprietary sector four-year colleges. America's proprietary sector colleges have been more successful at controlling their tuition costs than have their counterparts, private not for profit sectors, yet continue to be unfairly characterized as predatory. Granted, there are some poor performing colleges in all sectors, but holding all colleges in the proprietary sector accountable for the poor outcomes of some, while ignoring the poor outcomes and escalating costs of many public and private, not for profit colleges is unfair and unjustifiable [30 seconds] to low income career-

focused students served by this sector. We applaud and support the appeal of 17 democratic members of Congress in their November 18, 2021, letter to the House Leadership to, and I quote, "Bring accountability to all sectors of higher education" and not to single out and punish proprietary sectors at the risk of having, and again, I quote from those congresspersons, "The disparate impact on minority and first-generation students." Thank you.

MS. JEFFRIES: Thank you.

MR. WAGNER: Thank you, Warren. Brady, before you let someone in, real quick, I just want to mention that there's no submission of written comments at this time, and they will be opened up during the end ERM period of this process. That being said, Brady, who do we have?

MR. ROBERTS: I believe they are all set. We have Jared Bass, who's here representing the Center for American Progress.

MR. WAGNER: That's great. Jared, welcome.

MR. BASS: Hi, thank you.

MR. WAGNER: You can hear us, obviously, right?

MR. BASS: Yes.

MR. WAGNER: Okay, great. You have three minutes for public comment, which will begin when you start speaking. Take it away.

MR. BASS: Great, thank you. My name is Jared Bass and I'm the senior director for higher education at the Center for American Progress. And thank you for this opportunity to comment. At a press conference on January 27, Secretary Cardona said, because we need to make sure schools that focus on career programs aren't leaving students with mountains of debt without good job opportunities, we've begun the process to create a strong gainful employment rule. Students will not be taken advantage of for financial gain, and all we do at the Department will be student centered. A strong gainful employment rule must be student-centered. As you shape the gainful employment rule through this negotiated rule making, keep the following students in mind. The students have granted permission for their names and stories to be shared. Ariel from New Hampshire is a Latina borrower from a low income background who graduated from Full Sail University in 2020 and owes around \$100,000. Ariel said she pursued higher education to be an animator and the requirement for the industry is to have a bachelor's degree. Ariel is discouraged. She's not able to find

employment in her field, and she's afraid of her financial outlook for when she has to start making payments. She says, in total, I'll be paying around \$800 a month just for my student loans. I'll be making minimum wage, which is \$15 an hour. Considering taxes at all, I'll only be bringing home \$2,000 a month. My loans are half my overall income. Ariel reported currently being unable to afford food, medical insurance and other basic necessities. She says, I'm struggling to find hope that I won't be homeless someday. Michael from Illinois graduated in 2014 from DeVry University and is a first-generation Asian-American borrower, a parent who owes \$300,000. He defaulted on his loans. Michael says that he pursued his degree to get a better paying position and learn how to make change for the businesses I work for. But even years after graduation, his career prospects have not improved. He says, my wife and I are just barely able to meet our obligations, and the student loan debt has been like an anchor. The school's recruiter claimed I should be able to be more marketable with a master's degree, but I still can't seem to make what I deserve. Michael just wants to be able to provide for his family, but fell prey to questionable practices at a for-profit college. These student experiences underscore the urgent need for improved accountability

measures to prevent for-profit institutions from continuing to mislead students. Regulations and regulatory choices have implications not just for institutions but for students and borrowers as well. [30 seconds] Thank you. These are real lives that have been damaged. The Department can hold for-profit institutions accountable for the experiences of students like Ariel and Michael by drafting and enforcing a strong gainful employment rule. Thank you for your time.

MR. WAGNER: Thank you, Jared, for your comment. Brady, who do we have now?

MR. ROBERTS: Kevin, I just admitted Susan Haise, who is the owner of the Institute of Beauty and Wellness.

MR. WAGNER: Welcome, Susan, can you hear us?

MS. HAISE: I can hear you perfectly, thank you. I just had to unmute. My name is Susan.

MR. WAGNER: Real quick, just real quick before you get started, I hate to interrupt. You have three minutes for your public comment, which will begin right when you start speaking. Take it away.

