

DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION  
INSTITUTIONAL AND PROGRAMMATIC  
ELIGIBILITY COMMITTEE  
SESSION 3, DAY 4, AFTERNOON  
March 17, 2022

On the 17th day of March, 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. ROBERTS: Welcome back to everyone. Hope you enjoyed the lunch hour. My name is Brady Roberts. I'll be facilitating this afternoon. We have a lot more discussion to get to, so let's jump right into it. I think the last hand we had up was Jessica and then Debbie on certification. And so, I would welcome, Jessica, if you wouldn't mind, turn on your on camera, take it away. Oh, and Will Durden is in on behalf of two-year public institutions for the remainder of the afternoon, so welcome, Will.

MS. RANUCCI: Thanks. I was just hoping the Department could respond to a question I put in the chat, which is just on this licensure issue, are there any other circumstances in which the Department allows Title IV for part, but not all of a program's published length? I can't think of one, and I think that's what's being proposed here.

MR. MARTIN: Generally, no. We do have instances where sometimes, for instance, in a clock hour situation where you've got a given number of clock hours and a given number of weeks in a program and the way clock hours works, it is possible for students to accelerate and finish their clock hours in a shorter period of time. And we are aware of that and understand

that. We sometimes will look at an institution where if there's a preponderance of students finishing early all of the time that calls into question the number of hours the number of weeks, we will say that the program really isn't that, that it really isn't that length, but that really isn't anything that's regulatory. I don't think we have anything. I will, I'll just, we have some people monitoring this. I'll get in my, I'll ask my colleagues back at the Department to confirm that. But you are correct. We don't have anything currently in regulations that would where we would fund where a student would be partially funded, if that's what you're asking.

MS. RANUCCI: Right.

MR. MARTIN: Funded for a certain number of hours.

MS. RANUCCI: I just want to reiterate; I think that's a real problematic thing. And I'm glad that we don't have any. And I hope that you decide not to add it here.

MR. MARTIN: Thank you.

MR. ROBERTS: Thank you. Brad, I see your hand, but I want to make sure we give Debbie a chance to get to what she was going to get to before lunch. So, Debbie, go ahead.

MS. COCHRANE: Thanks, Brady. I have a

question and a comment related to how this intersects with satisfactory academic progress standards. So those standards typically allow for some amount of wiggle room in terms of eligibility for students who don't pass all their programs, usually 150 percent. So, if, my question is whether limiting the HEA eligibility for the program to the minimum number of hours required for training, if that still allows for kind of that SAP buffer or whether it would not. And then my comment related to SAP is, you know, kind of related to Jessica's question. Are there places where students do kind of get cut off from Federal Aid currently? I would say that might actually be an interesting place to look for precedent there. There is some research that shows that SAP policies can negatively impact students' ability to complete because precisely they are cut off from aid midstream. So, again, that's a comment for consideration. I would love a response to the question.

MR. MARTIN: Oh, sure. So, it was just confirmed by my colleagues that there are no other areas where we limit the amount of a program that can be covered by Title IV Aid. I want to be careful about using the phrase cutting a student off of aid. It wouldn't be that. It would be limiting the portion of the program that can be funded by Title IV Aid. Some

people might argue that's semantics, but I think it's an important distinction. Are there any other areas where we cut students off of Title IV Aid? Obviously, students can lose eligibility for a number of reasons, right? That would have the effect of cutting them off. They could go into default, things like that. The other thing would be as far as SAP goes, yes, it's possible for a student to lose eligibility for aid if they've run afoul of the institution's SAP policy. That has to be constructed within our guidelines. That's, and of course, you know, I want to point out that there are appeal procedures there involved. We have, you know, warnings, probation, things like that to mitigate that. But I don't think you could draw a distinction between SAP and this. Now, is it the question of how would SAP work in conjunction with this? That's a very legitimate question. And as you know, SAP is structured on, in your example, the 150 percent completion is 150 percent of program length. And what would that and I guess your question would be, what that program length be? We would be considering it the total length of the program the school has? Or would it be that would it be based on the number of hours for which the student is eligible for Title IV Aid? I hesitate to go too far. It's certainly something the Department would have to look at in terms

of its policy. I think right now, the way SAP rules are written, they are written to program length. And we're not, in this rule, proposing to limit the length of a program. So, our program would still be the number of hours that it is. So, I would imagine, I'm just I'm kind of going off on speculation here that it would be based on, it would still be based on program length. But it's something the Department would have to look at. And I don't know if Steve's back with us. Steve, do you have any comments on that? Steve's an old SAP warrior from way back. So, I'll, not too far back, Steve, but I'll ask if he wants to comment.

MR. FINLEY: Actually, I think that's Greg's polite way of calling me a sap, but that's okay. And there's some similarity here. But as Greg notes, satisfactory academic progress is based on a student not making an acceptable rate of progress over based on the length of the program. So, if the suggestion is we would have to look at the interplay there to see if that's one way this could be worked out, I think we would just have to look at it. It's not clear how they would overlay one another.

MS. COCHRANE: Okay. So just a clarifying question. So, you're not necessarily intending, if we have 1000-hour program, to strictly to

basically eliminate that kind of SAP or SAP flexibility for the students in the thousand-hour program? Basically, they have a strict, they must meet a stricter rate of progress.

MR. MARTIN: Go ahead, Steve.

MR. FINLEY: Yeah, it's interesting because SAP only comes into play if the student is not progressing at the normal rate of the expected rate of completion within the programs. Right? So that's what happens, all of a sudden, you start talking about 150 percent of the program length and whether the student is going to be able to complete it with a satisfactory grade level during that period. So, it's just not clear how the two are going to work out right now. I mean, the proposal here is, is that for students making normal progress in the program, they would be capped before they reach the enlarged program hours that would be established by the measurement under this proposed regulation.

MR. MARTIN: Now, I should point out, too, with SAP that we are talking about Gainful Employment programs here and while, certainly this doesn't apply to every Gainful Employment program. But I do want to point out that for Gainful, for programs that are met that are, if they're non-term in nature, and

that would be a lot of these programs, that there is no pace requirement anymore related to SAP for those programs. Remember, that a student cannot be paid in a program such as that in a program structured in that way. And until, unless they've completed one-half the weeks and hours in the academic year. So, a pace requirement for SAP is redundant. So, the only, the only thing you would have would be the GPA requirement, which wouldn't be affected by this. And, and there would still be a maximum there'll still be a maximum timeframe as measured in calendar time. So, it probably wouldn't be as have as big an effect on most of these types of programs as you might think. But that is not to say that we don't we wouldn't have some thinking to do about exactly how the interplay would work, as Steve points out.

MR. ROBERTS: Thank you. Brad, you're up.

MR. ADAMS: In this comment, does it lend- again, I'm still not supporting as written, but I just want to point out if we truly want to get the states involved, you know, most legislative calendars are already finishing, at least in the states where I operate, and some states operate on an every-other-year basis. So, I would think you need at least a two to



three year from effective date language in here if you want the states to have any chance at all to try to comply with whatever you're trying to do.

MR. ROBERTS: Adam.

MR. WELLE: Yeah. I was just going to say, I do agree with Jessica's concerns. I think having the student not be able to finish the program if it reaches the cap would be harsh and kind of place the risk and the harm on the student as opposed to the institution. It might even be better if the program, and I think Jessica maybe suggested this as the alternative, but if the program just wasn't available or eligible for aid altogether, if it didn't meet the requirement or if it was longer than the maximum, and at the very least, I would think there should be some sort of disclosure requirement at the outset so that the student is aware that they don't have Title IV funding to bring them to the end of the program so that they can be fully aware of that and can be packaged in some other way to be able to complete it.

MR. ROBERTS: Alright.

MR. MARTIN: Thank you.

MR. ROBERTS: Thank you. Jessica.

MS. RANUCCI: Thanks. And just to piggyback on what Adam said, I believe that the language

in the session two issue paper accomplished precisely that. I understand when Greg spoke that the reason that the language was changed was to allow these programs to continue to operate for non-Title IV purposes. I don't have a problem with that. If people want to do the whole program wholly funded not by Title IV, I think that's completely fine. And I think you could write out an exception. I think the problem is that the way that that problem was solved creates this huge new problem.

MR. ROBERTS: Alright. Thank you, Jessica. Johnson.

MR. TYLER: Sorry. I'm jumping in really at the spur here. But, you know, if you're not going to fully fund the education, you're just perpetuating transcript withholding because it happens all the time. Students are excited about going to school. They have the funding and then there's some bill at the end that they can't afford to pay that they never budgeted for. And it's very confusing and a lot of students are just going to walk away without their completing or stranding all those credits, and they're going to end up with a debt and they're never go back to school until they pay off the debt. So, I think it's, you, know it's really you've got to address this somehow because you're just creating a huge problem here.

MR. ROBERTS: Thank you, Johnson.

Greg, not seeing any additional comments on this section. Would you like to move us to the next piece of the issue paper?

MR. MARTIN: Yes. So, we'll be discussing 32. And one of the reasons which I think are probably fairly obvious, I will look at 32. No. Yeah. So, we'll. Okay, yeah. Let's just let's just start with 32. So, I'll discuss what I wanted to say later. So, here under 32 we have, we've clarified the provision at the suggestion of negotiators that institutions must comply with consumer protection laws. So, let's review that in each state in which the institution is located or in which the student in which students enrolled by the institution are located. The institution must ensure that, if we go down to let's go down to romanette three, ensure that it complies with all state consumer protection laws, including both generally applicable state laws and those specific to educational institutions, except where state requirements for obtaining authorization are or inapplicable pursuant to state authorization or reciprocity agreements. So, because, we get into transcripts in the next one. Why don't I just, I know I don't usually stop, but let's just stop here at 32 before we get into transcripts and

then and clear this, any discussion here first, if you don't mind just bearing with me there. So, I'm going to open it up for discussion on 32 by itself.

MR. ROBERTS: Comments and questions for the Department on 32 alone. Just want to welcome Laura to the table on behalf of the credit agencies. Welcome, Dr. King. Barmak, I see your hand first.

MR. NASSIRIAN: So, I think all of the negotiators and the public are fully aware of how controversial these provisions are. I was going to suggest that we take this section in two distinct components, one of them having to do with current romanette one and two. Let's work that out if we can, because I think we do have a compromise solution for that. And then address three, which I know is the subject of much consternation and email traffic, and apropos romanettes one and two, and I do this with permission from the folks that I'm calling out, but Carolyn Fast and I, because we were originally involved in submitting some language on this, have been working since the end of the last session with colleagues at WCET and WICHE who have taken the lead in attempting to improve this language together with us to address our mutual concerns. And we did a draft language with them that satisfies both our concerns and theirs. So, I have

their permission to say this. We have submitted that. And I think Cindy just recirculated the language with a header. We believe that language accomplishes everything the Department wants to do here at the same time as it addresses some of the operational concerns that our colleagues on the institutional side would have with the current draft. So, if you'd like to I don't know whether folks want to look at that language or do, how do we want to proceed? But that's the effort we engaged in to attempt to come back to the committee with something that the various sides might find agreeable.

MS. JEFFRIES: Barmak, just to be clear, I didn't recirculate it with the header because the language had stayed the same. I certainly can if the committee would like to have it with the header on it.

MR. NASSIRIAN: Well, the header just references the section of the draft it would go in, which is section 32. What it does is it would add a romanette three to the current subsection and I could go through the provisions one at a time, if you like, or however the committee wishes to proceed.

MR. MARTIN: Go ahead, Barmak. You can walk us through it. What, you said it adds, I just to be clear it adds so we have romanette one, two and three. Does this does replace one of the, it still retains that

that structure?

MR. NASSIRIAN: Yes, it would have.  
Should I share my screen so people can see the language?

MR. ROBERTS: If you wouldn't mind,  
Barmak.

MR. MARTIN: I don't have problem with  
that.

MR. NASSIRIAN: Can I do that?

MR. MARTIN: Yeah, go ahead, Barmak.  
Yeah.

MR. NASSIRIAN: Okay. So hopefully  
you're seeing, unfortunately, I couldn't track changes  
because of the PDF to Word conversion, but the construct  
here is intended to address multiple concerns that we  
heard from our colleagues on the institutional side, one  
of which has to do again with pegging the requirements  
for licensure to the location of the of the student. And  
I want to emphasize here and the Department was kind  
enough to take an edit from me with regard to high  
school diplomas in the same vein, that any mandates or  
requirements should be pegged to the location of the  
student. I want to be very clear and I hope the  
Department, should it accept this language, clearly  
states this in the preamble that by location we don't  
mean the residence of the student, we mean where the

student actually encounters the educational experience. So, it's because the goal here is to address both physical as well as distance ed modalities so that a student who crosses jurisdictions and attends a school physically, say, in another jurisdiction in another state would be located in that second state. We want to make sure physical institutions don't have to go through a requirement to satisfy a 50-state licensure mandate. So, one of the changes that we made was to change the location definition, to tie it to where the student begins their participation. And then the language is the programmatic accreditation, if it is required by the state or federal agency. Romanette two addresses a concern they had about the institution being required to assure that the program necessarily meets the criteria for each state, mainly because they explain that in some states that may not be easily available or available at all. So, we want to make sure that to the extent that such prerequisites are knowable, that the institution has to satisfy them. And then the third romanette is intended to address those cases, because we are not tying it to licensure and pre- and other prerequisites associated with location of the student. We wanted to make sure that we accommodate any individuals who, say, plan to go to another state but are preparing to do so

through an online program that may not satisfy the prerequisites for where they are, but that would satisfy the prerequisites for another venue as long as that's done on a case-by-case basis with prior with prior consent. So, those are the modifications we made in response to the concerns we heard from our colleagues who are quite expert in these matters and sort of educated us about how the language could be modified. Thank you.

MR. MARTIN: And Barmak, just to confirm, I saw something pop up in the chat that said the current romanette three would be romanette four. Is that correct?

MR. NASSIRIAN: Yes, we would. Again, the current romanette three is a whole other ball of wax that we're going to have to discuss. But should the committee accept these changes, the conforming change would be to renumber and include current romanette three as now romanette four.

MR. MARTIN: Okay. Thank you.

MR. NASSIRIAN: I'm going to stop sharing if I know how.

MR. MARTIN: Yes.

MR. ROBERTS: Thank you, Barmak. I'm going to presume the Department needs some time to think



on that. So, if it's okay with you, I'll move back to the queue, and Laura, I have your hand next.

DR. KING: Thanks, Barmak. I'd like to offer a friendly amendment based on what we had talked about at the last, at session two. I was surprised to see that pre-accreditation was not added in after our discussion in session two. So, in the spirit of focusing comments on what might affect a consensus vote, I want to talk about that again. So, the suggested language is programmatically accredited or pre-accredited if such accreditation is required. So just adding those two words, and I'm not sure if it was an oversight or a decision, but I did want to talk about what it means. So, 602.16 which is the, those are the accreditation regulations. Accreditor is recognized by the Secretary specifically have pre-accreditation in their scope and it has very specific requirements that are that are assessed when accreditors go through their recognition process. It addresses curriculum, faculty, fiscal viability, all of those things that you would expect. And there's a federally regulated limit on how long a program or institution can stay in pre-accreditation. Also, pre-accreditation status is a pretty there's a lot of scrutiny that goes into it. Oftentimes programs in particular, I'll speak for programs, go through multiple

site visits, multiple reporting requirements during that period of time. So, it's actually a time of pretty intense working with the accreditor and pretty intense scrutiny. There's also an obligation for institutions in pre-accreditation status now. This was negotiated in 2019 for the 2020 regs to have a teach out plan in place if they're in pre-accreditation. So, this isn't you know something that is just sort of given willy nilly. I mean, it fits here. And finally, licensing agencies and professions that have pre-accreditation as part of their accreditation process accept students from pre-accredited program to sit for the licensing exam. So, it's not putting students at any disadvantage. So, I'm again, I'm curious about why it wasn't added in here in this draft three.

MR. NASSIRIAN: Unintended oversight. I agree with you.

