DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

NEGOTIATED RULEMAKING PROGRAM INTEGRITY

AND INSTITUTIONAL QUALITY

SESSION 3, DAY 3, MORNING

MARCH 6, 2024

On the 6th day of March, 2024, the following meeting was held virtually, from 10:00 a.m. to 12:00 p.m.

P R O C E E D I N G S

MR. ROBERTS: Good morning, everyone, and welcome back to session three, day three of this 2024 Negotiated Rulemaking on Program Integrity and Institutional Quality hosted by the Department. My name is Brady Roberts with FMCS. As always, we have a lot to get to today. So we'll jump right into a brief roll call. So for our non-Federal negotiators, representing business officers from institutions of higher education, we are joined by Joe Weglarz.

MR. WEGLARZ: Morning.

MR. ROBERTS: Morning, Joe. And his alternate Dom Chase.

MR. CHASE: Present. Good morning.

MR. ROBERTS: Morning, Dom. Representing civil rights organizations and consumer advocates, we are joined by Carolyn Fast.

MS. FAST: Good morning.

MR. ROBERTS: Morning, Carolyn. And her alternate, Magin Sanchez.

MR. SANCHEZ: Hello.

MR. ROBERTS: Good morning. Representing financial aid administrators, we are joined by JoEllen Price.

MS. PRICE: Good morning.

MR. ROBERTS: Good morning, JoEllen. And her alternate, Zack Goodwin.

MR. GOODWIN: Good morning, everyone.

MR. ROBERTS: Representing HBCUs, TCUs, and MSIs, we are joined by Dr. Charles Price or Prince. Sorry, sorry DC.

MR. SANDS: He's on his way.

MR. ROBERTS: Okay, but we are also in the meantime, joined by his alternate, D'Angelo Sands.

MR. SANDS: Good morning.

MR. ROBERTS: Morning, D'Angelo. Representing institutional accrediting agencies recognized by the Secretary, we are joined by Jamie Studley.

MS. STUDLEY: Good morning and Michale might be a little late.

MR. ROBERTS: Okay. And we'll announce it once Michale McComas the alternate is able to join us. Representing legal assistance organizations, we are joined by Robyn Smith.

MS. R. SMITH: Hello.

MR. ROBERTS: Oh. Morning, Robyn. And her alternate, Sophie Laing.

MS. LAING: Good morning.

MR. ROBERTS: Morning, Sophie.

Representing private, nonprofit institutions of higher education, we are joined by Erika Linden.

MS. LINDEN: Good morning, all.

MR. ROBERTS: Morning, Erika. And for alternate, Scott Dolan.

MR. DOLAN: Good morning, everybody.

MR. ROBERTS: Hey, Scott. Morning, Scott. Representing programmatic accrediting agencies recognized by the Secretary to include state agencies recognized for the approval of nurse education, we are joined by Dr. Laura Rasar King.

DR. KING: Good morning.

MR. ROBERTS: Good morning, Laura. And her alternate, Amy Ackerson.

MS. ACKERSON: Good morning.

MR. ROBERTS: Good morning. Representing proprietary institutions of higher education, we are joined by Jillian Klein.

MS. KLEIN: Morning.

MR. ROBERTS: Morning, Jillian. And her alternate, David Cohen.

MR. COHEN: Good morning.

MR. ROBERTS: Good morning, David. Representing public four-year institutions of higher education, we are joined by Jason Lorgan.

MR. LORGAN: Good morning.

MR. ROBERTS: Morning, Jason. And his alternate, Alyssa Dobson.

MS. DOBSON: Good morning, everyone.

MR. ROBERTS: Representing public two-year institutions of higher education, we are joined by Jo Blondin.

MS. BLONDIN: Hi there.

MR. ROBERTS: Hi, Jo. And her alternate, Michael Cioce.

MR. CIOCE: Good morning.

MR. ROBERTS: Good morning. Joining us from the beach today representing state attorneys general, we are joined by Diana Hooley.

MS. HOOLEY: Good morning.

MR. ROBERTS: Good morning. And her alternate position is vacant right now for state AGs. Representing state officials, including state higher education executive officers, state authorizing agencies, and state regulators of institutions of higher education, we are joined by John Ware.

MR. WARE: Good morning.

MR. ROBERTS: Good morning. And his alternate, Rob Anderson.

MR. ANDERSON: Good morning.