MS. HAISE: Thank you very much. My name is Susan Haise. I'm the owner of the Aveda Institute of Beauty and Wellness, located in Milwaukee

and Madison, Wisconsin. I've been teaching in the industry, in school management for the last 28 years. 94 percent of my students are women. 52 percent of them are Pell Grant eligible, and more than half of my graduates desire to own their own small business after they graduate. Since 1993, when I opened the school, I've graduated thousands of students who have gone to work in successful salons and spas and have opened their own small businesses. I want to emphasize my commitment to education that not only leads to licensure, but also leads to a fulfilling career in the industry. 79 percent of, the graduation rate is 79 percent for our institutes. Our median loan debt is approximately \$6,333 dollars. Our graduates' monthly payments are \$63 dollars, and my median earning in the first two years of employment after graduation is \$34,885 dollars. I care deeply about my students and their future. I'm here today to highlight my primary concern, which is the proposed gainful employment rule. I am a supporter of documentation in being gainfully employed for all educational opportunities, both for-profit and not for profit. It is well recognized that the cosmetology industry has a high prevalence of under-reported and unreported income. The 2014 rule provided institutions with an appeal up. [Audio] does not include the

opportunity to appeal, and I do think that that is essential for all properly run businesses to be able to appeal. Currently or instead of acknowledging we currently [30 seconds] Thank you. We currently provide, what we did, were providing, we were, they were audited. 50 percent of our students needed to provide us with income information that was audited and unbiased. A valid appeal process had to be, should be provided. I want to close by reminding you that our schools are, my schools are dedicated to our students. They have high student outcome rates. We're supporting small, small businesses as well as lots of women in our community who need flexibility-

MS. JEFFRIES: Susan, your time is up.

MS. HAISE: Thank you so much for the opportunity.

MR. WAGNER: Thank you for your comment, Susan. Brady, who do we have?

MR. ROBERTS: I just admitted Will Hubbard, who is here representing Veterans Education Success.

MR. WAGNER: Welcome, Will. You have three minutes for your public comment, which will begin when you start speaking.

MR. HUBBARD: Great. Hello and thank

you for the time to present here today. My name is Will Hubbard and I'm a proud Marine Corps veteran and I serve as vice president for veterans and military policy with a group called Veterans Education Success. And indeed, that is our mission. As you work on gainful employment, financial responsibility, administrative capability and the rest of these important topics, I feel it's imperative that we remember why exactly we're all here. Who, after all, is the ultimate customer of higher education? I've received permission from several student veterans to share their voices here today as a reminder of the very real consequences of these negotiations. For them, these are not just policy discussions, but rules that have life changing impacts. First, Chris, a Navy veteran from North Vernon, Indiana, says, "While I was recovering from spinal surgery, I decided to put my hard earned GI Bill to work and get a college education. I chose ITT Technical Institute. I chose wrong. I did finish school, but I did so with issues still from ITT and still don't have my degree. ITT refused to release my transcripts. I still haven't received a reason why. Further, ITT soaked up all of my GI Bill money and then took out student loans for me without my knowledge." Second, Patricia, a Navy veteran from Coconut Creek, Florida, reports, "As the first person in my family to

attend college, I didn't understand the enrollment process, and I believe DeVry willingly took advantage of that. Low quality for-profit schools like DeVry have robbed many of us of our hard earned GI Bill benefits, leaving with, leaving us with worthless degrees, crushing loan debt and zero job prospects upon graduation." Third, Jay, a Marine Corps veteran from Oregon City, Oregon, had this to say, "One year before I left the service, the for-profit university, University of Phoenix, began contacting me nonstop, trying to convince me to enroll. They called day in and day out, declaring themselves a military friendly school. I enrolled in their online Bachelor of Science in business. Soon, however, I learned the hard way that Phoenix's hard sell was just that, a sales pitch." And fourth, Carlette, a Navy and Air Force veteran from Austin, Texas, notes, "The University of Phoenix lied when it was recruiting me and strung me along [30 seconds] my money from my military benefits that it could. They actually came on to my military installation and lied to me and my fellow vets. They kept adding courses that were not pertaining to my degree plan. They changed my program twice without my knowledge." As we close tomorrow with the discussion of the 90/10 rule, please let us remember who this is about, the students.