DR. KING: And my comment was, my question was really to the Department, not to Barmak, because I know that Barmak agrees with me. I just didn't know if there was some reason that that was the case.

MR. MARTIN: I'm sorry. Could you restate that, if it's directed to us?

DR. KING: Yeah. What, why was after the conversation in session two, why was pre-

accreditation not added in here.

MR. MARTIN: I'm sorry, could you reference the exact part of the where you're where you are in the in 32, please?

DR. KING: Sure. It's 32 romanette one.

MR. MARTIN: Okay. So, in each state, the institution is located where in which students enrolled by the institution are located. The institution must ensure that it is programmatically, oh, programmatically accredited. And you wanted to know.

DR. KING: Or pre-accredited is what-

MR. MARTIN: Or pre-accredited. I'm, we had concerns about pre-accreditation status and making certain that the program is actually is actually accredited. So [interposing] that language.

DR. KING: Right. But I just what I just said in my, what I just said in my comments actually explained why it should be there. It doesn't seem like you heard it or-

MR. MARTIN: We did-

DR. KING: I'm just it is a category of accreditation and without it, it really puts programs, accreditors, students between a rock and a hard place. It's addressed in 602.16. It's specific. I'm

at a loss to understand. I just want to hear a cogent argument why.

MR. MARTIN: Well, you know, we have with pre-accreditation, we have concerns about the prospect of Title IV Aid floating programs, and you know taxpayer money being used to float programs which have yet to receive accreditation. The potential for them not to be accredited is still there.

DR. KING: But that's not how it works. And, if, so, let's say that we just go with accreditation and an agency has to give accreditation and not go through the pre-accreditation process, so they get their accreditation withdrawn. I mean, it's the same, they actually get more scrutiny in the pre-accreditation process. I just think there's a lack of understanding and I strongly recommend that that gets added back in because it makes no sense.

MR. MARTIN: I'll take it back.

MR. ROBERTS: Thank you. Debbie.

MS. COCHRANE: So, I have some questions. I'm kind of I'm looking at the proposed amended language. And I think that there are some really good steps in here that I appreciate particularly saying that's clarifying that the location is where the student begins their participation. I know I've heard that

concern of students can move across state lines. And, you know, I don't think that's what the Department's trying to get here. I also appreciate the kind of case-by-case exceptions to enroll students and how institutions could handle that. I, I have spent my question is really around this question is the proposed from Barmak and Carolyn 32 romanette two around if you know making sure that it satisfies the, you know, applicable standards if they are available and can be obtained from the state. And my question, I guess I have I have spent a chunk of time trying to understand the concerns in this issue. I've connected directly with about two dozen state licensing entities in California and in other states. I am not understanding the problem. So, it's not that I'm necessarily averse to a solution to it, but I would like to more clearly hear that problem articulated. What I do see is institutions consistently pointing to large online institutions, consistently pointing students to state licensing entities. So, I'm reading it from one website right now. This institution strongly encourages you, the student, to contact the State Licensing Board where you intend to seek licensure to ensure the program will meet the state's licensing requirements. Another one saying students should be assured by their institution that the

program actually does meet the requirements of the state in which [audio] practice. So, I feel like even with the disclosures as they exist right now, where we see large institutions pointing students saying, you better go check yourself. You better make sure that the requirements are met. So, if students are supposed to make sure the requirements are met, it feels like that should be something institutions are doing before they enroll students across state lines. And then finally, I would just say so again, I'm not averse to a solution, but I'm having a hard time understanding what the problem is. And I would just finally say that you know we just heard about in the with regards to the hours, the maximum program hours is clearly an effort on the part of the Department to move states in what seems like a more consumer-friendly direction. And I would say that you know I think that the language where states need, or institutions need to confirm that that programs are meeting the requirements could actually have the same impact. If it is true, and this would be horrifying, if it is true that there are some state licensing entities that will not let a student or an institution know what they need to do in their educational program to ultimately gain licensure [30 seconds] that is a huge problem. Like I don't know how students are supposed to

navigate this. So, part of these rules are the Department's approach in this paper in particular, is to move states towards a better, clearer, more consumer friendly direction. This, to me, seems like a good opportunity to do so. So again, all that to say, I would love to hear examples of you know Michigan Accounting Board, whatever doesn't tell people or what like just what specifically is the problem here.

MR. ROBERTS: Thank you, Debbie. Not seeing an immediate response. I'm going to go to Brad.

MR. ADAMS: I'd like to second Laura's position on 32 romanette one. I'm really struggling and I'll give you a perfect example, Greg. Our pharmacy school was accredited. We were seeking accreditation. Students had to sign a certification knowing the program wasn't fully accredited. But the program cannot be fully accredited until you actually graduate students and produce outcomes. Students are aware of that. They sign a disclosure certification, understanding that. How in the world could you ever start a new healthcare program, at least at the graduate level, if you have to be fully accredited when you can't be fully accredited till you graduate somebody. It's the chicken before the egg. I don't get why the Department is so strongly against putting some language in there about pre-accreditation

or seeking accreditation, because that's not the way programmatic accreditation works. And I just, I'm not sure, I'm still struggling like Laura. Why is that an issue?

MR. MARTIN: Well, as I said before, I mean, I understand the process, but pre-accreditation is not accreditation or else there wouldn't be the delineation so the pre-accreditation to get from pre-accreditation to accreditation as you just pointed out that the program has to meet certain thresholds and standards in order for that to in order for that to occur.

MR. ADAMS: Would that mean funding would not be available until you reach that? Is that what that means?

MR. MARTIN: That is correct. A student would not be Title- there would not be Title IV eligible until the program is accredited.

MR. ADAMS: Then you've essentially shut down all new healthcare programs from this point forward if you do that because this isn't just for-profits, this is for all schools. So, I want to make sure the publics and the non-profits hear this, too. You cannot get accreditation in many healthcare programs until you have outcomes and graduate students. And what



he just said means you will never be able to start a new program again because that can't happen in this scenario right here. Thank you.

MR. MARTIN: I want to for the record state that, we're not saying that you can't start a new program. That's what we said is that it would not-

MR. ADAMS: It would not get funding.

MR. MARTIN: It wouldn't be eligible until such time as it was accredited.

MR. ADAMS: But you killed all new healthcare programs under that.

MR. ROBERTS: Barmak, I see your hand, but I just want to note that Emmanuel is at the table for private nonprofits [inaudible]. Barmak, please.

MR. NASSIRIAN: I just I'll do my very best to respond to Debbie's concerns. It is my understanding that in a number of states, the final judgment is rendered only after an individual evaluation of, say, transcripts and so in teaching, for example, and nursing in some states, so that it becomes somewhat of a Catch-22 and a real problem for an institution to make representations on the front end about an assessment that is post facto. And this was what the additional sort of flexibility and the language we drafted was supposed to address. I agree with you that

it is a really an abominable practice for a state not to be able to articulate a priori what it takes to qualify for a particular licensure exam or for a particular type of license. But to whatever extent that is true, and that's you know that's to be determined after these regs go into effect. To whatever extent it's true, it would not make sense to hold institutions accountable for that kind of practice. And furthermore, to the extent that the criteria are clear in advance, this does mandate that institutions, unlike what you are, you and I are both concerned about the idea of just simply shrugging your shoulders and telling the student to go figure it out. To the extent that the criteria are knowable, I think that mandate would be on the institution to know them, not on the student. So that's the best I can do in explaining why some variability in state licensure practices may justify a little bit of flexibility here.

MR. ROBERTS: Thank you, Barmak.

Laura.

DR. KING: I wanted to again try to explain and clarify because I feel like we're not having a meeting of the minds here. Programmatic accreditors are not Title IV gatekeepers. We don't have, we are not where the Title IV link happens unless it is an institutional accreditor that accredits single purpose

programs. But that's not what we're talking about. So, if you think about all of the healthcare professions, those are all located within larger institutions with institutional accreditation that serves as their Title IV gatekeeper. So, are you saying, Greg, then, that if a program is new that you and in a larger institution that has institutional accreditation, that a program would not, that students in that new program would not be able to receive Title IV funding if they're not accredited by the programmatic accreditor? Is that it? And if that's the case, then are you somehow making programmatic accreditors into Title IV gatekeepers?

MR. MARTIN: No, we're not making the programmatic accreditor into a Title IV gatekeeper. And in an instance where an institution is accredited, say, by a regional accreditor, yes, I fully understand that that is the accreditor and for Title IV gatekeeping purposes. Here, we're saying that in each state where the institution must ensure that each program that is programmatically accredited is programmatically accredited, these are programs not institutions as programmatically accredited if such accreditation is required by the state so or a federal agency. So, in this case, we're talking about where that program is required to be accredited at a programmatic level so

that it actually so that it actually is accredited.

DR. KING: Okay. Right. But how would a new program start then? Because basically what pre-accreditation does is it protects the first class of students going through. How would a new program start?

MR. MARTIN: Well, as I said, I don't I can't speak to how it would start. It would not be, as the rule is written, would preclude Title IV funding.

DR. KING: In an institutionally accredited in an institution that is accredited?

MR. MARTIN: Because the program is required to be accredited in this case, which is not which is not our [interposing]

DR. KING: So, the institution-

MR. MARTIN: It's not our requirement. It's in most cases, a state requirement that the program be accredited.

DR. KING: Okay. But here's what I'm saying, is that pre-accreditation is recognized by licensing agencies and states. So. So, it is accredited. So again, I feel like we're not connecting on the words here. This is an important issue.

MR. MARTIN: I entirely get that it's important and I understand your concerns, but I've tried to elucidate our concerns as well about the fact that

even though you know, that, when you talk about the pre-accreditation status, it is it is not actual accreditation. Otherwise, it would be accredited at the outset.

DR. KING: No, it wouldn't, because it doesn't have, programs have to start. They have to develop. And then they have to recruit students and they have to have students going through the program.

MR. MARTIN: I understand that. And we have a concern about the students in that developmental portion before that program is fully accredited. I will take it back for discussion, but I don't think there's anything else I could say about it now. Unless Steve wants to add anything to my comments.

MR. FINLEY: Yeah. We'll take this back and come back either with a clarifying response or you know, a restatement of our position on this issue.

MR. ROBERTS: Okay. Thank you, Emmanuel.

MR. GUILLORY: So, I wanted to share that I support what Laura is saying. I understand what she's saying. And I think it is also an issue that the Department should definitely take a closer look at before, ideally before a consensus vote is taken, because it's something that needs to be addressed. But I

wanted to talk about this particular section, because we've heard from a number of our members regarding their concerns around the language that the Department has proposed here. And just with the language as written, trying to follow a student where students are going to go and making sure they're complying with state licensing requirements in all 50 states obviously is nearly impossible to do, especially when states are often changing their state licensing requirements and institutions are having to make sure their programs are still meeting those state licensing requirements. But aside from that, there is an example of the state of Louisiana, to be exact. And in this particular state, as it relates to their nursing licensure program, it's very vague text on what it means to actually meet the state licensing requirements for this particular program. And they use the words nursing, which programs meet or exceeds the educational standards for nursing education programs in Louisiana. And that's me not reading the entire thing, but I've picked out just the sentence that's actually very confusing. And when one particular institution reached out to the state of Louisiana to ask clarification on the educational standards that need to be met, the answer from the board was that they review each application individually. And so it's like, okay,

so we will send in our application and you will just review it and get back to us and let us know something at some point in time, instead of you having it spelled out exactly what the state licensing requirements are for this particular program. So it could be that other states have outlined licensing requirements for certain programs. It's very clear to understand. It's like, okay, this makes sense. We either meet that or we don't meet that, but not for every single program as it's actually happened, which sometimes leads institutions to then have to say, well, we can't determine whether or not we meet those state licensing requirements, because it's not clear we've reached out. We haven't gotten a clear answer. We don't know when we will get a clear answer. So, we are kind of left in the dark, which is why currently in regulatory text there is that not to be determined aspect, but I know the Department is proposing to get rid of that. But even aside from that here with the language that Barmak and Carolyn have proposed-

MR. WAGNER: Emmanuel, 30 seconds.

MR. GUILLORY: -this language is much better than and it addresses a lot of the issues that we have been hearing from a number of our member institutions regarding this. So, I will stop there.

MR. ROBERTS: Thank you, Emmanuel.  
Jessica, please.

MS. RANUCCI: Thanks. I just want to speak on the pre-accreditation issue. I'm no expert, but I think the real consumer protection issue that I would be very concerned about is if, in fact, under the circumstance where pre-accreditation is not accepted by the state. Right? And so, I think we're talking about two different universes, right? Where the licensing authority, either state or federal, does accept pre-accreditation for licensure or does not accept pre-accreditation for licensure. And if we're in the camp where it does not accept pre-accreditation for licensure, I think the concerns that the Department has are very real. And I'm not I'm not an expert. I don't know how to deal with it. But as I understand, Laura is not talking about that group. I think Laura is talking about the group where, in fact, pre-accreditation is accepted by the state for licensure. And so, these students will be eligible for licensure in the occupation. And I think that that presents fewer consumer protection concerns. And so, I guess I just thought maybe it would be helpful to clarify those two groups. And maybe, Laura, please correct me if I'm wrong, but I think in that group, I think I would be



curious to know, it just sounds like the Department's concerns are not withstanding full institutional accreditation, that somehow programmatic pre-accreditation, even if accepted for state licensure, is somehow insufficient. And I, that's fine, but it doesn't really make sense here because this is attached to the state licensure requirements. So, I don't really understand what the point is.

MR. ROBERTS: Okay. Thank you. Barmak.

MR. NASSIRIAN: Yeah. I was going to raise the same issue as Jessica just addressed. I certainly think to the extent that pre-accreditation does satisfy the licensure requirement, the Department should be quite comfortable accepting it. Because if you look at romanette two, the rationale for all of this now, it doesn't it's not clearly not applicable to romanette one, but the idea is so that a student who completes the program can actually get a job in the field. And if pre-accreditation satisfies that, I really don't see any reason why the Department would want to exclude it. I also want to address Emmanuel's concerns. Those are very much the same concerns that we had heard. And that was the purpose, again, partially addressing Debbie's concern about why the latitude. That was the motivation to ensure that where you really couldn't get

a clear answer from the State as to what the requirements are a priori that you could still offer the program because you had done your best and hopefully the State would get its act together. But until then, the institution would be in a no-win position trying to ascertain things that the State refuses to disclose. By the way, we also lock [ph] Emmanuel mentioned the problem of chasing students across state lines. Our proposal is really pegged to the initiation of the program as long as the student remains continuously enrolled, because that's the bulletin year that should articulate the terms and conditions for grant granting the degree so that just the fact of a student moving from one state to another would not suddenly put the institution in the position of having to secure an additional set of approvals. Thank you.

MR. ROBERTS: Thank you. Marvin.

MR. SMITH: I just also want to go on record that large four-year publics are expressing the same concerns. And I want to thank Barmak and Carolyn for really negotiating with a lot of different stakeholders and have put together, I think, a proposal that I urge the Department to consider.

MR. ROBERTS: Thank you. Greg, do you want to move to the next section? I don't see any new

hands.

MR. MARTIN: Yeah, what I'd like to do is move on to a discussion of romanette three as well. As it stands now and then, if I may call for a break so I can take some of this back to my colleagues at the Department. But I want to do 32 in its entirety. So, if there are any comments about, let's yeah, Vanessa's pulling back that back up again so we're talking about 32 romanette three and that, just to restate, complies with all state consumer protection laws, including both generally applicable state laws and those specific to educational institutions, except where state requirements for obtaining authorization are inapplicable pursuant to a state authorization reciprocity agreement. So why don't we continue the discussion there? Going back to what Barmak had asked that we split those up, so I'll take romanette three now.

MR. ROBERTS: Comments for romanette three as the Department's written it. Carolyn.