MR. ROBERTS: Good morning, Rob. Representing students or borrowers, including currently enrolled borrowers or groups representing them, we are joined by Jesse Morales. Maybe still waiting to join us, but we are joined by her alternate, Emmett Blaney.

MR. BLANEY: Morning.

MR. ROBERTS: Morning, Emmett. Last but not least of our non-Federal negotiators, we are joined by the constituency group of U.S. military service members, veterans or groups representing them, represented primarily by Barmak Nassirian.

MR. NASSIRIAN: Good morning.

MR. ROBERTS: Good morning, Barmak. And his alternate, Ashlynne Haycock-Lohmann.

MS. HAYCOCK-LOHMANN: Good morning.

MR. ROBERTS: Morning. Negotiating on behalf of the Department, we are joined by Greg Martin.

MR. MARTIN: Morning.

MR. ROBERTS: Who is being supported by, I'm trying to see all the names on the screen right now. Denise Morelli, Donna Mangold, Herman Bounds, and Dave Musser.

MS. MORELLI: Good morning.

MS. MANGOLD: Good morning.

MR. ROBERTS: Morning to all of you.

Also joining me from FMCS, we have Cindy Jeffries, Krystil Smith, and Kevin Wagner. Alrighty. I believe that the plan is to kick off where we left off yesterday, which is on cash management. But, Greg, any old business to update the committee on?

MR. MARTIN: Oh, no. We're going to start- we'll start with cash management this morning.

MR. ROBERTS: Great. I think we can pick up where we left off in the document. I know there were also, I think, three hands that were left raised yesterday. But you'll have to remember me the order in which they were. I think it was Scott, Jason, and maybe one other. Okay, great.

MR. MARTIN: So let's pull up the- let's go back to that part of the- I believe we were talking about crediting students' accounts, and we were talking about books and supplies, if I'm not mistaken, that's where we were. And so let's go back to that 164 (c). We'll wait till we get that up on the screen before we take the questions because I believe the questions are in reference to that. There we go. Thank you, Vanessa. And I think with that language up there, Brady, you can take the questions.

MR. ROBERTS: Great. I guess we'll go right to you, Jason.

MR. LORGAN: Thank you, Brady. So I'd like to start by addressing many of the comments that we heard yesterday about if these programs are so great students will just opt-in. So I wanted to provide some context as to why institutions are so interested in opt-out. So my institution has experience with both an opt-in program and an opt-out program. We were opt-in prior to 2020 and we've been opt-out since 2020. So prior to 2020, when we were opt-in, we did a large survey of our students, and students self-reported that only 22% had access to all of their required content. So it wasn't that in an opt-in model, it's not that they're choosing to go elsewhere, it's they're choosing to do without the material altogether. So that's what we're trying to solve for. In an opt-in model, we have found that students are not participating. The institution feels like that is the wrong decision for a student to make. And so we're trying to make the default that students have access to content. So since we went to an opt-out model, we've gone from 22% of students having access to all of their required content to 86% of students having all of their required content. So that difference is extremely dramatic. It's not theoretical. It's based on real experience at UC Davis. And so that was my first comment. And then I have a couple of questions for the Department. So my first question is, during the last session, a group of us negotiators, I believe it was nine of us, submitted alternate language to the Department that the Department had stated that its primary concerns were transparency and disclosure. So we tried to, in good faith, beef up the transparency and disclosure requirements. And none of our recommendations were taken. So I'm wondering if the Department can explain why that's the case.

MR. MARTIN: Yeah. Well, transparency disclosure are certainly areas that we're interested in. Increased transparency and disclosure still doesn't get to the issue of student choice for disposition of their funds- of their money. So we believe that the current language does give students the opportunity to, you know, the real opportunity to seek those books or supplies or kits, whatever materials on the open market outside of what schools are providing, While I think that many or most schools are doing this in earnest there's also the potential for and we've seen that argued on the other side as well that both in public comment and comments from negotiators, that the current regulations do allow for schools to shall we say, act in ways that aren't necessarily in the best interests of students with arrangements, with publishers that are financially advantageous to institutions or financially advantageous to instructors. I'm not saying that's the motivation for all or even most, but it remains a possibility that is always there. And allowing students the opportunity to just say that they're going to go elsewhere as the default position, I think is the best protection for students. And again, if they want to take what the institution is offering, they've got the opportunity to do that. I'm not entirely unsympathetic to the point of view that you expressed that where there's an opt-out, the default position is the student has the materials I understand the desire to get students their materials. It's obviously best if students have what they need. But we still believe that should be a decision left to students.