Thank you.

MR. WAGNER: Thank you, Will, for your comment. Who do we have, Brady?

MR. ROBERTS: I just admitted Tomas Leon, who is here representing themselves.

MR. WAGNER: Welcome, Tomas, can you hear us?

MR. LEON: It's okay. Can you hear me?

MR. WAGNER: Yeah, great. Before we get started, you have three minutes for public comment, which will begin when you start speaking. Take it away.

MR. LEON: Great, thank you so much. Well, thank you for having me. Hello. My name is Manuel Tomas Leon, and I'm a father of four, married for 31 years. I grew up from humble beginnings in a barrio, a neighborhood on the west side of Tucson, Arizona. I started a family early in life and began pursuing my education as a student athlete. After overcoming many barriers to completing my bachelor's degree as a first-generation student, I wanted to earn my master's degree. I looked around for MBA programs and could not find one that reflected my life circumstances and how busy I was as a father, as a husband, and in my career at that time. I was fortunate that to be introduced to the University of Phoenix, which offered me flexibility to

take classes, test and participate in learning groups, on my time and on my terms. The conventional university doesn't work for everyone. Students need an innovative university that meets them where they are at in life and in their career that provides an exemplary academic curriculum and experience. I'm a proud alumnus of the University of Phoenix and grateful that it allowed me to achieve my life and career goals. It enabled me to have a very successful career as a healthcare executive, an entrepreneur investor. I am living the American dream. I'm not a veteran, but my father proudly served in World War II and I have a brother-in-law that's a veteran. In honor of their service and others, I believe that the proposed rules 90/10 under 34 CFR 6682.8 [ph] will have a particular impact on veterans and how they use their GI Bill and other federal funds to pursue higher education. This will have an unfair and unjust impact on veterans. I believe this rule will take the decisions out of the hands of veterans as how they as how they define quality education and the institutions they select to pursue their education. At this point in our country's history, we need to promote policies and rules that advance diversity, equity and inclusion, not exclusion. I want to thank you for considering my thoughts and my feedback and supporting veterans' choice

to fulfill their American dream. Thank you for your time.

MR. WAGNER: Thank you very much for your comment. Who do we have next, Brady?

MR. ROBERTS: I just admitted Roxanne Garza, who is here representing UnidosUS.

MR. WAGNER: Welcome, Roxanne.

MS. GARZA: Thank you.

MR. WAGNER: Before you get started, really quickly, you have three minutes for public comment, which will begin as soon as you start speaking. Take it away.

MS. GARZA: Good afternoon. Thank you for providing the public with an opportunity to comment on the topics presented to this committee. My name is Roxanne Garza and I am representing UnidosUS, and as a leading advocate on education policy encompassing the perspectives of Latinos in higher education, we strongly suggest that the committee take into account the unique experiences of Latino students and borrowers as you come to the decision on these regulations. The gainful employment rule in particular, has serious implications for Latino students who tend to be the first in their family to go to college, and it's also common for them to be older, have children, come from low-income

backgrounds and enroll part-time. This makes them especially vulnerable to the promises made by predatory colleges to provide flexible schedules and gainful employment after graduation or program completion. In my comments today I will share a story of a student who granted permission for his name to be shared. Luis Torres graduated from Kaplan University online and says he was lied to about his degree and his loans. He graduated in 2010 and now owes \$92,000. Luis is struggling to afford his loan payments. He originally pursued higher education because, quote, "I wanted to be the first in my family to go to college." Without student debt, he planned to continue his education and fulfill his dream of starting a business to service his community. Luis says, quote, "Some of the colleges and universities are using students to make money out of them. When I went to college, loans were thrown at me like it was my only option to get an education." Luis was preyed upon by Kaplan University online like thousands of other Latino students and was [inaudible] low quality education targeted by lenders, and now he finds that his degree did not get him any closer to fulfilling his dream. Luis is not an exception. Without a strong GE rule in place, Latino college completion, debt accumulation and earnings outcomes will only