MS. FAST: I wanted to offer my strong support for this addition language here. I think it's really important, and it also addresses some of the concerns about how this could affect states that are part of the reciprocity agreement, which is, you know,

obviously right now all states except for California. And you know I think it's meant to address this by saying that that that schools really need to be following consumer protection laws wherever they're operating. And the reciprocity agreement you know can preserve its core function of permitting states to operate in multiple states with only having to fill out one application and pay one fee because of the language that the Department has adopted in this provision. So, I think it's a really good addition that will really help consumers in you know in each state and also be good for states and to make sure that they can protect students the way that they want to do.

MR. ROBERTS: Thank you. Barmak.

MR. NASSIRIAN: So I also would like to voice my strong support for this language with a proviso, and that proviso is that I am certainly aware of the somewhat alarmist concerns that have really escalated over the course of the past few days about this language and the suggestion that somehow the inclusion of this provision will end distance education or subject institutions to absolutely untenable requirements, none of which sort of pans out when you consider the fact that the state of California has opted out and the sky has not fallen in California. I would

say that the disagreement that seems to divide some of the consumer advocates from some of the institutional folks has to do with the fact that the institutions, for completely understandable reasons, I don't ascribe any moral failure here, it's mostly an epistemological one. You see the world from your point of view, and it makes perfect sense to me that institutions got together and attempted to construct an arrangement for their maximum convenience without fully grasping the impact of the arrangement and the potential ways in which it could be abused so that we now have a reciprocity arrangement which was supposed to address authorization. It was never intended to address consumer protection. It did not include consumer protection experts. Most of the participants to this arrangement would not have had authority within their own states to argue for what they managed to do together nationally. And that at this at the moment, the reciprocity that dominates is really kind of a textbook example of regulatory capture by the regulated entities. The entities that are being regulated are telling not only the states, but also the Federal Government whose wallet is on the table, how it's going to be. Now, having said all this, we have made a commitment to work with our colleagues on the other side of this proposition to come to some

agreement. But I do I do believe that the Federal Government has a compelling interest in making sure that the local cops are on the beat and that they have jurisdiction to protect their residents. So, I want to support this with the understanding that if by some miracle we don't end up with consensus on this language, that we are committed to working with folks who have legitimate concerns to attempt to come back with a constructive alternative at the comments and at the notice and comment period. Thank you.

MR. ROBERTS: Thank you, Barmak. I just want to note Emmanuel's returning to the table on behalf of private nonprofits. And Jamie is back to the table on behalf of the accrediting agencies. So, Jessica, please.

MS. RANUCCI: Thanks. I really want to say I agree, I echo what other people have said. I strongly support this language is the kind of language that will go a long way towards putting me out of a job in a good way. It allows other people to do their job so people don't have to come to me later. I think that you know some of us at this table were at a different table back in 2019 when the world looked pretty different. And in similar language, I believe was I don't want to say noncontroversial, but relatively non-controversial. And

I believe got through, someone correct me, Greg, you were there. So, correct me if I'm wrong, but the subcommittee and the main committee on consensus, including from all sectors of institutions and I guess I would just say that you know if we look at how the world has changed since we were in person in that room in 2019, I think the need for this is even more critical. There's no question the distance that is here to say that it's going to be a large portion of students, a large portion of institutions. And I think it would be a real shame to not have seat protections. I understand from the institution perspective that there is tremendous value in the Interstate Compact in the initial state authorization piece. You know, that's obviously something I don't see in my practice. It's pretty invisible to the students and legal aid. But I heard from you that it's important and I think that this language does a good job of balancing that concern with the concern on the back end of making sure that people are treated fairly. So, I just I appreciate the Department including it. I want to speak in support.

MR. ROBERTS: Thank you, Jessica.

Adam.

MR. WELLE: Thank you. So, this seems to me like a very obvious quality control measure that

simply just requires that institutions aren't violating state laws. From the perspective of AGs, I have to say it is not unusual. It is typical for a business that markets and sells its products online or across state lines to comply with the laws of the state where the consumer lives. That's where the transaction is taking place. That is the state in which that has the highest regulatory interest. So, you know the ability to protect consumers, I would say, is, if anything, at its height, when we're talking about one of the most important decisions, a person, consumer decisions a person makes in their life, and that the decision to make an investment in higher education. So if a state believes that there's a necessary consumer protection, for example, that schools have to make certain disclosures or you know a topic that we've talked about a lot, if the state decides it's an unfair debt collection practices practice to withhold transcripts, you know, it really shouldn't be controversial that the state be able to protect its own consumers and enforce those laws. And those are important policy questions that state legislatures can consider and maybe states can decide to exempt those laws when a school is operating under a reciprocity agreement. That's actually what we have in Minnesota to a large degree. And that states subject to



the reciprocity agreements can be exempt from those from those statutes. But that's the prerogative of the state. And if they think that and it's their prerogative if they think the consumers are adequately protected under the reciprocity agreements, and you know there are very significant concerns with a lack of consumer protection for schools operating online. And those are detailed in the letters that I circulated last night that come from a bipartisan group of 25 state AGs, where we lay out the concerns, we've had for several years now with a lack of consumer protection for students who are subject to distance learning. So, I think that without this provision, there's a huge risk of impunity for schools that potentially engage in fraud and abuse. And I think it makes complete sense for the Department to make sure that this provision is in there to ensure that programs are complying with state law. Thank you.

MR. ROBERTS: Thank you. Emmanuel.

MR. GUILLORY: I wanted to share that I agree and respect the comments of my colleagues regarding strong consumer protections for students. I wanted to share kind of what we've been hearing back from our member institutions in our sector, which are who are all very, very concerned about this language because it would pretty much upend the SARA agreement

that they are a part of. Reason being is the states basically, often by legislative initiative, agreed to be a part of NC-SARA and it's a, it's a choice the state makes to be a part of that the institution then because the state' a part of NC-SARA then if they want to offer this education programs in other states, then they're able to do so without having to meet 50 different state authorization requirements in order to participate. Now, there are cases where in the memo that was sent by my colleagues that it does create a two-tiered approach where those states that are not a part of NC-SARA, a state could have stronger consumer protections than what's actually in NC-SARA, but I think what we're also not talking about is that there are other states that have weaker consumer protections that actually have to rise up to the minimum standards of consumer protection standards within NC-SARA too, as well. And from what I'm hearing, that's around 30 to 40 states or so that don't have the strongest consumer protection laws that have stronger consumer protection laws because of their participation within NC-SARA. So, I think the conversation more would be about how could increase consumer protections happen within the reciprocity agreement versus upending the reciprocity agreement due to this. We and I am articulating all of the many

concerns that I'm hearing from our members about this issue and so that seems to be the biggest one. We definitely don't want to have a situation where institutions that are a part of the that are a part of NC-SARA, all of a sudden, there is no reciprocity if you didn't have to comply with many different other state rules and laws and regulations that why are you a part of the reciprocity agreement? It just doesn't even exist really anymore, so.

MR. ROBERTS: Thank you, Emmanuel.

Brad.

MR. ADAMS: I'm going to second what Emmanuel just said. I mean, there's no requirement for states to participate into this reciprocity arrangement, and California is a perfect example. They didn't think that, I'm assuming it's because they didn't think the consumer protection laws were strong enough so they've dropped out and you have to get separate approval in that state. So, any of the states at this table represented at this table could do the same thing. And so, I really struggle with all the finger pointing about SARA's consumer protection laws. I mean, there's no requirement for a state to participate in SARA. It's a complete choice on their behalf. And so, any state can drop out and do what California did, if that's what they

choose to do. I do think if that were to happen, it'd be a problem for students. It would be less opportunity for programs to be offered in their state because of the onerous process to get approved in every single state. But again, the Department of Education and states do not have to join SARA. They can do whatever they choose to do. And SARA is a good thing for students because it provides more opportunities for programs to be offered in their states than they would have if we did not have that arrangement. Thank you.

MR. ROBERTS: Carolyn.

MS. FAST: I just wanted to respond that I think that it's a little bit overblown to consider the language that's been proposed to cause sort of the collapse of SARA. I mean, I think that's a little bit of I don't know, not accurate characterization of what this is doing, because the language is specifically carving out those state laws that relate to obtaining authorization. So, in other words, the application, the licensing fee, those sort of state laws would be preserved. And I think it's important to keep that in mind when we're assessing whether this, you know what is the impact of this of this provision.

MR. ROBERTS: Thank you, Carolyn.

Debbie.

MS. COCHRANE: So, I also am very strongly supportive of this provision. You know, just a minor, potentially minor, clarifying point. California actually was never part of the agreement. It has declined to join. You know, it's not because there haven't been a lot of conversations about it within the state. There's been very significant conversations. Perhaps most notably, I would say there is a state regulatory agency called the California Law Revision Commission that kind of tried to take up the issue a couple of years ago to really look, it's kind of a neutral entity providing guidance to the legislature on where laws might need to change. They looked at this issue for SARA and said, you know, should we look at changing the laws in California to allow the state to join the reciprocity agreement? They ultimately set it aside. But I want to read just a very short excerpt of their paper on this, which is, SARA sets a regulatory ceiling above which member states cannot go. In other words, member states appear to cede their regulatory control to an external policymaking body. So, I think that that's kind of it just in terms of in a nutshell of why California hasn't joined the agreement, I think that that's a relevant argument to put forth. I also do think that, you know, obviously there's a lot of people with a

lot of prerogatives in here. There are states who can join. I appreciated Adam's example of how there are state consumer protection laws and the legislature can leave them for certain for certain institutions within the reciprocity agreement. But similar again to the licensure point, it's also the prerogative of the Federal Government to figure out where federal taxpayer dollars should be spent and what types of consumer protections should be available in there. I don't, you know, I don't think anyone looked at the last language with respect to hours associated with various licensure programs, saying, now we're going to eliminate all licensure programs. Right? We said, we looked at those and we said, I think this would force an evolution in these programs at the state level. And it's an evolution that we all understand why, what the goal is there. And it's an evolution that the Department wanted to use its position to try to try to move forward. And I see this at the same thing. I don't see this as I don't see this as undercutting a reciprocity agreement. I see it as furthering the evolution of it in a more consumer protection direction.

MR. ROBERTS: Thank you, Debbie. Adam.

MR. WELLE: Yes, just wanted to add to push back on you know the I do think it's hyperbole to

say that this would upend NC-SARA. This would allow schools to obtain authorization licensing through their portal entity and have it recognized through a reciprocity arrangement. What we're talking about here are substantive consumer protections in the states, and that is what would apply and that is what institutions would have to do. They would have to make sure that they're complying with those substantive consumer protections in those states. I just want to add, I think at bottom, this is a problem of incentives. If only the institutions, the home states as consumer protection laws apply, which is how NC-SARA currently operates, schools will inevitably flock to the states with the lowest level of regulation and the lowest level of resources to be able to enforce those laws and have the least amount of interest in protecting consumers out of that state. If this provision is in there, it's going to change those incentives. It will incentivize NC-SARA to boost potentially their consumer protections and maybe that will lead states to say, well, the consumer protections in NC-SARA, are adequate and sufficient and are protecting our consumers. So maybe we would exempt our laws, those state specific education laws in our state if we think those consumer protections are sufficient. So, I just think this is very much necessary

to preserve to change those incentives and really preserve the integrity of these programs ultimately, which is what this is about. Thanks.

MR. ROBERTS: Thanks. Greg. I see your hand up. Did you want to weigh in?

MR. MARTIN: Yeah. I appreciate all the conversation on this, certainly. I think we have hit all the relevant points. And I want to say for the record, the Department's position on this, we have considered this. We did have some conversations about it last night and this morning. And what it comes down to is our position here does not in any way prejudice the merits of NC-SARA and what it's attempting to do. And in looking at what is in romanette three, noting that except where the state requirements for obtaining authorization are inapplicable pursuant to state authorization reciprocity. So, we're keeping intact everything dealing with reciprocity with authorization. And we feel that that's a very, very noble, noble pursuit there. What we're talking about here mostly is the protection for students and that these institutions who are involved in SARA as any as are any institutions, any entity that provides basically a service to consumers that needs to comply with the state consumer protection laws, that's a basic protection for students



who participate in these programs and who benefit from Title IV and who in many cases are taking out loans, obligating themselves to repayment for these programs, that we do not see that requiring an institution to adhere to applicable state consumer laws in any way prejudices SARA or makes a judgment on that or it's quite the opposite it's simply there to protect students and I just want to reiterate that's where we stand. I think if people still have some relevant comments where we haven't gone yet, I'm fine with that. We do need to move on at a certain point because I'd like to get through the paper. Thank you, all.

MR. ROBERTS: Any new discussion on this that Jamie or Kelli you'd like to add?

MS. STUDLEY: I would, and I can be very brief. Go ahead?

MR. ROBERTS: Go ahead.

MS. STUDLEY: Okay. I've spent more time thinking about the ramifications of this particular issue than any other provision and about the theory of change. Greg kind of stole some of my points so I can collapse them. California institutions, including both publics and small nonprofits, eagerly seek the benefits of a strong reciprocity agreement. This provision could help move reciprocity in the direction of achieving its

potential. And like Barmak and some others who've mentioned it, I stand ready to participate in discussions about constructive strategies that can get the boat the best of the advantages of reciprocity while satisfying these consumer protection requirements. So, I, I support that position all around.

MR. ROBERTS: Thank you, Jamie. Kelli, would you like to add anything?

MS. PERRY: Yeah, I'll be very brief because I'm clearly not an expert in this and have learned a lot about it in the last few days and talking with everyone that we've talked to as far as our constituency. But the thing that I've kind of come to after listening to all of this and listening to what we heard was that you know there are a lot of states out there that have consumer protection laws that would benefit students tremendously. But as evidenced and I think Adam's, I think it was Adam who submitted a letter where 25 of the state AGs signed it, but there's 25 states that didn't. And my understanding is that there's, you know, 25 plus states out there whose consumer protection laws either don't exist or are much less than what SARA has in place currently. So it seems to me if we're trying to protect students, which is obviously the ultimate goal here, that, you know, maybe

the course of action is to, you know, work with SARA in order to come up with consumer protection that would apply to all states so that students are being protected equally across all states, as opposed to some being protected more because their states have consumer protection laws where there's other states out there that don't have them and those students are not are not benefiting from this language.

MR. ROBERTS: Thank you, Kelli and the rest of the committee. Greg, do you want to do want to move to the next section?

MR. MARTIN: Yes, I think we need to move on. I thank everybody for the very robust discussion and it was very informative. We are moving on to 33. Just make sure I'm where I want to be. Yes, I am where I want to be. So, let's see. Yes, so we are in 33 and at negotiators' urging, we have added a PPA requirement here that the institutions may not withhold transcripts if those holds were caused by the institution's error in Title IV HEA calculations. Please note we've also expanded the provisional conditions in E related transcript withholding on the next page and I'll read that section. So, the new 33 would read it will not withhold transcripts or take any other negative action against the student related to a balance owed by the

student that resulted from an error in the institution's administration of a Title IV HEA programs or any fraud or misconduct by the institution or its personnel, unless the error was a result of fraud on the part of the institution. And I'll also read 34 and then I'll stop there for comment. In 34, we have proposed a PPA condition that addresses the problem in which institutions sometimes act to foreclose the federal funds, aid to which students are entitled to through various inducements, incentives, or coercive tactics. We believe that it's critical that students be able to access all of the aid they need, including to ensure they're able to afford basic necessities like food and housing. This language will allow the Department to ensure it can do so. We have added an exception related to institutional scholarships that at least make up for the difference in student loans, which ensures that the college can be more affordable for those students and leave them less indebted at graduation. So I'll read 34. It will not maintain policies and procedures or condition institutional aid or other student benefits in a manner that induces the student to limit the amount of Federal Student Aid, including Federal Loan funds that the student receives, except that the institution may provide a scholarship on the condition that a student

forgo borrowing if the amount of the scholarship provided is equal to or greater than the amount of Federal Loan funds that the student agrees not to borrow. So, with that, I'll open it up the floor up. And what I would like to do is do it sequentially. So, let's start with all comments related to 33 first, and then move on to 34.