MR. LORGAN: Okay, thank you. And then my next question is so the Department explained in the January and February sessions and Gregory reiterated yesterday, that its proposals do not prevent schools from offering affordable access programs. So many schools, after years of planning, are in the middle of deploying or scaling up existing access programs for this summer and the next academic year. Is there any reason the Department can see why an institution should stop negotiating lower prices with publishers for their students to improve access for this summer in the coming year?

MR. MARTIN: No, I don't think that- I don't believe there's any reason why institutions should stop negotiating for lower prices. But I will say this much if a publisher is shaking down an institution to say that, you know, if you don't have this particular opt-in, opt-out- if you don't go opt-out, then you know, we're not going to give you that price. I find that to be somewhat disingenuous on the part of those offering materials. So, I mean if the position is that, well, if opt-out goes away and we move to this model that they're going to give- they're not going to give you a more preferred pricing structure. Then I view that as being on the publishers, not the Department. So we would certainly encourage and we absolutely are encouraging institutions to negotiate the lowest price with publishers and for publishers to offer the lowest price that they can without reference to whether there is opt-in or opt-out.

MR. LORGAN: Okay, thank you.

MR. ROBERTS: Thank you. Just very briefly, we have alternates Scott, Zack, and Sophie joining us at the table for this issue. And I see Scott's hand up next. So go ahead, Scott.

MR. GOODWIN: Well, I think Jason laid out some of my concerns around, you know, some good faith negotiations that we've entered into non-negotiators across multiple institutions trying to address the original concerns, which were around transparency and disclosure. We went even further to ensure that we could certify affordability and ensure that students would get tuition recovery if they chose. Opted out, made a choice to not participate in these programs. So I guess one quick question is opt-out not a choice that students have? Is that not a consumer choice as well? And are we clear that this is the main issue that we're talking about consumer choice, not transparency and disclosure, but consumer choice?

MR. MARTIN: All of those are, you know, I'm not going to say transparency and disclosure are not concerns of ours. They certainly are. They always are. But the student choice aspect is like yes, obviously opt-out is a choice but with opt-out, the default position is that you pay through tuition and fees. And with this model, students make a conscious decision to say, we want to take what the school is, you know, the exclusive access to schools offering or we choose to go purchase those materials elsewhere. So, I think it's clear that the greater amount- I'm not saying the opt-out is no choice. That does present a choice, but the model we have here is that the default position is the student is determining what he or she wants to do with their money. If the student wants to purchase from the school. They can do that. We're not prohibiting inclusive access models. We might be making it different. We might be making it such that it's not quite the same way you're doing it now, or as easy as you'd like it to be. But we feel this is a student protection issue. So it's necessary to go in that direction.

MR. DOLAN: I understand. I would like to actually see more of the evidence. We've now referenced public commenters providing evidence of- and what I've heard as publishers shaking down faculty or institutions in cahoots with publishers.

MR. MARTIN: The words you're using, I did not use in cahoots. I did not say that institutions were doing anything. I simply said that the possibility exists with the current model for that to happen. When I referenced public comment, I said that just as all of you on one side are making comments about how this will be disadvantageous to students, there are comments on the other side as well about the fact that it will be advantageous to students. So I'm not referencing evidence in that regard. So I just want to clarify my position.

MR. DOLAN: And none of us on the institutional higher Ed side have resorted to namecalling or questioning the integrity of the people who are trying to move forward with models that are in support of students having access to their materials at more affordable rates. The public commenters have highlighted the importance of open educational resources, something that we at my institution do a whole lot of. The challenge is open educational resources do not exist to meet all the learning objectives of our programs, because providers of OER have focused mostly on high-value gen Ed and other disciplines because of the costs associated with creating those materials. Alternative to that, the Department has done an excellent job of funding grants to develop OER. The reality is, we are not in a place where information is fully free and accessible. And I don't think we ever will be for a variety of reasons national security, intellectual property, a whole host of things around the content that our students need in order to meet the learning objectives. So the challenge we have in practice, in operation, is that we have to work with proprietary content providers to get information that our students need in order to learn the material and succeed in their degree programs. And that's the conversation that we need to have. And we need to have a more informed conversation about what choice entails. We have heard from UCF and students on an opt-in model, 70% of the folks on those opt-in models have participated. These models do work for students. We've heard on the opt-out side, 86% of students participate. What's the group that we're trying to solve for here? That middle ground between the 70% who opt-in and the 14% who opt out? My general concern is that we're shifting a model by a stroke of a pen that's going to incur a whole lot of costs and work to the disadvantage of students getting access to the content that they need in order to meet their learning objectives, which is all of our focus. You know, I saw a proposal from the other side that said students should have the opportunity.