worsen. Latino students already experience lower completion rates due to a myriad of systemic barriers in higher education. But when they attend for-profit colleges, they often end up with lower completion rates, higher debt burdens and default rates. These outcomes should alarm anyone who's promoting racial equity in higher education. For-profits often promise students well-paying jobs right after graduation. But more than half of these institutions leave many of their graduates earning less than a high school graduate, and we often hear an argument from for-profit institutions that the demographics of their students are what's at play in their failing of the GE rule. That's the racial wage discrimination that the students face in the labor market that makes it more difficult for their graduates to repay their loans. [30 seconds] Yet, while this is true that racial income disparities exist in the labor market, we've also seen recent data that show that Hispanic serving institutions are actually shown to provide the most economic mobility for their students. And other research points to the fact that there's little correlation between the share of Black and Hispanic students and failing a high school audience metric, and that it has much more to do with the sector level and size of the institution. The Department can

restore the promise embedded in the Higher Education Act, a key civil rights law built upon the idea that additional education does sometimes end up in the social and economic mobility. Thank You.

MR. WAGNER: Thank you, Roxanne. That completes the public comment for today, Thursday. This is the end of the session for today, and we will be back up tomorrow at 10 o'clock. I want to thank everyone for their time and their comments and all your hard work and see you guys tomorrow. We can stop the live feed.

STATE OF NEW JERSEY)

I, Jamie Young, Shorthand Reporter in and for the State of New Jersey, do hereby certify that the above and foregoing contains a true and correct transcription of the public hearing that was held by the Department of Education virtually, on February 17, 2022.

Certified by me this 27th day of February
2022.



Jamie Young

JAMIE YOUNG

Precise Transcripts

45 North Broad St.

Ridgewood, NJ 07450

(201) 677-8496

1 **Department of Education, Office of Postsecondary Education**
2 **Zoom Chat Transcript**
3 **Institutional and Programmatic Eligibility Committee**
4 **Session 2, Day 4, Afternoon, February 17, 2022**

5
6 From Jamienne Studley to Everyone:

7 Laura Rasar King will take the chair for accreditors
8 on (32)

9 From Jamienne Studley to Everyone:

10 The FMCS folks no longer show up on my Chat by name so
11 i couldn't just advise you of this change.

12 From Marvin Smith (P) 4 Year Publics to Everyone:

13 While I appreciate Johnson perspective, I think this
14 debate needs to be moved out of this Neg Reg negotiation as
15 the devil is in the detail 1. Many public institutions
16 are required by their states to actively pursue debts. They
17 will need to find other avenues to collect on debts that
18 are owed.

19 2. It is likely more institutions will need to turn
20 to collections sooner than they may already do—a step
21 institutions would prefer not to take. Holds give them a
22 way to get attention from students when calling, texting,
23 emailing, or the postal service isn't successful.

24 3. Ending the use of holds may result in less-
25 resourced institutions being hit the hardest, particularly
26 community colleges.

27 From Anne Kress (P) Comm College to Everyone:

28 +1 Marvin

29 From Kelli Perry - (P) Private Non-Profit Institutions to
30 Everyone:

31 +1 Marvin

1 From Anne Kress (P) Comm College to Everyone:

2 This is an important issue and needs to be addressed,
3 but this is not the forum. Again, in many states, this is
4 state law/policy, it is not institutional discretion.

5 From Kelli Perry - (P) Private Non-Profit Institutions to
6 Everyone:

7 + 1 Anne

8 From Adam Welle, MN AGO to Everyone:

9 I understand Marvin's comment and concern, but the
10 reason it gets students' attention is that the schools have
11 an extraordinary level of leverage over students when it
12 can withhold the transcript for past education. At least
13 when a school must follow traditional debt collection
14 methods, there are legal protections and safeguards.
15 Ordinary creditors are used to these rules and they are not
16 onerous.