MR. ROBERTS: And Johnson, I just want to note that Johnson's at the table for legal aid and I'm going to ask the committee, try to hold their speaking time to two questions for the Department or concerns that they'd like to surface. So, with that, Amanda.

MS. AMANDA MARTINEZ: Sorry. I was misunderstanding. You only want us to ask questions?

MR. ROBERTS: Rather than using speaking time to indicate support for the provision. If just in the interest of moving to the document, if you've got questions or concerns for the Department.

MS. AMANDA MARTINEZ: Okay. Sorry, I just, I thought you said only questions. Well, for 33, I would like to express my disappointment with the Department's attempt at trying to address the concerns brought by negotiators on this committee. And also, you were lucky to hear from students themselves. You know, a

lot of folks on this committee like to say that we're here for students. But I think the best advocates for students are when you actually hear their own words and their own stories. And we were able to hear actually we were privileged to hear students come forward in public comment very quickly to tell their story. For instance, on March 15th of this week, we heard from Kristy and she talked about how transcript withholding ultimately upended her higher education goals. She, I'll quote her and her words are better than mine. She says, "In consequence of this holding, I was unable to finish my educational journey and was set back years of progress. Transcript withholding ultimately delayed in my education, and because of this withholding, I missed out on opportunities that would have presented themselves to me if I had remained on track towards her own personal goals." So, she was derailed. She was unable, she still continues to try to achieve that feat, which is admirable for her. But would've ultimately been able to accomplish it if it wasn't for institutions and the Federal Government not being able to solve this problem for her, which they should have. Institutions should work for students, not against them. And specifically, the Federal Government should also play a part as a separate, larger institution governing other

institutions. Also protect students' rights in this in this context. So, we would while this is a great attempt, this is a very specific and limiting scenario, it does not cover what you actually hear from students' stories and personal experiences with this issue. So, we recommend strongly recommend that you take up actually banning withholdings and not slowly attempt and try to make not necessarily a meaningful change here. It's a large problem. So, with large problems, you have to put forward good substantive policy solutions. And this is not that.

MR. ROBERTS: Thank you, Amanda.

Johnson.

MR. TYLER: Yeah. You know, I'm disappointed, but I'm you know I'm not surprised, given the way the conversation is going that we haven't really got anything meaningful here. But I would say I think this is really actually counterproductive. And, you know, I've been litigating with a large institution, a public institution, over their failure to help my client get aid and now they're suing him and administrations are not likely to admit they made a mistake and then give you your transcript. I think that's a useless and, you know, farfetched, especially if, you know, you have to really know your stuff to show where someone made a

mistake. And I just don't think that's going to happen. It's not realistic. I'm very concerned that this is the first regulation that would be out there where the Secretary's actually discussing about transcript withholding. And it's essentially saying that the practice you know is acceptable if it wasn't at the fault of the school or the school has that that ability to do this. I'm worried that that's going to discourage the efforts that are going on in my state and in other states to ban transcript withholding that they will somehow be perceived as preempting this field. And you know, if we can't be heard on this I would, I mean I would ask you know that there be some rulemaking on this issue and that it not be addressed in 33, that the language be scrapped. But if the Secretary is going to go forward with it, that they have to say something about this not preempting a state's right to ban the practice. Thank you.

MR. ROBERTS: Thank you, Johnson.

Ernest, you are next.

MR. EZEUGO: Thank you. Yeah, I [inaudible] myself with Amanda's and Johnson's comments here, you know I can acknowledge that in many ways, 33 is, if anything, kind of a tacit acknowledgment that the Department realizes that this is a problem and can act



on it. I have to say that the scope of issues related to transcript withholdings covered by the current language is itself de minimis. I just don't think and I would echo again Johnson's concerns about the likelihood that you know institutions kind of stumble over themselves to report their own errors in this in this extent. But also, I think it is clear both from the comments, the public comments we received on this, I even have one to share from a student who reached out to me directly that was waitlisted, that this is just not, the text, what the text I think tries to address in 33 is just not where the concern of the issue is, especially related to students from low income backgrounds. You know, Amanda is right that this is this is a policy practice that has had disparate impact on [inaudible] low-income backgrounds, on black and Latino students. And it requires fixes that go far beyond the scope of what we're seeing here. I don't even think if in just in full disclosure and respect that what we see in 33 here necessarily even covers comments that the Secretary and the CFPB have made on their concern about this issue. I would really, really, really like to see the Department go a little bit harder, to be honest on this and the [inaudible] and I will I'll get back in line. And I'm sure other folks have things to say about this, but I

just wanted to add to the course there as a student.

MR. ROBERTS: Thank you, Ernest. Adam.

MR. WELLE: Thanks. I won't repeat our position on the transcript withholding issue that's been discussed in previous sessions. I think, you know we think it's an important consumer protection that should be in place. Just to add to Johnson's comment, you know, as state AGs, we often face arguments, you know often frivolous and incorrect arguments that state laws are preempted. You know, I've faced arguments that the Higher Education Act preempts certain state consumer protections. I wouldn't want any institution to try to claim that here as a way to you know avoid compliance with a state requirement on a transcript withholding. So, you know it might be helpful, just perhaps some sort of clarifying language in the regulation and the preamble wherever, just making it abundantly clear if it wasn't already that the provision doesn't do anything to disrupt a state's efforts to protect consumers and debt collection around transcript withholding.

MR. ROBERTS: Thank you, Adam. Greg, would the Department care to move to the next section?

MR. MARTIN: Yes, remember I did ask for a discussion on 34 if there is one. If not, we'll move on, but I want to-

MR. FINLEY: Yeah, I would like to address something on 33, Greg, before we move on, if there are no other comments on it.

MR. MARTIN: Go ahead, Steve.

MR. FINLEY: So, there's a couple of issues here. I mean, basically, the Department oversees the administration of the Federal Student Aid programs, making sure that the institution is meeting its obligations to determine, administer, and properly return unearned Title IV funds on behalf of the student. Separate from that is the student's agreement with the institutions. And that agreement in many in most cases determines the amount of funds the institution is able to charge the students. And that's separate from the Title IV requirements. What we're proposing here are actually touching the areas where we think there is some connection enough connection with the Title IV programs to change that relationship in the contract with between the student and the institutions. Specifically, you might not realize it, but in 33, the Department has seen a number of instances where schools awarded too much aid to students through their own improper calculations and determinations of aid and then when they corrected that procedure later in return, the Federal Student Aid funds back to the Department, they billed the student for

those amounts. And what we're doing here is to say they can't at least take other actions against the student to withhold a transcript or other negative actions when it's the institution that's made those errors. And those are the cases where the Department hears about this, right? This is brought to Department staff attention sometimes by the students. And in the past, we've had to say you know we don't regulate the charges the institution is able to assess you when they've had to return Federal Student Aid funds, even if they were the ones that improperly overestimated the amount you were entitled to receive. So, this is an area where we're trying to put a little more balance back in favor of the students because there is a Title IV connection. And I would say the same goes for where the Department is determining there's some risk of closure by the institution. Right? There's and so that's why you see what you see here. And I understand and we understand it doesn't go as far as you want it to, but we are concerned that we need a Title IV connection to try to regulate in this area and the proposals in front of you try to strike that balance.

MR. ROBERTS: Thank you, Steve.

Johnson.

MR. TYLER: No, I appreciate that. I

see there's a disconnect between the reality of the students and the obligation of the Department of Education to protect taxpayers. I completely get that. But I think it's all the more reason we actually need a meaningful negotiated rulemaking on this issue. Six million people, some studies say, are affected by this. And, you know, my experience in the statistics are that there are low income people, and many of them involve Pell recipients who no fault of their own, they cannot continue, they drop out at the wrong time. If they dropped out 60 days into the semester, they wouldn't have this problem. I think that's the number. But they drop out three weeks in and then they're on the hook for lots of money. I just think this is not what this is not what the Pell Grant was designed to do. It was supposed to open doors, not close doors, and it's having that effect. So, I really, you know I hear what you're saying, Steve, but I think it's all the more reason we have to have some discussion to figure this out. And you know I understand that it wasn't on the agenda and you're only hearing the harm it's causing and the racial impact that it's having. But I think you know there's some way we've got to get together on this. So, thank you.

MR. ROBERTS: Okay, Adam.

MR. WELLE: Thanks. Just quickly to, just to respond to Steve. I guess, you know, Counsel, I think I just disagree on the on the basis for saying that there's no authority to make this kind of regulation. It seems that the Department has a direct interest in making sure that when it is distributing financial aid and it invests in a student, it should be able to tell the institution that receives that aid that it has to provide proof of that you know that education that was invested in to employers, other schools, etc. If the student can't obtain the transcript, the investment that the Department has made in the student for that past financial aid is lost. It's meaningless. So, I feel there is a direct connection and I think there's, so I think there's plenty of basis for the Department to act here. But I respect that that's the Department's position right now.

MR. ROBERTS: Barmak.

MR. NASSIRIAN: I want to emphasize that I appreciate the technical nexus that the Department is seeking to apply whatever protections it offers. But I have to tell you, to the extent that the vast majority of unpaid receivables are from low-income people who, as Johnson pointed out, could never have afforded to pay a dime on the front end, were fully

packaged because they're so poor that they would not have an expected family contribution. We expose those people to the risk to risks, which, by the way, they're much, much at much greater exposure to. Because when you're poor, there are many different ways in which your education could get disrupted. Right? You could get sick, your mom could get sick, your car breaks down, etc., etc. So, so we're exposing those, we're essentially checkmating those aid recipients who because they were so poor that there were zero [inaudible] fully packaged, who then drop out for various reasons to essentially a complete cessation of any opportunity until they can offer blood from a turnip. I think there is a Federal interest here to the extent that the purpose of these programs is to elevate folks to enable economic mobility. At the very least, even if you don't want to ban transcript withholding across the board it ought to be prohibited for Pell recipients who for whom the balance is a function of having dropped out. Because, remember, some of us are old enough to remember the refund rule in HEA, which was then replaced with Return of Title IV Fund. That bifurcation, when the Federal Government decided it was only going to manage its own refunds and not worry about students, that's at the root of this problem. And I think that the

Department of Education has every legal right to assert some jurisdiction with regard to at least that population. Because talk about disparate impact, talk about racial justice and really unequal application of risk. That is the population these programs were designed to help and that is the population that is getting very disproportionately hurt by transcript withholding. We do not want to mitigate the right of institutions to collect. The Department is saying don't collect any debt, don't use the easy way out and hold somebody's education hostage in perpetuity until they can cough up money they simply don't have. If their aid recipients, the Department has jurisdiction.

MR. ROBERTS: Thank you, Barmak. I see Ernest and Debbie's hand, hands. And I think we'll take those two comments and then Greg, does Department need a short break?

MR. MARTIN: Yes, after that I would, I do want to, but let's take the two comments we have in the in the queue and then I want to, and any that pertain to 34.

MR. ROBERTS: Okay. Okay. So, Ernest and Debbie, please.

MR. EZEUGO: I can't emphasize or appreciate Adam's or Barmak's comments enough here on



this [inaudible] and I want to touch in particular about something that Adam was alluding to here about kind of the Department's consideration of past investments nullified and these agreements, right? And I want to preface by saying, you know, maybe I shouldn't have used de minimis. I can own that. I appreciate and respect, and Steve, I appreciate your kind of clarification on where the Department's thoughts on this are. I appreciate that there's thought in this and again, that kind of tacit acknowledgment. But I do wonder if the Department doesn't have the authority to think about, consider in this process and in this paper in particular, what happens to their investment in students because, I mean, you know, say what facts are about transcripts. Most students who have issues with transcripts withholding, their balances are held usually on account of a semester's work [ph], occurrence or class [ph] who knows what kind of recent charges and their entire transcripts are 100 percent of their transcripts are held as a result of that. So I would then wonder, you know, in combination with the comments that Barmak made just about the Department's broad authority and quite frankly, historical you know perspective on standing up for students, particularly from for these subgroups, I would wonder then if that

doesn't also come into play, this idea that, you know, it would be one thing entirely if we were talking about partial you know locking, you know locking behind transcripts or partial you know parts of the transcripts under debts owed. But it's I don't know; I'm struck by that. And I really I have a hard time accepting that you know under these circumstances you know where students you know can't get these transcripts or, in the worst case, the worst instances, you know their entire degrees and proof that they completed college because of balances held and can't use those transcripts to go and transfer out to other institutions to continue their education or apply for jobs in many cases. I just kind of wondered then if there's not additional steps the Department can take on this. And in this part, in this section subsection, I'm sorry, in particular.

MR. ROBERTS: Debbie, and then we'll move on to section 34.

MS. COCHRANE: Thank you. I will be very brief. I think if I am understanding the Department's comments related to authority, it would seem to me like another way of approaching the issue would be to prohibit the withholding of transcripts for any student who had previously received Title IV regardless of what the debt was attributable to. Those

seem like those are the students that the Department has invested in and where the Department should be most concerned about that investment paying off.

MR. MARTIN: Thank you.

MR. ROBERTS: Anything new for the Department's consideration on section 34? I know we had, yeah, Will, please.

MR. DURDEN: I want to just clarify in reading in this section that it's not the Department's intent to suggest that if an institution isn't participating in the loan program, that that itself constitutes a policy that induces the student to limit the amount of student aid that they receive. It doesn't seem like that would be the intent, but you could read that in that language.

MR. MARTIN: No, that's not the intent. As I say, we just want to be certain that there is the student that the institution not doing anything that will has any policies to limit the amount of Federal Student Aid, including Federal Loan Funds the student receives. And that includes practices such as limiting the amount of student can borrow, even if the reasons for that are in the view of the institution altruistic, such as controlling the amount of debt students receive, trying to have some type of a default

management plan. Loan amounts under a Direct Loan program or statutory entitlement. So, any of those things where we've seen instances where institutions will make students fill out forms as to why they need that money, the only reason why they need it is cost of attendance, minus EFC, minus EFA provides a number, and that is where you figure out where students are eligible for. So, we are just want to preclude all those all those types of all those types of practice and any anything else that would any other way a school might be inducing a student or coercing or any way not to take aid. Now, there's nothing wrong with an institution counseling a student saying, you know, you don't you don't have to borrow the full amount that you're eligible for. It may be wise or judicious to borrow less if you don't need to borrow more. We have no problem with that. But these are policies or other types of conditions on a student receiving aid that he or she is eligible for.

MR. DURDEN: Great. And that makes sense. And we assume that that's the intent. But just wouldn't want any suggestion that an institution somehow must participate in the Federal Student Loan Program.

MR. MARTIN: No. No, we don't require participation in the student loan program, no.

MR. ROBERTS: Thank you. Brad.

MR. ADAMS: Yeah, Greg, I think that mostly answered my question. I was more confused. I thought this was already a rule. So help me, is this just codifying something that already exists? I've always known that you can't limit a student's ability to take the Federal Aid that they're eligible for. And if you have your own loan program that may have a lower interest rate than the Feds, that's okay to present to the student as well. Like get a 0 percent loan, maybe help me understand why we need 34 as a rule is if that's already in place somewhere else.

MR. MARTIN: Well, it's I you're absolutely right, Brad. It is in place in various other measures. And certainly it's implicit in the law itself. We just felt the need to make it clear here that, you know actually put it in a regulation so that we can cite to it. In my mind it's always gone without saying that you cannot limit the amount of loans a student might receive in an arbitrary way. But there are schools that do it, and I think a lot of them do it for purposes which they believe to be quite noble. I don't in a lot of cases it isn't done with any type of malice or anything like that. But it's not an acceptable practice. I'm not aware, it's pretty, as far as grants go, it's

awfully hard to limit. I mean, the Pell Grant is what the Pell Grant is. We do allow students to turn down his or her Pell Grant due to lifetime eligibility limits if they want to. But I don't think that's so much of an issue. It mostly comes into play, I think with loans. But I don't disagree with you, Brad. I just think that it was necessary here to state this in an actual in an actual regulation.

MR. ROBERTS: Okay, thank you. I was unaware that that was even an issue. So, I guess if you need to state it, you can. I was just making sure there wasn't anything else I'm missing around- [interposing]

MR. MARTIN: No, I don't think it's-

MR. ADAMS: -anything like that.