MS. K. SMITH: Your time is up.

MR. DOLAN: Students should have the opportunity, not to.

MR. ROBERTS: Hold on Scott, you're more than welcome to requeue. But I want to make sure that we're- I saw Denise raise her hand a moment or two ago. Denise, did you want to weigh in?

MS. MORELLI: Well, I just wanted to point out that we have heard from students. And advocates can chime in if they have similar- gotten similar information, but that the opt-out is either hard to navigate, it's hidden, I think we talked about that before where it's buried in disclosures, and it's not as easy to do as I mean, at all the institutions, right? I mean, some of the institutions might make it very apparent and it is easy for their students to opt-out but we have gotten information from students during reviews and other places that it's not as easy as everyone makes it out to be at all institutions. The other thing I just want to keep pointing out is it is the students money. The Title IV funds are for the student to do with what they choose.

MR. ROBERTS: And as I said, you know, the time- people are more than welcome to requeue, we are trying to solicit as many perspectives as we can. So with that, Emmett, go right ahead.

MR. BLANEY: Thanks. Yeah, I've been trying to think of, like, a really clever metaphor. I'm sure Barmak probably has several floating around up there, and I can't really think of one, but it to me feels like if you went to the grocery store and they completely filled your cart with groceries, and then they say, oh, but you can take it all out. We've just stacked this whole thing with groceries, and you can opt-out every single time you go to the grocery store. And also you have to put it back where it came from and we're not going to tell you how to do that. Anyways. That's as close as I could get. That's not the same as being able to go into a grocery store and choose which groceries you buy and, you know, compare prices on name brand versus store brand, etc. Anyways, that's my shot at it. But my other thought is as far as data and evidence on kind of the artificial inflation of prices, I'd remind folks, we did submit two separate memos on this issue that I would invite you to read. And then my last thing is I think a question slash comment for the Department. I am super grateful for the language in this proposal. I feel like it is maybe missing a step ensuring that students get their money in a timely manner in order to be able to use their refund to purchase books. I know Dave, we chatted about this yesterday, and so I would just ask that the Department maybe commit to some preamble language clarifying that the timely receipt of funds is in the student's best interest and would fall under a reason for students to get their refund as soon as possible.

MR. ROBERTS: Greg, do you have an immediate response to that?

MR. MARTIN: Yeah, I can say we definitely are- the Department has always been of the mind that dispersing funds to students as soon as possible is where we want to be, and that funds should be dispersed in accordance with the needs of students. As David pointed out yesterday, we do have language in six

668.14 now that sorry, you know-

MR. MUSSER: 668.16.

MR. MARTIN: 16, I'm sorry. Administrative capability, we're talking about program participation. Administrative capability. Thanks, Dave. So we have that now that does state that. So it would be applicable here. I do want to point out that there are some times legitimate reasons why schools don't disperse all the money upfront. You know, at the very beginning, some schools have- because there is potential where money is dispersed and students haven't begun classes that it can wind up resulting in overpayments for students. Which so being cognizant of that, we want to make certain that in any time schools choose to disperse funds, that they're doing it in accordance with the best needs of the student, and not for their own purposes, or to avoid having to make refunds or issues like that. So we can certainly I think commit to stressing that in our preamble language. David, did you have a comment?

MR. MUSSER: Yeah, I would just say the same. Yeah. I think we were comfortable explaining in the preamble to this rule that if we ultimately go down the road that we're currently proposing that if there is a situation where a student meets the criteria for the institution to be required to provide their materials to them then the school also needs to ensure that the student has ready access to alternative funds. Generally that will be in the form of a credit balance to the student if that is available to them. So the school needs to make every effort to disperse the funds to the student in order for that credit balance to be in their hands, in order for them to make that choice legitimately. Otherwise, I take your point that the student effectively does not have a real choice if the institution's method of getting them their books and supplies is something that's ensured and they have no idea when they will obtain a credit balance refund to get the books and supplies through some other means. So the Department does believe that that would be covered by the other regulatory provision that's going into effect on July 1st, 2024.