17 From Beverly Hogan Primary/MSI to Everyone:

18 +1 to Anne

19 From Ernest Ezeugo (P) Students and Loan Borrowers to
20 Everyone:

21 [https://younginvincibles.org/transcript-withholding-
22 across-new-yorks-neighborhoods-a-crisis-for-communities-of-
23 color/](https://younginvincibles.org/transcript-withholding-across-new-yorks-neighborhoods-a-crisis-for-communities-of-color/)

24 From David (A) FA Administrators to Everyone:

25 +Anne

26 From JessicaRanucci2 to Everyone:

27 The Department proposed a ban on transcript
28 withholding as part of certain PPPAs, on page 7 of the
29 certification proposal, so I think this is the appropriate
30 place to discuss this issue.

1 From David Socolow to Everyone:

2 Anne and Marvin, is there any state with a law
3 specifically requiring transcript withholding to collect
4 students' debts to public institutions (as opposed to more
5 generally requiring the institutions to collect debt
6 without specifying this particular method)?

7 From Ernest Ezeugo (P) Students and Loan Borrowers to
8 Everyone:

9 I'm also curious about the answer to that question,
10 David.

11 From Anne Kress (P) Comm College to Everyone:

12 Kelli has made my point, so I'm just going to +1 her
13 in interest of time. I would also add that there are
14 serious concerns about state reciprocity posed by 32.

15 From Ernest Ezeugo (P) Students and Loan Borrowers to
16 Everyone:

17 We were told by Greg that this issue would be
18 discussed as a part of this paper. I don't understand
19 suggestions that this is not the time to discuss it.

20 From Ernest Ezeugo (P) Students and Loan Borrowers to
21 Everyone:

22 +1 Adam

23 From Carolyn Fast (P) Consumer advocates/Civil Rights to
24 Everyone:

25 +1 Adam

26 From Beverly Hogan Primary/MSI to Everyone:

27 What are parameters of withholding transcripts for
28 payments?

29 From David Socolow to Everyone:

1 +1 to Adam's point. Does any State really mandate its
2 institutions to use transcript withholding as a specific
3 method of institutional debt collection?

4 From Barmak Nassirian (A) Servicemembers & Vets to
5 Everyone:

6 +1 on ED's position re (32)(i) and (ii)

7 From Yael Shavit State AG (A) to Everyone:

8 The language we proposed is based on the language of
9 the California statute

10 From JessicaRanucci2 to Everyone:

11 +1 to using the California statute as a model for a
12 provision in PPAs

13 From Laura Rasar King (A) Accrediting Agencies to
14 Everyone:

15 Can we discuss one issue at a time? Section 32 and
16 then transcripts?

17 From Ernest Ezeugo (P) Students and Loan Borrowers to
18 Everyone:

19 +1 Amanda, excellent point.

20 From Anne Kress (P) Comm College to Everyone:

21 +1 Marvin -- there is a relationship between R2T4,
22 which is (understandably) required by the department, and
23 transcript withholding that the department needs to
24 consider that goes beyond the scope of our current
25 discussion.

26 From Jaylon Herbin (A) Consumer and Civil Rights to
27 Everyone:

28 +1 Amanda

29 From David Socolow to Everyone:

1 +1 to Amanda's point about the equity impact of
2 transcript withholding on students of color, low-income
3 students, and first-gen students. Thanks to the Department
4 for willingness to consider adding a ban on this practice
5 to the PPA.

6 From Carolyn Fast (P) Consumer advocates/Civil Rights to
7 Everyone:

8 +1 Debbie.

9 From Ernest Ezeugo (P) Students and Loan Borrowers to
10 Everyone:

11 +1 Barmak's comments on transcript withholding as a
12 practice with serious civil rights implications for
13 students.

14 From Brad Adams (P - Proprietary Institutions) to
15 Everyone:

16 i support not withholding transcripts, but given the
17 amount of discussion thus far and in this chat I will not
18 come on video to state that.

19 From Brad Adams (P - Proprietary Institutions) to
20 Everyone:

21 +1 barmak

22 From Beverly Hogan Primary/MSI to Everyone:

23 Thank you, Barmak, for putting the transcript
24 withholding in context. This is helpful.

25 From Debbie Cochrane (P), State agencies to Everyone:

26 +1 Carolyn on the need for institutions to comply with
27 state laws.