MR. MARTIN: I would say this if institutions are packaging, if institutions are awarding aid in accordance with existing rules and this shouldn't cause any change in what institutions are doing currently.

MR. ROBERTS: Okay, Marvin. I just want to note that Jessica is back in for legal aid. But Marvin, take it away.

MR. SMITH: Greg, just an observation that, you know, in the GE session we were talking about Parent Loan debt and maybe some bad actors encouraging

Parent Loans. And I just didn't know if you wanted to be even more specific on this with parent borrowing. I actually, yeah, so just a question or suggestion.

MR. MARTIN: Yeah. You know, that's a good question. And I think when it comes to Parent Loans, it's kind of a great thing because everybody knows that there are plenty of situations where a student would be eligible for, loans, but the parent steps in and says, you know, I want to I want to borrow I'll borrow that amount of money. That's perfectly acceptable. Where the boundary is between that and a school, I think coercion is the strong word. But inducing in some way or heavily suggesting that the burden be leveled on the parents as opposed to the student loan. That is potentially a problem. But I think it's difficult to determine where that occurs. I know that you know in my own situation, you know my own daughter was packaged for unsubsidized loans, which we chose not to borrow because I rightly or wrongly am paying for it. But I think a lot of us are probably in that situation. But I've just decided that I didn't want her to have any debt for undergraduate loans, but undergraduate education. But yeah, I take your point, Marvin. I think it's an interesting one, but I don't I'm not sure it can be addressed in the context of this.

This is more like there is that issue of shifting responsibility. But here I think we're dealing with cutting off or in a way precluding a student from borrowing. And that would be, if a school said the student shouldn't borrow this, a parent must borrow it because, you know, we're worried about our default rates that would be covered by this because the student the school would be in some way coercing or inducing a student not to borrow his or her full eligibility.

MR. ROBERTS: Greg, would you like to take us to the next section?

MR. MARTIN: Can I request a break, please?

MR. ROBERTS: Sure. What are you thinking?

MR. MARTIN: 15 minutes.

MR. ROBERTS: 15?

MR. MARTIN: Yes, 15 minutes.

MR. ROBERTS: It is 2:40. I'll ask folks to be back on at 2:55.

MR. MARTIN: Thank you, everyone.

MR. ROBERTS: Welcome back, everyone. We are about 35 minutes away from public comments day and indeed our last public comment of this negotiated rulemaking as we will not be having it tomorrow. So, we



do urge folks who do have an assigned speaking time to please log on a little bit early just so we can get you all set up and make sure we can transition to that period smoothly. But with that, Greg, I'll turn it back over to you. Do you want to walk us through the next section?

MR. MARTIN: I'm going to do that. Before we start with that, though, I'm going to have Vanessa bring up 32 back onto the screen for a brief moment here. And here we have some changes we made. We did, I did take back all of the suggested changes for 32. What you see in front of you here is the only change that is the change that we were able to get approval to put in. We, regarding the suggested changes to romanettes one, two and three that were not associated with programmatic accreditation, the Department has some concerns about the potential for abuse given the case-by-case exception, so we were unable to move there. I will discuss what we did here in 32, and you can see that we have made some change to the text in consideration of the discussion we had about programmatic accreditation. So just going back and reviewing each state where the institution is located in which students enrolled by the institution are located, the institution must ensure each program is eligible for

Title IV HEA program funds, is programmatically accredited if such accreditation is required by the state or a federal agency, except that programmatic pre-accreditation is sufficient if acceptable according to the state or federal agency. So that was the change that we were able to make in in 32. Vanessa, would you bring up E, please? So, we're going back to 14E. We are on page eight at the very top. The original document. Here we go. Thank you very much. So, in E we're just starting from the stem [ph] there. If an institution is provisionally certified and if an institution is provisionally certified, the Secretary may apply such conditions as are determined to be appropriate to the institution including. And if we move down to two, at the negotiators' urging we have added an additional cases in which transcript withholding may be prohibited. So, we are just incorporating that language and that's if the institution is at risk of closure, if the institution is teaching out its students, whether itself or through a teach out or transfer agreement with another institution, if the institution is not financially responsible or if the institution is not administratively capable. We believe that this will have a real, meaningful impact on students' access to their educational records and cover a wider swath. Again, I

don't want to reopen debate. I think we've already explored all of the of the relevant opinion on that topic of transcripts. So, I don't want to open that up. And then I'll move on to, I want to make sure I get this right here. So, we are in E. I'm sorry, we're moving to F. And just to read the stem there for proprietary institution. If a proprietary institution seeks to convert to nonprofit status following a change in ownership, the following conditions will apply to the institution following the change in ownership in addition to any other conditions that the Secretary may deem appropriate. And we have, no, I thought there was a change there, but there is not. I'm sorry. I was wrong. We have there's no change there. The next change I see is to G. So, let's roll down to G, Vanessa. My apologies for squandering your time there. There were no changes. I thought there were, but there are none. So, G, we do have a change. This is if an institution that's initially certified as a nonprofit institution or has undergone a change of ownership and seeks to convert to nonprofit status, the following conditions will apply to the institution upon certification or following the change of ownership in addition to any other conditions that the Secretary may deem appropriate. And we've added some clarifying edits here to this language, including

that institutions must submit reports on state accreditor actions and new servicing agreements, both within ten days of receiving the notice of an action or of entering into entering into an agreement. And that is reflected there in G1. The institution that the institution must submit reports to an accreditor and state authorization agency, must submit reports, rather, on accreditor and state authorization agency actions and any new servicing agreements within ten business days of receipt of the notice of an action or of entering into the agreement as applicable until the Department has accepted, reviewed, and approved the institution's financial statements and compliance audits that cover two consecutive fiscal years following the initial certification, or two complete fiscal years after a change of ownership, or until the Department approves the institution's request to convert to nonprofit status, whichever is later. And let's makes certain that, and then we have a change in, nope that is everything that we have for E. So, sorry, everything we have for F. So, I'll open the floor to any comments on what is in what is in F.

MR. ROBERTS: New comments and suggestions for the Department on what was just outlined. Yael, who I will note who is sitting in on

behalf of state attorneys general, please.

MR. MARTIN: I'm sorry. I meant E and F, I'm going to correct myself.

MR. ROBERTS: Right, right. E, section E beginning subsection two and below, inclusive of that.

MS. SHAVIT: Thanks. And Greg, I took your comment about wanting to move on from transcripts. I do have one comment that I think isn't wasn't covered before and I don't think will invite responses but I wanted to just put it on the record, if that's okay with you, and that I hope would be helpful.

MR. MARTIN: Go ahead.

MS. SHAVIT: You noted, or Steve noted, the view that the Department may lack the authority to place conditions on the debt collection methods of institutions. And I want to note, you know I think this may be inconsistent with positions the Department has taken in the past. And just as support for the notion that the Department does have this type of authority, I wanted to you know point in the direction of the Department's arguments in its summary judgment briefing and the CAPS [ph] litigation that were that prevailed, but I think are relevant. There, the Department argued, you know, and I'm quoting here, but I'll do this very briefly, you know, the Department

stated, "Congress has granted the Department authority to include in its PPAs with institutions such provisions as the Secretary determines are necessary to protect the interest of the United States and to promote the purposes of the Direct Loan program." And in that context, I've made a point of noting that you know Congress can delegate to the executive branch agencies the authority to attach conditions on funding. And while there's a nexus that needs to be met with respect to those conditions in the Title IV program, the relatedness showing that's relevant there is not only this is the Department's language, it's not a difficult hurdle. And in fact, it requires only some relationship between spending conditions and the purpose of the Federal spending. You know, Debbie made the comment here that the Department could put conditions on transcript withholding specifically as to those students who did take out any Federal funds. I think that would more than satisfy the nexus requirement, as the Department has itself previously stated it, and I think you know would certainly go a long way and as the Department noted, protecting the interests of the United States and promoting the purposes of the Direct Loan program. I think in fact it would promote the interest of taxpayers and students. So, I appreciate that you're being

thoughtful about this. And I just want to point you in the direction of those previous comments.

MR. MARTIN: Thank you.

MR. ROBERTS: Kelli.

MS. PERRY: I just have a clarifying question about the, and I apologize, it's the one with the transcript question, but it says that an institution not financially responsible. I just want to make sure that, so if an institution falls into a situation where they fail a composite score, but they do post the 50 percent letter of credit which deems them financially responsible, that they wouldn't be subject to this. I think that's the case. But I just wanted to confirm.

MR. MARTIN: Steve, do you want to address that?

MR. FINLEY: I would agree with that, Kelli.

MR. MARTIN: I would as well.

MS. PERRY: Thanks.

MR. ROBERTS: Thank you. Brad, I see your hand.

MR. ADAMS: Thank you. I also had a question on E2 on the risk of closure. And I wanted to find out if this is referencing the six-digit CIP or would this also include any branch campus that was being

taught out at the eight-digit OPEID? I think I said CIP, but I meant OPEID if I did. I just, curious, is this at an institutional level, is this also include any teaching out at a branch location, Greg?

MR. MARTIN: We've not, I would interpret, I'll ask Steve to step in here if, I would look at this as being any entity that would be subject that would be at risk of closure, whether it's the main institution itself or any additional location. Because the key the key here would be if the student is attending an additional location of an institution that's at risk of closure for any reason that that it that it gives those transcripts to the students there.

MR. ADAMS: I'm more referencing-  
[interposing]

MR. MARTIN: Irrespective if the main is, I'm saying if the main would remain open but that additional location would be closing that it would be applicable to that location.

MR. ADAMS: So, you believe if you're teaching out at a branch location that you would do you would release all student holds. And this is clarifying for me, I'm, you know, not that I'm saying I agree or disagree on the approach. I read it at the institutional level, is why I'm asking.



MR. MARTIN: Go ahead, Steve.

MR. FINLEY: Yeah, Brad. Now, I think we would look at that on a location-by-location basis. Would that be your suggestion?

MR. ADAMS: Yeah. Well, my question is, is truly like, I read this, this is an institutional rule. But if you're teaching out a location for good reason, do you have to then release all transcript holds from that teach out even if the school itself is financially capable and administratively capable and all the other things associated with what we've been discussing over the past week?

MR. MARTIN: If that location is at risk of closing, I think what this is about getting the transcripts to students wherever they are. So, if the question is being phrased, I hope I get it right. We've determined the additional locations at risk of closure for any reason then we would expect the transcripts to be released at that level, even if the main institution was not in danger of closing.

MR. FINLEY: Yeah, let me just ask another question. I certainly think it would facially apply if there's a precipitous closure. Right? Even with a teach out, because there's certainly an opportunity for students to apply for closed school loan discharges.

Are you trying to describe situations where there's just a planned closure that's provided for you know well in advance and it's an orderly closure? We'd have to look at that. But-

MR. ADAMS: That's my question.

MR. FINLEY: -that seems different from what we're trying to reach here.

MR. ADAMS: Right, and that's my question. And it's not, I mean, the transcripts would be available to those students if needed, you know, so, at the main campus. So yeah, that was my question, Steve. Good orderly closure, is that implicated here on the release of student transcripts?

MR. FINLEY: And if you've got students doing a teach out and transferring, it seems like you would, there would have, you would have to be providing the transcripts for those students, right, without limitation?

MR. ADAMS: Yeah. So, I'm just really asking is do you have to release the holds on the student transcripts if you go through an orderly teach out and the main is still in operation and good financial condition and everything else.

MR. FINLEY: Well, we'll take that back and clarify it for you.

MR. ADAMS: Thank you.

MR. FINLEY: And for ourselves.

MR. ADAMS: Thank you.

MR. ROBERTS: Thank you. Jessica, I see your hand.

MS. RANUCCI: Brad, my read on this is that it's just preserved as discretion for provisionally certified institutions to imply that condition, which I think is appropriate, because I think it really would depend on the circumstances of the programmatic teach out. And so, to me that makes sense. Maybe I'm misreading it.

MR. ADAMS: That's helpful. I actually missed that this is only for provisionally certified institutions. I did miss that. Thank you, Jessica.

MR. ROBERTS: Okay. Thank you. Greg, I think I'm not seeing any other hands. Do you want to walk us through the last section, which I believe is 668.43?

MR. MARTIN: Yes. We're going to move on to 43. And this is institutional and programmatic information. And if I can just make certain here. We have a change here in A5, romanette five. It's the only one we have. We've just revised the language here to hopefully clarify the intent of the disclosure required

here under 668.43. So, in 5, if an educational program is designed to meet educational requirements for a specific professional license or certification that is required for employment in an occupation or is advertised as meeting such requirements, a list of all states where the institution offers the program and where the program does and does not meet such requirements. That is the only, that is the only change that we have in 668.43, so.

MR. ROBERTS: Vanessa, if you wouldn't mind bringing down the document. Thank you, Jamie, I see your hand first.

MS. STUDLEY: Is the institution able to have essentially a third category, that it has made no determination or it makes no claim that it does need, but it hasn't checked. Is that an option for-?  
[interposing]

MR. MARTIN: Not in this rule. The school, the institution, would have to make a determination in all states where the institution offers the program.

MS. STUDLEY: So, it's limited to states where they offer the program-

MR. MARTIN: Right.

MS. STUDLEY: -and then they have to

make one or the other of those determinations?

MR. MARTIN: Correct.

MS. STUDLEY: If there's a state where they say this, this is not being offered in X and we don't know whether it would meet those.

MR. MARTIN: Right if it's not being, if it's not being offered in that state, then it would not be required.

MS. STUDLEY: Okay.

MR. ROBERTS: Greg, I'm not seeing any hands up for this. Oh, Will, sorry, I spoke too soon.

MR. DURDEN: Sorry. I just want to clarify, make sure, it seems like this romanette five at the end here, if 32, if paragraph 32 romanette two goes through, isn't this superfluous? Or am I missing something in that?

MR. MARTIN: You know, it's funny you should ask that. That was going through my head, sort of. I was thinking about whether that does make this superfluous, if the institution is required to meet the licensure requirements in the state in which they're offering the program, would this be would this be superfluous or redundant? I think it's an excellent question. I can take, Steve, do you have any thoughts on that?

MR. FINLEY: Not off the top of my head, sorry.

MR. MARTIN: I don't really either, so I think I think that's an excellent point. I don't think it-

MS. FAST: Would it be okay for me to respond?

MR. MARTIN: Go ahead. Sure.

MS. FAST: I was thinking that the reason that that was left in was to address the issue that sometimes students are living somewhere but plan to move somewhere else and we don't need to, this wouldn't create an additional burden on a school because the school would already have to have done the work to figure out whether they meet requirements each state. But this would just make sure that students could find out if they were planning to move where whether they could, you know whether this, you know, I'm in Connecticut, I'm planning to move to New York, whether the program would meet the requirements.

MR. MARTIN: You know what? Thank you, Carolyn. That's an excellent point, because I think if you're looking at it from a, I think we have to look at it from not a program eligibility standpoint, but from a strictly consumer information standpoint because this is

in 43. So, it's [inaudible] programmatic information just announcing to, you know, or disclosing which states it meets the requirements and which states that does not. Of course, it wouldn't be able to offer the program where it does not. But since it would be known already, it would not list additional burden. So, that's an excellent point. So, I think that does address it. Thank you very much.

MR. ROBERTS: I do see Dave, our esteemed advisor, do you want to add anything?

MR. MARTIN: Go ahead, Dave.

MR. MCCLINTOCK: I just have a question; I don't know if I'm being dense. I feel like when I read this wording, it's different than the response that Jamie got to her question. It says, if you offer any program designed to meet educational requirements. So I'm a school in central PA offering programs to a geographic area and I'm representing that you are meeting licensing that I am meeting number one, then I have to provide a list of all states where the institution offers the program, it seems like it needs to designate that you're providing the program in those other states because that school would have a difficult time knowing what the requirements are in all 50 states. They're not operating in that capacity.

MR. MARTIN: You're referencing 43 again, Dave?