MR. MARTIN: Thank you. David, I'd like to ask the our facilitator, Brady, if in the interest of time, perhaps we could do one more- just people with who currently have their hands up one more round. I understand that there's a wide range of opinion about this proposal. And I think at a certain point we've discussed every aspect of it to discuss this. There gets to be a point where I don't know that there's anything else to say about it that hasn't already been expressed.

Quite well by individuals on either side of the issue so thank you.

MR. ROBERTS: Sure. Yeah, I see six hands up. We'll take those six and any ensuing discussion. And then there's still more of the document to walk through so we'll requeue the document shareres at that point. So with that, Zack, why don't you go ahead?

MR. GOODWIN: Thank you. And I'll try to be a little speedier because I know we have a ton to get through. My concern, because we are not an inclusive access school, however, we do generally disperse and get refunds to students, at least those who are eligible and have credit balances within about seven days of the terms starting and I mean seven days prior. Certainly, we find with our students a significant portion of those who even get money in their hands, don't spend that money on books. They're spending it on other basic living needs, like housing or food. Which is part of our issue. What I wanted to touch on was the issue of authorizations, because it seems like for the purposes of removing books and supplies from tuition and fees, we are effectively creating an authorization that must always be collected on a payment period basis. And this is different than how other types of authorizations are treated. And I'm curious about any kind of compromise where we might obtain an authorization up front, and then with proper disclosure and timely disclosure in future payment periods, that students can then opt-out well in advance of being charged anything, or at least well in advance enough that they can have charges reversed if they want to make a different choice. Because I think if this is really the direction we're going in and some of the guidance that authorizations has actually got to change to. That's all. Thank you.

MR. ROBERTS: Dave, did you have a brief response?

MR. MUSSER: Yeah. I want to look to Greg and Denise on this particular question. I think I do understand your point, Zack. Because I think the way that the language currently reads, it sounds like the- well we use the word authorization, but the authorization, general authorization for all of the sort of non-tuition and fee expenses is collected up front. So maybe the way that it's worded right now isn't quite accurate with respect to how the authorization, the initial authorization would work and then the subsequent agreements to allow funds to pay for books and supplies might work. I think that's the Department's intent was to allow for an initial authorization to cover the majority of expenses, the non-tuition and fee expenses. And then to require the school, the student to affirmatively agree to the specific books and supply charges in each payment period. So they see how much the books and supplies are going to cost before the payment period starts. And then they say yay or nay to the specific books and supplies that the school is offering them, if the school is offering it to them. So is that what you were getting at or were you going further to focus more on an opt-out?

MR. GOODWIN: Yes, the latter as a point in between.

MR. MARTIN: So Zack, I would say go back to what Dave said, he said it really well, that there's still the idea of the general authorization you collect. So in a very traditional model where you have a bookstore, you know, let's just say you have a bookstore at which students can charge their books and materials and Title IV aid will cover that. Right? And you collected authorization for that. Generally up front and generally, unless the student cancels it, it's good for the entirety of the student's matriculation. So with that model that always works because the students consent is implicit in the student walking into the bookstore, picking up said book and purchasing it. Right? So that's every time we get that, every time. I think the way that we've written this is if the school's offering inclusive access such that the materials will be charged with each say, each semester. Right? The students enrolling in the class that the student would have in order for the school to know that the student is authorizing this, then they have for each payment period, make that positive authorization where the materials are going to be included. And I think that's what this regulation is about. Because if you just went with the general authorization and didn't require that, then we're pretty much the same place we are now. We could just continue to basically just charge it whenever they wanted to without the student consciously making the effort to purchase the materials. Does that make sense? Dave would say I described that correctly?

MR. ROBERTS: Denise, did you want to weigh in?

MS. MORELLI: Well, and the only other thing is, I think Dave made the point that the book charges are going to change per semester. Right? So that's kind of what the Department was looking at in this situation is each semester, their courses are going to change and the books are going to change, and the supplies are going to change for a traditional more traditional semester-based program. So that's why the Department went with that because if you do it at the beginning, they may be not knowing what's going to happen in another subsequent semester.

MR. MUSSER: But there's a whole host of other kinds of expenses that generally are smaller than books and supplies that we don't believe that a payment period by payment period authorization is necessary for. So we would want there to be the option of doing the initial authorization to say, I would like the school to be able to use my Title IV funds to pay for this set of expenses, with the exception that I will have to give my opt-in for books and supplies on a term by term basis. That's the Department's intent anyway. And like I said, looking at the language maybe a slight tweak to get to that to avoid the issue that I just mentioned. We don't want you to have to collect authorizations over and over, but we just want to ensure that the student makes an affirmative choice each term about the books and supplies.