28 From David Socolow to Everyone:

29 +1 on requiring compliance with State consumer
30 protection laws

1 From Ernest Ezeugo (P) Students and Loan Borrowers to
2 Everyone:

3 +1 Carolyn, also encouraged by the addition of the
4 language around compliance with state laws

5 From Yael Shavit State AG (A) to Everyone:

6 +1 to Carolyn

7 From Jaylon Herbin (A) Consumer and Civil Rights to
8 Everyone:

9 +1 to Carolyn

10 From Barmak Nassirian (A) Servicemembers & Vets to
11 Everyone:

12 +1 on Carolyn's comment re state consumer protection
13 laws

14 From Ernest Ezeugo (P) Students and Loan Borrowers to
15 Everyone:

16 Could they transfer it, though? If they can't access
17 their transcripts?

18 From Barmak Nassirian (A) Servicemembers & Vets to
19 Everyone:

20 withholding the entire transcript for debts owed for
21 only one term actually deprives students from receiving
22 consideration for courses that they did pay for!

23 From Anne Kress (P) Comm College to Everyone:

24 +1 Laura

25 From Brad Adams (P - Proprietary Institutions) to
26 Everyone:

27 +1 to laura. i completely agree that pre-
28 accreditation has to be added

29 From Ernest Ezeugo (P) Students and Loan Borrowers to

1 Everyone:

2 Yeah, as someone who had a large transcript balance
3 that it took several years to repay, I'm sympathetic to a
4 need to get that money back and appreciative that my
5 institution worked with me. But an inability to transfer to
6 a lower-cost institutions because my transcripts were
7 inaccessible to me created, among other things, a time
8 expense I can't get back..

9 From Ernest Ezeugo (P) Students and Loan Borrowers to
10 Everyone:

11 large account balance that took*

12 From Yael Shavit State AG (A) to Everyone:

13 Thank you, Ernest. It is also an ineffective debt
14 collection method. Impeding students' ability to transfer
15 to lower cost programs and become employed is a
16 counterproductive way to facilitate students' ability to
17 repay their debts

18 From Carolyn Fast (P) Consumer advocates/Civil Rights to
19 Everyone:

20 +1 to Debbie

21 From Adam Welle, MN AGO to Everyone:

22 +1 to Debbie

23 From Yael Shavit State AG (A) to Everyone:

24 In depriving students of transcripts reflecting
25 credits that students have already earned, schools are
26 negating the federal tax payers' investment

27 From Carolyn Fast (P) Consumer advocates/Civil Rights to
28 Everyone:

29 +1 Barmak

30 From Johnson (P) Legal Aid to Everyone:

1 +1 to barmak

2 From Brad Adams (P - Proprietary Institutions) to
3 Everyone:

4 that is a lot at once

5 From Debbie Cochrane (P), State agencies to Everyone:

6 Should we divide the temp checks?

7 From Adam Welle, MN AGO to Everyone:

8 agree we should divide them

9 From Anne Kress (P) Comm College to Everyone:

10 We should divide

11 From David Socolow (A) State agencies to Everyone:

12 Recommend separate temp checks on 668.14(b) 3, 26, and
13 32

14 From Laura Rasar King (A) Accrediting Agencies to
15 Everyone:

16 Jamie is back in for accrediting agencies.

17 From Jamiene Studley to Everyone:

18 I am returning for accreditors

19 From Carolyn Fast (P) Consumer advocates/Civil Rights to
20 Everyone:

21 +1 Barmak that letter of credit should be based on
22 totality of liabilities

23 From Debbie Cochrane (P), State agencies to Everyone:

24 David Socolow is coming to the table for state
25 agencies.

26 From Adam Welle, MN AGO to Everyone:

1 I strongly support the insertion of the "acceptable"
2 descriptor to ensure that the teach out plan is legitimate
3 and effective.