MR. MCCLINTOCK: Yeah.

MR. MARTIN: So, yeah. So if an educational program is designed to meet the educational requirements for a specific professional license or certification that is required for employment in an occupation or is advertised as meeting such requirements, a list of all states where the institution offers so it's only the list of states clarifies that there where the institution offers the program and where the program does and does not meet such requirements. So, it's only of those states where it offers a program. But again, it seems that if the school is offering the program in those states-

MR. MCCLINTOCK: Maybe adding the wording-

MR. MARTIN: -it would have to meet the requirement. But-

MR. MCCLINTOCK: If you add wording about in those states or something at the end, as far as what needs to be listed, I think that would clarify some of that.

MR. MARTIN: Right. I think that's maybe the language there could use a little bit of, I



mean, the intention obviously is as a disclosure to it, to disclose all these you know all these areas. But I do think that if you're listing the states where the, so the school offers the program, it cannot offer the program to students, Title IV for those programs unless it meets those requirements in the state. So, it's only where they offer the programs. And it would then necessarily, I'm not sure that they would be, where it does not meet the requirements, it seems to me it wouldn't be offering the program, but that's-

MR. MCCLINTOCK: What you're describing is intended. I understand that. I think it makes sense. I just have trouble connecting the wording as it is to what you are-

MR. MARTIN: Yeah, I agree. It is a little awkward, but that certainly is the intent.

MR. ROBERTS: Steve, did you want to, did you want to add to this?

MR. FINLEY: I just wanted to ask if people thought it would be clearer to put back in the language at the end of that sentence that was struck.

MR. MARTIN: That might be clearer because it just says a list of all states where it does not meet such requirements. But again, they wouldn't be offering the program there and in those states. So, if

it's, I think this. I mean, I absolutely can convey the intent here, which is as a disclosure because what we're trying to because this is different from the [inaudible] this is actually where the institution's required to disclose this information. So, if they're disclosing where they offer the program, then, they are in, the program is required to meet, must meet those licensure requirements in the state then they wouldn't be offering any states where they don't meet the requirements. And I see the language might be a little awkward as stated.

MR. ROBERTS: Okay, Barmak.

MR. NASSIRIAN: In a world where the way section 32 would read after the changes that the Department has made, I'm not sure the example that Emmanuel gave of a program in Louisiana that can only be opposed post facto on the basis of a transcript review, I'm not sure what the what the institution would do. Would, the institution could certainly not claim that it meets the requirements because those requirements can only be established by the state after the fact on a case-by-case basis. And it would be prohibited from offering it otherwise, it seems to me, because the language is so strict. But leaving that aside, it seems to me that Greg's comment is correct. If you keep that language the way it is so tightly mandatory, then I

think what 43 should say is just a list of where the program is offered, because by definition, the program could only be offered where it meets those requirements.

MR. MARTIN: I agree with you, Barmak. I think that's just one of those things where it wasn't precisely aligned. So I would be willing to go ahead and make that, I'm just going to ask my, my colleagues to make any comment to me regarding that. But I think I'm I think I'm correct on that.

MR. ROBERTS: Kelli, go ahead.

MS. PERRY: To me, I agree with Steve's comment or what was struck should in essence be put back in. Because to me, in listening to this, if schools are required to obtain state licensure in the states that they're offering the program, based on what's in 32, then what you would want to be disclosing to students is where the state doesn't meet those requirements. Right? So, if the student were to, say the student were to get their degree or whatever and they were going to move and they were moving to a state that they weren't going to have licensure in and the school doesn't offer that licensure program in, that's what I think that they would want to know.

MR. MARTIN: Yeah. I would think it would be easy enough for the school to list. I mean if

they don't, it would seem to me to be somewhat redundant to have to list something about a state. If you give a list, if you provide a list of states you don't offer the program in, that might be more instructive. I mean, it seems to me, my apologies for thinking through this as we're going through it, but there can only be two scenarios here. A, the school offers the program in a state, and if they offer the program in a state, then it necessarily meets the licensing requirements of those states for 32, right? It could be no other way. Or they don't offer the program in the state, in which case it makes no difference what any requirements are because they just don't offer the program, a student can't take the program in that state. So, I would probably structure it that way. I don't, if adding a list of states that does not meet requirements, that would get us there, I guess, because we'd basically be saying the school that's tacitly saying the school simply doesn't offer them it doesn't offer it in those states. So, we could I think by adding that back would get there if that would be acceptable to people.

MR. ROBERTS: Okay, I see a few hands. We'll go Carolyn first. But I do want to just ask the negotiators if they can keep comments brief so we can finish the day with asking the Department how they'd

like to proceed on this issue. Carolyn, go ahead.

MS. FAST: Just very briefly that, just want to make sure that it doesn't get lost that we don't want to just have a disclosure be where the program is offered because the more important part is for the student from the student's perspective, is where they're going to be able to get licensure. So just to make sure that doesn't get lost in whatever rewrite happens.

MR. MARTIN: Right. Well, they will I think according to our rules, it has to be they can't offer it unless there's licensure. But I think you're right, that should be disclosed. As a student knows, they will be licensed. What I can do is, entertaining more comments we have, so we're coming up on 3:25. So if we want to, I could, I don't know if I can feel this on my feet right now because as close to the end of the day as we are. But I can work on the lang- we can work on the language overnight and come back tomorrow morning and just take the consensus for it based on the new unrevised language, hopefully would be a little more instructive here, but I don't think any of us are in disagreement where we what we want it to say, it's just how we convey that. So, if you would allow me to wordsmith that overnight. And we can all sleep on it,

well not sleep on it because we're going to change, we're going to make some changes here. But I think we could make some changes toward clarity in this in this disclosure. But I think we have to, you know, the intent is obviously different than what's in 32. This is a disclosure. This is a disclosure requirement in 668.43. But I think the language still needs to still needs to align.

MR. ROBERTS: That'll be how we start off tomorrow. But I do want to note Emmanuel is coming to the table to ask a final question on behalf of private nonprofits. So go ahead, Emmanuel.

MR. GUILLORY: So, I'm happy the Department is willing to take another look at this and come back to the table tomorrow to look at it because with the unchanged proposals in 32, there's still going to be some major complications there. We did submit proposed language to the Department, you know looked at it and decided not to take. And that's, I respect that decision. But also, some of my other colleagues, Carolyn and Barmak had a proposal too as well that would remedy the situation. And I'm really disappointed that not even that proposal was taken into consideration, considering the support that was offered for that, because that proposal would have been much better for us than the

current text that we have here. Requiring institutions to meet all state licensing requirements if they want to offer a program to students where they're located or where they are or where they may seek employment is very, very, very problematic. So, I hope that the Department will think about it once again and just really reconsider the proposed alternative language to 32 and how that relates to what we're talking about here in 5. Thank you.

MR. ROBERTS: Okay, thank you. We are coming up right on public comment as it is our last one of a negotiated rulemaking. I don't want to cut into that. So, the plan for tomorrow will be to pick up with certification and then move right into 90/10. And I understand, Johnson, you wanted to address the committee before we move to public comment.

MR. TYLER: Yeah, hi. I- [interposing]

MS. JEFFRIES: Johnson, hang on one second. I just want to let the committee know, I [audio]-

MR. TYLER: You muted yourself.

MR. ROBERTS: I think, Cindy, you're muted right now.

MS. JEFFRIES: I did it twice. I'm going to go ahead and admit Senator Tom Carper while

Johnson addresses the committee because he was having some technical issues. And we're going to try to jump start that in case he does so, unless I hear any objections to that, I'm going to go ahead and admit him now.

MR. TYLER: Great, I'm preceding a senator. Excellent. I just wanted to thank everyone. I'm not going to be here tomorrow. And I want to be able to say my goodbyes and how much I've enjoyed working with everyone here, and particularly Greg and the other people, Steve from the Department of Education, Donna. I know you guys are career people and this is your mission and I really appreciate all the work you're doing. Everyone else here, I know we all have students in mind. But the last thing I just want to say, is you know, George Floyd, really, his murder showed so much inequity. And I think when we talk about the students, we really have to think also about racial justice. I think that is what education is, the method by which we can fix this problem. And we really have to make sure that these institutions remedy it rather than perpetuate racial inequity in the country. So anyway, thank you. Thanks for listening to me all this time and good luck tomorrow.

MR. ROBERTS: Thank you very much,



Johnson, for your comments and for all your hard work and indeed the entire committee's hard work throughout these last few months. Cindy, are we ready to proceed to public comment?

MS. JEFFRIES: We are, and it looks like Senator Tom Carper is on video if he, so he should be ready to go as soon as he unmutes himself.

MR. ROBERTS: Good afternoon, Senator Carper. Can you hear me?

SEN. CARPER: I cannot hear you.

MR. ROBERTS: Cannot hear me. What about- [interposing] There we go. Okay, great. You have three minutes for public comment beginning when you start speaking, and the floor is yours.

SEN. CARPER: Thanks. Well, good afternoon, everyone. I'm Tom Carper, United States Senator from Delaware, retired Navy Captain, last Vietnam veteran serving in the US Senate and GI Bill recipient. I just want to thank the US Department of Education for giving me the opportunity to take a brief moment to talk a bit about the importance of protecting our nation's military and our veterans, and especially of veteran students, by closing the 90/10 loophole once and for all. One year ago, during floor debate of the American Rescue Plan, the United States Senate

unanimously passed a bipartisan amendment. It was offered by Senator Jerry Moran, Republican of Kansas, close friend, and myself, to establish this negotiated rulemaking process. Our amendment for those who may not have heard, was a bipartisan promise, a promised to our nation's veterans to close the 90/10 loophole once and for all. And I'm grateful to the negotiators and to the Department for making good on that promise. I'm also deeply grateful to the many veterans and veteran service organizations that who did the heavy lifting over the last year, not just over the last year, but the last decade, walking the halls of Congress, knocking on doors and stressing the importance of harnessing market forces and harnessing market forces to improve educational opportunities for our nation's military [audio] for too long, far too many bad actors in the for-profit college sector, including the now defunct Corinthian Colleges and along with ITT Tech were able to evade the bipartisan intent of Congress that for-profit schools should receive at least 10 percent of their revenues from non-Federal sources. This rulemaking, this rulemaking process restores the bipartisan intent of Congress, first established by legislation signed by into law by former President George Herbert Walker Bush, Navy veteran and a Republican, and reaffirmed during the

amendment to the American Rescue Plan, which was signed into law by President Joe Biden, a Democrat. I want to make clear that not all for-profit schools, underline this, not all for-profit schools are bad actors. Many for-profit schools do a very fine job preparing our military and preparing our veteran students for civilian careers and we should acknowledge that. Closing, having said that, closing the 90/10 loopholes simply about making sure that our veterans get the most out of their hard-earned GI Bill benefits. For me, this is personal. My own father, a World War Two veteran, also served the times in the Korean War and the Vietnam War chief petty officer for over 30 years. He used the original GI Bill at a vocational school in Beckley, West Virginia, where he learned how to fix wrecked cars and went to work at Burleson Oldsmobile, became a claims adjuster for Nationwide Insurance, and ended up teaching the Academy of Training Academy for all Nationwide Insurance claims adjusters and across the country. He did it thanks to the GI Bill. But for myself, after serving three tours of active duty in [30 seconds] I used the GI Bill to attend the University of Delaware to earn a master's degree and to go on to be elected as the Treasurer of the State of Delaware and congressman and governor. My dad, as I said, went on to do extraordinary things in

his own life. We don't always have time or the opportunity to make a huge change in the lives of people. But this is one instance where we can do that. And I just want to say to those who are involved in this process, I hope you will end up doing the right thing by virtue of our veterans and keep in mind the golden rule to treat other people the way we want to be treated and that's what our legislation does. And I would on that will sign off and say, good luck. God bless.

MR. ROBERTS: Same to you. Thank you very much for your comments, Senator Carper.

SEN. CARPER: Thank you so much.

MR. ROBERTS: [Audio] next, Cindy?

MS. JEFFRIES: Next, we have Malcolm Youngren from Pacific College.

MR. ROBERTS: Good afternoon, Malcolm, can you hear me?

MR. YOUNGREN: This is Malcolm.

MR. ROBERTS: Great. Your video and sound are coming in very clearly. So, you have three minutes for public comment beginning when you start speaking and you have the floor now.

MR. YOUNGREN: Okay, great. Thank you. My name is Malcolm Youngren. I'm the president and CEO of Pacific College of Health and Science, founded in

1986. Pacific College is regionally accredited by WASC and currently has 1900 students. Acupuncture is increasingly becoming part of the US healthcare system and is now recognized as safe and effective by the National Institutes of Health, the Center for Disease Control, Medicare, and the Veterans Administration. The CDC recently identified acupuncture as the first line of defense in the opioid crisis. We at Pacific College support an appropriate accountability framework, and Pacific College students are repaying their loans. Our credit default rate is 5.3 percent, and our 2011 repayment rate was 44 percent. The proposed GE ratios do not accurately indicate quality in the field of acupuncture for two reasons. Most acupuncturists seek a flexible work/life balance. The most recent American Society of Acupuncture survey showed over 50 percent of acupuncturists practice part time. Our average acupuncture student is a mature 36 years old and a quarter are married with spousal support. They enter this field for flexibility. Second, it takes five years for graduates to fully build a practice. Measure, measuring earnings in 18 to 36 months is not consistent with its occupation. 5 to 9 years out after graduation, over 60 percent earn more than \$65,000 dollars and 25 percent earn more than \$100,000 dollars. Pacific College

and other private acupuncture schools provide quality education, leading to higher satisfaction rate among acupuncturists. 87 percent of our graduates become licensed, and 66 percent of all acupuncturists are satisfied with their lifestyle. The GE ratios do not indicate quality of acupuncture colleges. The pass rate on licensure exams are the same for both for-profit and nonprofit schools, and the price of the education is actually 12 percent lower for for-profit schools. The price is relatively consistent because the curriculum is dictated by the state. California requires 3000 hours and Florida requires a four- year program. Schools cannot shorten the program and make them significantly less expensive. The proposed GE framework, if adopted, would devastate the acupuncture industry. All 24 colleges that are for-profit would go out of business and there are only 51 colleges. There would be no acupuncture schools in cities like San Diego or Chicago or states such as Texas or Ohio. To avoid this disaster, only modest changes need to be made. Proposal one is for doctorate and master's leading to licensure to use a 35 percent repayment rate and a benchmark licensure pass rate of [30 seconds] number two is for an annual appeal process for small industries and there are only 6000 acupuncturists in the country where alternative measures

such as repayment rates could be used. This would allow small and unique industries to survive. Either measure would give a strong quality framework without injuring acupuncture, which is so needed at this point in the country's recovery from the pandemic and the opioid crisis. Thank you.

MR. ROBERTS: Thank you very much for your comment.

MS. JEFFRIES: Okay Brady, I am admitting Martin Gaiter who is Solution Wizard USBS.

MR. ROBERTS: Alright, Martin, can you hear me? Good afternoon, Martin. Can you hear me?

MS. JEFFRIES: Let me go ahead and bring in Tanya Foose from the Ohio Business College while we figure out what's going on with Martin.

MR. ROBERTS: Sounds good. Thank you. Good afternoon, Tanya. Are you able to hear me?

MS. FOOSE: I can hear you.

MR. ROBERTS: Great. You have three minutes for public comment, beginning when you start speaking, and the floor is yours.

MS. FOOSE: Hi, my name is Tanya Foose, and I appreciate this opportunity to speak to you today about the career college education sector and our value to the economy. I have worked for over 20 years at

several for-profit colleges, and quite frankly, this is where I found my love for education and my passion for the career college sector. As the daughter of a college professor of a state university, I grew up at a college campus. I watched my father deal with the perils of publish or perish and the never-ending research he did for his tenured position. While publishing is great, it does not directly contribute to the local economy. In fact, most of his students had to leave their hometown to find work. Career colleges serve a very important part of our local economy. Having spent four years in career services and now campus director at Ohio Business College, I have been able to maintain over 70 percent placement for each of our programs in medical assisting, HVAC, electrical, and business. Not only do we assist our graduates with resumes, interview skills and maintain weekly communication after graduation, we also work with local businesses to help address their hiring needs. This, along with our personal and accessible approach to admissions and financial aid, we are able to help students easily navigate the enrollment process. On a personal note, as the mother of a community college student, I can't tell you how difficult it was to enroll my son. No one at his school could answer questions about which program would fit him best. No one helped me



with the FAFSA, and in fact, no one would even answer the phone. Having been so accustomed to the amazing customer service that we offer our students, I was shocked at how difficult it was to enroll at a public institution. Career colleges make the whole process easy. Students know what they're signing, and they understand their financial aid package when complete. I personally can't understand why public institutions don't mimic the level of service and assistance that we do for our students, because I would imagine they lose a lot of students who become frustrated due to the lack of help. Career colleges must remain a viable option for many students who are looking to level up their opportunities in the world by offering ease of admission, strong skills-based education, and assistance upon graduation. Thank you for your time. We do such amazing work for our students and local businesses and hope to continue to do so for now and years to come. Thank you.

MR. ROBERTS: Thank you, Tanya, for your comment.

MS. JEFFRIES: Brady, it looks like Martin Gaiter is up and running and with us.

MR. ROBERTS: Alright. Good afternoon, Martin. Can you hear me?

MR. GAITER: I can.

MR. ROBERTS: Great. You have three minutes for public comment that begins when you start speaking.

MR. GAITER: Thank you. Good afternoon. My name is Martin Gaiter. 20 years ago, I achieved my MBA in global management. I went on to start my PhD studies in organizational development and leadership. I'm also a US Air Force veteran. Today I serve as a catalyst for change. I respectfully ask for the Education Department to really examine why some people in this country who look like me struggle professionally after graduation with degrees they are encouraged to get. Yes, it's true, I am a graduate of the University of Phoenix. So many other universities copy the model that University of Phoenix has been using for decades. After article after article that I've read, University of Phoenix graduates outpace other university graduates careers advancements year after year. I do notice something is missing. The larger population of minority students is missing in those statistics. We are told consistently to just go out and get a little more educated and then it would be our chance, our turn to develop internally. I ask you to stop looking at the University of Phoenix and its structure for culpability

and to investigate the businesses that continue to move the line, and do the minimum or check the box so they don't get flagged. I did not choose the wrong school. There is more to my story. I have founded my own consultancy business that focuses on providing equity and digital access to the largest minority group in our country, the disabled. I also am heavily involved in diversity equity issues in my home state of Oregon. Yes, I am an angry black man, but I'm equally mad for non-black and black friends and colleagues equally because we need to come together. I have seen people in your position turn these issues at stake to personal attacks and make it easier to attack the testimony, the University of Phoenix or even supporters of University of Phoenix. Employers must be held accountable to follow through on the promises. No more carrot and stick. I've made the collective choice in the past and chosen to use my GI Bill to try to advance my military police training and actually could not attend military police training after the military because I was at a for-profit program that didn't qualify. I used my GI Bill for my undergraduate BA Technical Speech, Communication and Conflict Management. These were skills that I developed for employers that no longer had a place for me in my degrees. Reach out to us. We want to tell our stories. I

fight for being, I fight being marginalized. Now I have my own business. I respectfully request that you work with us to amplify our voices with the Education Department and other leaders in Washington. Our voices should be heard. Thank you.

MR. ROBERTS: Thank you for your comment.

MS. JEFFRIES: Hey, Brady, I am admitting Samer Hassan from the Young Invincibles next.

MR. ROBERTS: Good afternoon, Samer, can you hear me? How about now? Can you hear me, Samer?

MR. HASSAN: Hi. Yes, can you hear me?

MR. ROBERTS: Yes. Coming through quite clearly. You have three minutes for public comment that begins when you start addressing the committee.

MR. HASSAN: Please allow me to pull up the page, give me one second. Okay. Thank you to the Negotiated Rulemaking Committee for having me today. My name is Samer Hassan. Before I begin, I want to let you know how disappointed I am. I and millions of students are after learning about how institution negotiators voted on Gainful Employment yesterday. To us, your decision has taught us that you are gatekeepers and refuse to be held accountable. Students do not look at you as allies. Remember that. In 2014, I signed up for a

career program that would allow me to earn my certificate as a certified nursing assistant. I grew up undocumented in this country, so I did not qualify for financial aid. I saved up every penny I could in order to begin the CNA program. My school had ads on busses, trains, park benches and the radio, all of which advertised the great help you could do for your community while earning a great salary to someone who was renting out a room in a three-bedroom home filled with 12 other people. The CNA certificate represented my way out of poverty and, to be frank, a dangerous living situation. The first day of my program was the first day I had ever entered a college. The instructor told us that a CNA could earn \$50,000 if we played our cards right. I passed all my exams, did every assignment, and took every chance I could in order to absorb knowledge. During the last half of the three-month full-time program, we were sent to nursing homes in order to fulfill our clinical hours. We essentially provided free labor to nursing homes that were extremely understaffed and overworked. I remember bike riding five miles a day in order to get to those inaccessible locations, but we didn't have a choice as to where we could go. But I'm happy to say I passed with all As and glowing recommendations. After I received my CNA license,

finding a job proved excruciatingly difficult and long, even though we were constantly told there was a high demand for CNAs all across the state. I had gotten my work permit, so being undocumented was no longer a barrier to employment but it still took me five months to get a job. I beat ten other folks in group interview for a position that paid me \$9 an hour. I figured I was given low pay because of lack of experience, but what I found out just a few days later was that even the CNAs who had been at the nursing facility for 15 years only made \$12 an hour. The way around that low pay, everyone was encouraged to work overtime as that ensured time and a half. Every single CNA at the nursing facility worked an extra 12 to 36 hours on top of their full-time hours in order to make ends meet instead of-

MR. WAGNER: You have 30 seconds remaining.

MR. HASSAN: Thank you. Instead of a culture that pushed you until you could no longer get out of bed, we should never have been told that a CNA certificate could pay us the salaries we worked so hard to earn. My story illustrates why the Department of Education should write strong Gainful Employment rules that prioritize protecting students and hold programs accountable for poor outcomes. If programs falsely

advertise post-graduation earnings, they should be held accountable to that, right? Thank you so much for your time and hearing me speak today.

MR. ROBERTS: Thank you for your public comment.

MS. JEFFRIES: Okay, Brady, I am admitting Lisa Houck representing, she's actually a veteran.

MR. ROBERTS: Lisa, are you able to hear me?

MS. JEFFRIES: Okay, while I figure out what's going on with Lisa, I'm going to go ahead and admit Cody Hounanian from Student Debt Crisis Center. Oops.

MR. ROBERTS: Cody, are you able to hear me? Looks like he's connecting. Hi, Cody. Can you hear me?

MR. HOUNANIAN: Yeah, I can. Thank you.

MR. ROBERTS: Excellent. You have three minutes for public comment that begins when you start taking.

MR. HOUNANIAN: Alright. Thank you so much. Well, I appreciate the opportunity to comment. My name is Cody Hounanian. I am the executive director of

the Student Debt Crisis Center. We echo the voices of 2 million supporters across the country, and you know our mission is to center their voices and their needs. And by doing so, I think we can impact public policy and end this crisis. And that's exactly what I'm here to do today. So, I want to share some comments and also an experience from a borrower of ours that has reached out. So, you know, each year we hear from thousands of student loan borrowers and most are reaching out because they're facing unprecedented distress. You know, these are people that are unable to put food on the table, afford rent or cover healthcare costs. All of these issues have been exacerbated during the pandemic. In fact, we recently surveyed over 23,000 borrowers and found that one in three was skimping out on basic needs due to payments resuming in May and the fear of the burden of student loan debt. And you know all of this harm is caused by the basic fact that these people sought out the American dream, and they did so through higher education, which is a pathway to that dream. You know, we hear from women, black, and brown borrowers and others that see the burden of student debt exacerbated by systemic inequities in higher education. And these communities you know for the first time had access to this dream and higher education, but the prosperity that



it was supposed to provide has been completely stripped away because of this debt. So, you know it's clear that our system is inherently immoral, but the level of harm caused by purposeful profiteering is especially shameful. Vulnerable students are targeted by for-profit colleges that overpromise and under-deliver. Students are left holding the bag for an overpriced, low-quality education that wastes taxpayer resources and leaves students worse off than when they started. So, reinstating the Gainful Employment rule will ensure that the Department protects students from taking on debt that they are unlikely to be able to repay due to deceptive programs and guarantees that for-profit programs are able to fully prepare students for Gainful Employment. And I want to share a story. Lori in Aurora, Colorado, is an older American who should be retired. Instead, she is forced to continue to work a difficult, exhausting and low-paying job in a field that was completely unrelated to her education. You know, Lori went back to school to skill up. We hear from borrowers every day that, particularly during the Great Recession, thought that education was their way to increase the stability of their finances in the future. But-

MR. WAGNER: 30 seconds remaining.

MR. HOUNANIAN: Yes. Like many, Lori's

goal to improve her job prospects and make her future more secure has resulted in the complete opposite. Instead, her future is less secure, and it's destroyed her ability to retire with dignity. So, you know I encourage you to continue with implementing the Gainful Employment rule again and protect students from these low-quality programs. Thank you.

MR. ROBERTS: Thank you for your public comment.

MR. HOUNANIAN: I appreciate the opportunity.

MR. ROBERTS: Lisa, I believe, can you hear me? You have to unmute, but you have three minutes for public comment that begins when you begin speaking, and the floor is yours.

MS. HOUCK: Okay. I'm just going to read my statement. My name is Lisa Houck, and I was once employed in the admissions Department at Hesser College, which was a for-profit school owned by Kaplan that is no longer open. I worked there from 2004 to 2012, and I want to tell you what the school told the admission representatives to do to further the goal of recruiting as many students as possible. The most important thing to the school was numbers. The Admissions Department was completely numbers driven, and the more students we

convinced to enroll, the better we were we were graded. We were told to pressure students to enroll on the same day that they came into the school so basically, they couldn't think about it. If they wanted to go home and think about it, we were told to tell them that classes were starting right now and they would miss out. The school did not want admission reps to tell students that we had rolling admissions, which meant that they could really enroll up to a week after the start. So, we really pressured them to enroll as soon as we met them. When I first started, admission reps were under the pressure to promise students anything to get them to enroll, like promising that they would be able to get a job in the field. And that became problematic when the GAO investigated Kaplan for predatory lending and predatory admission practices, which we definitely had. For instance, in the medical assistant program, we were told to tell them they would be able to find a job, even though we knew the market was completely saturated and they probably wouldn't be able to find a job. The same with early childhood education. We knew that we were selling them a very expensive degree, that they would only be paid about 12 or \$13 an hour for. So, we had to undergo retraining and basically were told not to promise those things. But that only lasted about a month

before the company then were pressuring us again to get our numbers up. So, we got students to enroll by promising them absolutely anything. I saw instances where the school would fill out their financial aid forms for the student, like the FAFSA, instead of letting the student take their time and do it themselves. The financial process was also very rushed, with the goal of getting the students signed up as quickly as possible. I now work in a different university and it is much better. I don't see these practices at all. So that's my statement. Do you have any questions?

MR. ROBERTS: I don't believe so, Lisa, but thank you for offering your comment for the public today.

MS. HOUCK: Okay. Thank you.

MR. ROBERTS: Have a nice day.

MS. HOUCK: You too.

MR. ROBERTS: Who are we admitting next?

MS. MILLER: I am admitting Tiffany Horne, who is representing herself.

MR. ROBERTS: Great. Thank you, Roz. It looks like she's enabling audio. Hi, Tiffany. Can you hear me?

MS. HORNE: Yes, I can. Hello.

MR. ROBERTS: Hello, good afternoon. You have three minutes for public comment that's going to begin when you start speaking.

MS. HORNE: Thank you. Good afternoon, everyone. My name is Tiffany Horne. I'm a 26-year Army veteran and a first-generation college student. I was a single parent of three children when I graduated from the University of Phoenix with a bachelor's degree in business. When I decided to go back to school to earn my bachelor's degree, I was an active-duty military soldier stationed at Fort Bragg, North Carolina. I had young children at home, and other schools that I attended were not conducive nor realistic to the demands of my military lifestyle. I was deployed constantly and I knew that earning a degree was going to be a challenge. I chose the University of Phoenix because it offered a flexible degree program that accommodated and provided the support I needed to meet the demands of my life at that particular time. This meant I could fulfill my duties in the field during the day and at night I could work on my degree and turn my assignments in when my unit came in to take showers, which is where I could get internet service. None of this was easy. The classes were hard. My instructors challenged me daily and I

worked full-time and was a full-time parent. But I was dedicated to my educational goals, focused, and I knew how beneficial it would be for my career if I earned this degree. I was able to succeed because of my work ethic and because I chose to attend a school that provided the resources and had the flexibility that would ensure my success. The University of Phoenix is test [ph] the standard when it comes to supporting the students, especially adult students. Obtaining my degree allowed me to set a powerful example for my children and for the other service soldiers that I served with. Upon completion of my degree, I was promoted to the next higher rank. Many of my military colleagues, they also followed in my footsteps once they saw that it was actually possible to complete their education while on active duty. I decided to pursue my educational endeavors elsewhere only because of the senseless, negative stigma surrounding the University of Phoenix and the value of its curriculum. I am currently pursuing my doctoral degree, but all roads began with the University of Phoenix. Aside from my doctorate course, the coursework was much more challenging in my opinion, and the academic advisers were much more hands-on and geared me towards my goals. I continue to use a lot of the tools such as the team skills assessments and

inventories, case study data, etc., all which I learned from the University of Phoenix in my current role. Working in teams is extremely challenging. However, the benefit of using the skills that everyone has in order to accomplish objectives is a skillset that continues to serve me well. Please consider my story and the stories of so many other military personnel who pursue a degree while they are actively in the military, for when we retire this uniform, just as I have, we still continue to serve our nation, but just in a different capacity. The military encourages and recognizes education-

MR. WAGNER: Tiffany, you have 30 seconds.

MS. HORNE: Mary Roach said, "Heroism doesn't always happen in a burst of glory. Sometimes small triumphs and large hearts change the course of history." I belong to several veteran organizations, and we work with delegates on the jill to bring about meaningful change. I hope that you all consider my story, and I hope that you hold all the universities accountable and the rules that they that you have set aside in order to benefit everyone, just keep everything fair. Thank you for your time.

MR. ROBERTS: Thank you, Tiffany, for your comment. Okay. Roz, I think we have time for one

last speaker. Who are we admitting?

MS. MILLER: I'm admitting Brian Black, who's representing himself.

MR. ROBERTS: It looks like he's admitted, but he might have stepped away from his computer. Do we want to move to the to the next speaker? Roz, would you mind admitting, I think I see Ethan-

MS. MILLER: Ethan Schlat-Schlatlecker, Schaltegger, sorry about that, who is representing Association of Young Americans.

MR. ROBERTS: Great. Ethan, are you able to hear me? Ethan, are you able to hear me or did he just leave the meeting? Oh, there he is. Ethan, can you hear me?

MR. SCHALTEGGER: I can hear you.

MR. ROBERTS: Great.

MR. SCHALTEGGER: Yeah.

MR. ROBERTS: Fantastic. You have three minutes for public comment, which begins when you start speaking.