4 From Amanda Martinez (P-Civil Rights) to Everyone:

5 + Adam

6 From David Socolow (A) State agencies to Everyone:

7 + Adam

8 From Ernest Ezeugo (P) Students and Loan Borrowers to
9 Everyone:

10 +1 Adam

11 From Adam Welle, State AGs (P) to Everyone:

12 It's very important for provisionally certified
13 schools to be communicating to students accurately . The
14 Department should have the discretion to consider the
15 circumstances listed in (8)

16 From Brad Adams (P - Proprietary Institutions) to
17 Everyone:

18 For an institution alleged or found to have engaged in
19 substantial misrepresentations to students, engaged in
20 aggressive recruiting practices, or violated incentive
21 compensation rules, requirements to submit new marketing
22 and other recruiting materials for the review and approval
23 of the Secretary

24 From Carolyn Fast (P) Consumer advocates/Civil Rights to
25 Everyone:

26 +1 to Adam

27 From Ernest Ezeugo (P) Students and Loan Borrowers to
28 Everyone:

29 Thanks for clarifying, Johnson and Adam.

1 From Adam Welle, State AGs (P) to Everyone:

2 Yael is stepping in for state AGs thanks

3 From Jamiene Studley to Everyone:

4 Barmak: correct, not substantive, only applies to
5 advertising. And it is not necessarily "interim" in the
6 sense of temporary or time limited -- that dual/divergent
7 status could exist indefinitely

8 From Ernest Ezeugo (P) Students and Loan Borrowers to
9 Everyone:

10 Carney King is coming to the table for Students &
11 Student Loan Borrowers.

12 From Barmak Nassirian (A) Servicemembers & Vets to
13 Everyone:

14 +1 on David's concern about for-profit to public
15 conversions

16 From David Socolow (A) State agencies to Everyone:

17 Recommend adding language to section (f) regarding
18 proprietary institutions converting to public institution
19 status (in each instance where the proposed language now
20 applies to schools converting to non-profit status).

21 From David Socolow (A) State agencies to Everyone:

22 I would add a similar point about covering conversions
23 to public institution status in (g), too.

24 From Debbie Cochrane (P), State agencies to Everyone:

25 I am coming back to the table for state agencies.

26 From Marvin Smith (P) 4 Year Publics to Everyone:

27 + Kelli

28 From Barmak Nassirian (A) Servicemembers & Vets to
29 Everyone:

1 +1 on Jamie's comment

2 From Kelli Perry - (P) Private Non-Profit Institutions to
3 Everyone:

4 +1 Marvin

5 From Beverly Hogan Primary/MSI to Everyone:

6 +1 to Jamie's comment

7 From Brad Adams (P - Proprietary Institutions) to
8 Everyone:

9 +1 Carney

10 From Brad Adams (P - Proprietary Institutions) to
11 Everyone:

12 thanks for saying you support disclosures for all
13 students

14 From Beverly Hogan Primary/MSI to Everyone:

15 Yael, did you share the language you submitted?

16 From Yael Shavit State AG (A) to Everyone:

17 I believe Cindy circulated it. It was in Carolyn's
18 proposal on change of ownership

19 From Beverly Hogan Primary/MSI to Everyone:

20 Thanks. I got it.

21 From Johnson (P) Legal Aid to Everyone:

22 +1 Barmak

23 From Emmanuel Guillory (A-PNPs) to Everyone:

24 technically, not all publics are 501(c)(3)s

25 From David Socolow (A) State agencies to Everyone:

26 +1 to Barmak's point

1 From Barmak Nassirian (A) Servicemembers & Vets to
2 Everyone:

3 +1 on Brad: converted "publics" should be subject to
4 GE

5 From David Socolow (A) State agencies to Everyone:

6 +1 Brad re: converted public institutions covered by
7 GE

8 From Kelli Perry - (P) Private Non-Profit Institutions to
9 Everyone:

10 Emmanual is coming to the table for a question in
11 600.4

12 From Debbie Cochrane (P), State agencies to Everyone:

13 +1 to Barmak's point that these definitions can lead
14 to a race to the bottom. Will also add that this issue
15 could at least partially be addressed if the Department
16 amended 600.9, state authorization rules.

17 From Yael Shavit State AG (A) to Everyone:

18 Adam is coming back for State AGs

19 From Ernest Ezeugo (P) Students and Loan Borrowers to
20 Everyone:

21 You left off at "no where to be found"