MR. SCHALTEGGER: So first, just thank you for the opportunity to speak. It was 2018. I was taking my last class over a shortened summer semester, about to graduate with a double major in nutrition and kinesiology, ready to work towards my dream job of



becoming a private coach, working with elite level athletes. Unfortunately, I had also accumulated \$100,000 of student debt with an 11.5 percent interest rate after a lifetime of being taught to go to college no matter what. Debt is normal and this is just what you're supposed to do. I remember during that summer, the reality of what I had gotten myself into finally started to dawn. And I was terrified. I was truly terrified. Two weeks before I was scheduled to officially graduate, my physical health started to aggressively decline. I was sent to the emergency room and diagnosed with type one diabetes, a chronic autoimmune disease without a cure, and a laundry list of daily demands, challenges, and symptoms. Not only was I about to graduate with this enormous financial burden, but I now had one of the most, if not the most expensive chronic health conditions in the United States. I have since given up on that dream job, and I'm currently working in corporate America, lucky to be paying my bills, lucky to even have stumbled into a job capable of scraping by. The amount of grief that I feel not only for myself but for my generation and the medical, the medically vulnerable is difficult to describe. The amount of greed, insanity, and dysfunctionality I see in our system is disgusting. And I share this story of mine

with the hope and the prayer that the people on this call can recognize that your work has real meaningful power over the lives of others. I pray that the people on this call can feel beyond the statistics and can recognize that the future of this country is more than just a numbers game. I pray that the people on this call have the compassion to recognize that this corrupt system creates real casualties. And these casualties have real consequences individually and collectively for our country. And I pray that we can all take on the resolve to do what needs to be done.

MR. WAGNER: Ethan, you have 30 seconds.

MR. SCHALTEGGER: As far as tangible action, reinstating Gainful Employment is a good first step, in my view, a step towards creating a larger systemic change. The Department taking responsibility for protecting students from higher education profiteering and protecting students from taking on aggressive debt they're unlikely to pay back and ensuring career programs are available for Gainful Employment is a necessary first step towards addressing this crisis, in my view. That's all I have to say. And thank you for your time and space.

MR. ROBERTS: Thank you, Ethan, for

your comment. We appreciate it. And thank you to all the members of the public who have taken the time to offer public comment to this committee throughout the last couple of months. Thank you to the committee for all your hard work today. We will pick up for our final day of negotiated rulemaking tomorrow at 10 a.m. Eastern. Thank you very much.

1  
2 **Department of Education, Office of Postsecondary Education**  
3 **Zoom Chat Transcript**  
4 **Institutional and Programmatic Eligibility Committee**  
5 **Session 3, Day 4, Afternoon, March 17, 2022**  
6

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

8 I've encountered situations where students have been  
9 enrolled in a program where they don't have enough eligible  
10 Title IV aid eligibility (because they are approaching the  
11 limit) and it is disastrous when they reach their limit and  
12 can't finish their program.

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

15 +1 Adam

16 From Carolyn Fast (P) Consumer/Civil Rights to Everyone:

17 +1 Jessica and Adam. Seems cutting off students Title  
18 IV mid program is setting them up for failure.

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

21 +1 Debbie's points on SAP, as well as Jessica and  
22 Adam's points.

23 From Bradley Adams (P - Proprietary Institutions) to  
24 Everyone:

25 +1 Carolyn, Jessica, and Adam. I do not like their  
26 aid is cutoff before they finish.

27 From Laura Rasar King (A) Accrediting Agencies to  
28 Everyone:

29 +1 Adam - disclosure is very important here.

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

1 +1 on idea that program should not be eligible if ED  
2 wants to go down this path

3 From Carolyn Fast (P) Consumer/Civil Rights to Everyone:

4 +1 Jessica

5 From Amanda Martinez (P) Civil Rights to Everyone:

6 +1 Jessica

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

8 +1 Johnson

9 From Yael Shavit to Everyone:

10 +1 to Jessica and Johnson

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

12 +1 to Johnson. And in that case the Dept's investment  
13 in the student is lost.

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

16 Laura Rasar King is in for Accrediting Agencies

17 From Jamiene Studley--Accrediting Agencies (P) she/her  
18 to Everyone:

19 Laura Raser King coming in for accrediting agencies  
20 here as noted

21 From Carolyn Fast (P) Consumer/Civil Rights to Everyone:

22 Note, current (32) (iii) would become (iv), not be  
23 replaced

24 From Bradley Adams (P - Proprietary Institutions) to  
25 Everyone:

26 +1 to Laura. (i) needs to have seeking accreditation  
27 and pre-accreditation added

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

3 +1 to Laura's edit

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

6 The omission was an oversight and unintended

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

8 I think it's important that ED ensure that programs  
9 meet licensure requirements in states in which they enroll  
10 students and I think Barmak's suggested edits accomplish  
11 that goal and I support them.

12 From Kelli Perry - (P) Private Non-Profits to Everyone:

13 Emmanuel is going to come to the table to address  
14 Debbie's comments

15 From Jamiennie Studley--Accrediting Agencies (P) she/her  
16 to Everyone:

17 + Laura and Brad: the program has met quality  
18 requirements to achieve pre-accreditation. It has met  
19 standards. It has simply not yet graduated students yet.  
20 Recall that this is within an institution that is  
21 accredited at the institutional level.

22 From Jamiennie Studley--Accrediting Agencies (P) she/her  
23 to Everyone:

24 So if the state requirement is for pre-accreditation  
25 and accrdetation then would that control?

26 From Debbie Cochrane (P), State Agencies to Everyone:

27 I support the idea of adding pre-accreditation  
28 language.

29 From Jamiennie Studley--Accrediting Agencies (P) she/her  
30 to Everyone:

1           It IS recognized by ED as accreditation

2           From Laura Rasar King (A) Accrediting Agencies to  
3           Everyone:

4           UNDER 600.4, DEFINITION OF INSTITUTION OF HIGHER  
5           EDUCATION, AND INSTITUTION CAN RECEIVE TITLE IV IT HAS  
6           INSTITUTIONAL PREACCREDITATION OR ACCREDITATION.

7           From Laura Rasar King (A) Accrediting Agencies to  
8           Everyone:

9           Pardon the caps - unintended

10          From Debbie Cochrane (P), State Agencies to Everyone:

11          Thank you very much, Emmanuel, for the specific  
12          example.

13          From Jamiene Studley--Accrediting Agencies (P) she/her  
14          to Everyone:

15          That's exactly the point if the state accepts pre-  
16          accreditation for licensure their judgment should control.

17          From Laura Rasar King (A) Accrediting Agencies to  
18          Everyone:

19          +1 Jessica - can we clarify the language to link it to  
20          acceptance by licensure agencies?

21          From Jamiene Studley--Accrediting Agencies (P) she/her  
22          to Everyone:

23          + Barmak -- purpose is to be sure student is eligible  
24          for state licensure

25          From Emmanuel Guillory (A) PNP's to Everyone:

26          +1 Barmak

27          From Laura Rasar King (A) Accrediting Agencies to  
28          Everyone:

29          +1 Barmak

1 From Debbie Cochrane (P), State Agencies to Everyone:

2 Strongly support this addition in (iii).

3 From Ernest Ezeugo (P) Students and Student Loan Borrowers  
4 to Everyone:

5 +1 Carolyn. I strongly support (iii) in this subpart.  
6 Additionally, support and resonate with the proposed text +  
7 Laura's addition of pre-accreditation to the text.

8 From Kelli Perry - (P) Private Non-Profits to Everyone:

9 Emmanuel will be coming to the able to address 32(iii)

10 From Laura Rasar King (A) Accrediting Agencies to  
11 Everyone:

12 Jamie is back in for Accrediting Agencies

13 From Jamienne Studley--Accrediting Agencies (P) she/her  
14 to Everyone:

15 Jessica -- there will always be a role for you !

16 From Jessica Ranucci (A)- Legal Aids to Everyone:

17 I hope so!

18 From Jessica Ranucci (A)- Legal Aids to Everyone:

19 +1 to Adam and Carolyn- this language preserves the  
20 institutions' ability to get authorization on the front  
21 end, while maintaining the states' ability to address  
22 consumer protection issues

23 From Barmak Nassirian (A) Servicemembers & Vets to  
24 Everyone:

25 +1 on ED's position

26 From Carolyn Fast (P) Consumer/Civil Rights to Everyone:

27 +1 to ED

28 From Johnson Tyler (p) legal aid to Everyone:



1 +1 on Greg

2 From Yael Shavit to Everyone:

3 +1 to ED's position

4 From Ernest Ezeugo (P) Students and Student Loan Borrowers  
5 to Everyone:

6 +1 on ED's position here.

7 From Debbie Cochrane (P), State Agencies to Everyone:

8 Agree with Jamie.

9 From Jessica Ranucci (A)- Legal Aids to Everyone:

10 I agree with Kelli- but I think it's not an either/or.  
11 I would love if our students in NY have both the protection  
12 of NY law and independent protections from a reciprocity  
13 agreement.

14 From Carolyn Fast (P) Consumer/Civil Rights to Everyone:

15 To Kelli - this provision just says that NC-SARA isn't  
16 the ceiling for consumer protection.

17 From Jessica Ranucci (A)- Legal Aids to Everyone:

18 Johnson is coming back to the table for legal aid

19 From Emmanuel Guillory (A) PNPs to Everyone:

20 To Carolyn - a big part of the SARA agreement is being  
21 compliant with consumer protection laws in the state that  
22 distance education is being offered. While obtaining state  
23 authorization remains intact with your proposal, the  
24 concern we are hearing is that the compliance with consumer  
25 protection laws is going away. This means that any  
26 institution that seeks to offer distance education courses  
27 to students would need to meet the varying consumer  
28 protection laws across the states. For our smaller  
29 institutions that are under-resourced and have capacity  
30 issues, this would disincentive them from participating. I

1 hope this better explains the overwhelming concern that we  
2 have heard.

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

4 +1 to Amanda

5 From Ernest Ezeugo (P) Students and Student Loan Borrowers  
6 to Everyone:

7 +1 Amanda.

8 From Carolyn Fast (P) Consumer/Civil Rights to Everyone:

9 +1 to Amanda

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

12 +1 on Amanda, Johnson, and Ernest's comments regarding  
13 transcripts

14 From David Socolow to Everyone:

15 +1 to Amanda, Johnson, and Ernest on transcript ransom

16 From Jaylon Herbin- (A) Consumer Advocate & Civil Rights  
17 to Everyone:

18 +1 to Amanda, Johnson, and Ernest's comments

19 From Debbie Cochrane (P), State Agencies to Everyone:

20 +1 to Adam's suggestion.

21 From Bradley Adams (P - Proprietary Institutions) to  
22 Everyone:

23 my comment is on 34, so I will let Johnson go first

24 From Bradley Adams (P - Proprietary Institutions) to  
25 Everyone:

26 given the additional hands being raised i will wait on

27 34

1 From Kelli Perry - (P) Private Non-Profits to Everyone:

2 Thank you Steve - that context was important to hear.

3 From Carolyn Fast (P) Consumer/Civil Rights to Everyone:

4 +1 to Adam on ED's authority to act to preserve its  
5 investment of Title IV in the students.

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

7 Do we know how many of these obligations are due to  
8 R2T4 requirements—and if so, is the Dept looking at this  
9 requirement?

10 From David Socolow to Everyone:

11 +1 to Adam's point about the Department's interest in  
12 its investment in students. Also, if students cannot  
13 provide prospective employers documentation of the  
14 education that the Department financed, the students'  
15 opportunities to secure employment will be harmed -- thus  
16 reducing their ability to repay their student loans which  
17 the Department is interested in collecting.

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

19 +1 to Debbie's comment

20 From Emmanuel Guillory (A) PNPs to Everyone:

21 We have been told that many institutions won't  
22 withhold if an employer is seeking the transcript as part  
23 of a job opportunity. If the employer makes the request  
24 then the institution will send it along regardless of the  
25 student's account status.

26 From Jessica Ranucci (A)- Legal Aids to Everyone:

27 The Department has previously taken a broad view of  
28 its authority to regulate school conduct in PPA— from the  
29 2016 Final Rule (81 Fed Reg 75,926):

30 From Jessica Ranucci (A)- Legal Aids to Everyone:

1            "[T]he HEA gives the Department the authority to  
2 impose conditions on schools that wish to participate in a  
3 Federal benefit program. In this regulation, the Department  
4 is exercising its broad authority, as provided under the  
5 HEA, to impose conditions on schools that wish to  
6 participate in the Federal Direct Loan Program. Section  
7 452(b) of the HEA states, "No institution of higher  
8 education shall have a right to participate in the [Direct  
9 Loan] programs authorized under this part [part D of title  
10 IV of the HEA]." 20 U.S.C. 1087b(b). If a school chooses to  
11 participate in the Direct Loan Program, it must enter into  
12 a Direct Loan Program participation agreement (PPA). 20  
13 U.S.C. 1087d. Section 454(a)(6) of the HEA authorizes the  
14 Department to include in that PPA "provisions that the  
15 Secretary determines are necessary to protect the interests  
16 of the United States and to promote the purposes of" the  
17 Direct Loan Program. 20 U.S.C. 1087d(a)(6); 81 FR 39385."

18 From Jessica Ranucci (A)- Legal Aids to Everyone:

19            I'm coming back to the table for legal aids

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

22            I appreciate Emmanuel's comment and yet know that was  
23 not my experience at first, and have heard from students  
24 that it wasn't theirs as well. If there is a chance the  
25 Department would consider protection on this piece, that's  
26 something to be considered.

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

29            worth considering\*

30 From Ernest Ezeugo (P) Students and Student Loan Borrowers  
31 to Everyone:

32            Jessica raises a could point. Could we get a response  
33 from OGC?

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

3 a good point\*

4 From Jamiene Studley--Accrediting Agencies (P) she/her  
5 to Everyone:

6 Laura and I believe that will address the pre-  
7 accreditation issue.

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

10 +1 Yael

11 From Jessica Ranucci (A)- Legal Aids to Everyone:

12 +1 to Yael

13 From Carolyn Fast (P) Consumer/Civil Rights to Everyone:

14 +1 to Yael

15 From Carolyn Fast (P) Consumer/Civil Rights to Everyone:

16 I have a resonse

17 From Laura Rasar King (A) Accrediting Agencies to  
18 Everyone:

19 +1 Carolyn - disclosure is needed.

20 From Bradley Adams (P - Proprietary Institutions) to  
21 Everyone:

22 good question Dave

23 From Emmanuel Guillory (A) PNPs to Everyone:

24 But doesn't the program have to meet state licensing  
25 requirements by your changed regulatory proposal?

26 From Emmanuel Guillory (A) PNPs to Everyone:

27 Other proposals to allow an institution to offer a

1 program in states that does not meet state licensing  
2 requirements was not approved

3 From Jamiene Studley--Accrediting Agencies (P) she/her  
4 to Everyone:

5 Perhaps ED could look at this issue that Greg wants to  
6 look at, plus a response to Barmak's proposed addition to  
7 (32) and return to this tomorrow morning?

8 From Kelli Perry - (P) Private Non-Profits to Everyone:

9 Emmanuel also would like to ask a question regarding  
10 this and is coming to the table

11 From Jessica Ranucci (A)- Legal Aids to Everyone:

12 And I would ask ED to please take another look at the  
13 new language in (26) that would partially fund some  
14 students' programs with Title IV

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

17 +1 Jessica

18 From Yael Shavit to Everyone:

19 +1 Jessica

20 From Debbie Cochrane (P), State Agencies to Everyone:

21 David Socolow will be closing out the day for state  
22 agencies.

23 From Yael Shavit to Everyone:

24 Adam is coming back for State AGs

25 From Ernest Ezeugo (P) Students and Student Loan Borrowers  
26 to Everyone:

27 Thank you for your participation and your thoughtful  
28 insights the past few months, Johnson.

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

2 Been a pleasure Johnson.

3 From Carolyn Fast (P) Consumer/Civil Rights to Everyone:

4 Thank you for all of your contributions!

5 From Bradley Adams (P - Proprietary Institutions) to  
6 Everyone:

7 Johnson it was a pleasure meeting and working with  
8 you. have a great weekend and stay in touch. I am going  
9 to have to drop off during public comment. Mike will fill  
10 me in on what i missed later tonight.

11 From Emmanuel Guillory (A) PNPs to Everyone:

12 Thank you Johnson!

13 From Amanda Martinez (P) Civil Rights to Everyone:

14 Thank you Johnson! We appreciate your advocacy, your  
15 perspective, and work on behalf of students!