MR. ROBERTS: Okay. Thank you, all. I should have noted this sooner but Dom Chase has come in for business officers. But first, I see Carolyn's hand. So Carolyn, go ahead.

MS. FAST: Thanks. I just wanted to make the point that this change, which I strongly support for the student's choice here, is both a reaction to bad actors and a reaction to the model itself. Because I think we've heard from a few people saying that, oh, you know, you shouldn't change the policy just because of some bad actors or situations where students are charged without even being told. It's actually not just that problem that the Department is working to correct here, but also the problem that the system of requiring students to opt-out and rather than opt-in is in fact a fundamentally flawed model. And I agree with the point being made by Greg earlier that if a textbook company comes to an institution and says I cannot provide a volume discount, if you do it, opt in by opt-out. That has to be disingenuous. We already know that they can, through their marketing research, make an estimate of how much people will join as an opt-in versus an opt-out. We've had numbers quoted to us just in this conversation about, you know, 70% versus 84% or whatever. So certainly they can predict what an opt-in model would look like, what the volume would be, and what discounts might be available based on that. So it's I feel a very disingenuous argument to say that this model can only work with an opt-out model, and that doesn't make a lot of sense to me. And it sounds like it has to do more with the profits of textbook companies than, like, actual ways that a system could work. And I support the Department's proposal here.

MR. ROBERTS: Thank you. Dom, please go ahead.

MR. CHASE: I think one of the big differences is we've got quite a few people that have built these programs from an operational standpoint that understand the differences. I would like- a couple of comments and then a question for the Department. Denise had mentioned, that the real concern was the nature of the opt-out. And that was something that we really worked to offer as an alternative in the proposals to enhance the transparency of the opt-out and make it more clear for students, web-based, etc. That was really exactly what we thought was the issue and where we offered our alternatives to the Department, which we didn't receive a response. I think one thing that I'd like to offer additionally is there are a wide range of financial aid programs, both from state Governments but also private entities that cover tuition and fees for students. And I think consideration would need to be looked at for the impacts of this change as it relates to students leveraging those financial aid programs to cover the cost of books so they don't have to cover it with their Pell refund, for example, or other resources that they have. And a question for Greg. Yesterday I noticed that you wrote down a suggestion from Barmak on the language around cleaning up this a little bit. Are we going to see that language or is that for later? And I have a feeling it's related to- it sounded like components of tuition, but my question would be, my second part of the question would be, how do purchasing bulk licenses on behalf of students differ from other bulk purchases of licenses for software such as Microsoft Office, Zoom, etc., that we do for students already?

MR. MARTIN: Well, you know, for your second question, I mean, I don't purport to know- to be an expert in purchases of bulk items or anything like that. And certainly, it's not the Department's intention to get in the way of institutional purchasing. I just go back to the fact that I don't find it to be a credible argument and it has been raised that, you know, publishing companies will only give us the best rate for students if we can present this more restrictive model to them. If that's what those companies are doing. I don't find that to be and I will go back to Carolyn's word. I find that disingenuous, quite frankly, I do. Now, they may have a business reason for doing that but I don't think it's- that reason is not compelling to me or in any way sway me to believe that we should change what we're doing here in order to facilitate that type of a negotiation. Because I don't think it's necessary for those companies to do that if they are doing that in an attempt to widen their profit margin and they have every right to do it. But I don't think that it's incumbent upon the Department to facilitate that. And we may disagree there, but that's just. Now Barmak's language, I'm not- I remember that yesterday that was a change for clarification and I'm not sure- I don't exactly recall- I don't 100% recall exactly what that was. Dave, do you remember that language we decided we would tweak?

MR. MUSSER: So it may be talking about the issue of OER and resources that the institution obtains for free or for a nominal cost that they then turn around and provide to the students. It's odd to have a situation where the student- you know, we're essentially saying you can't put those in tuition in fees. So where do they go? Do they go in ebooks and supplies charge of zero? Do they go in some other way? So we were trying to come up with a way of dealing with that in language. And we could also be in preamble guidance if we get to that and that might also work. But I certainly thought that there was some room there for us to think about alternative language on those kinds of items. And that was, I believe, one of the earlier points, not just OER, but things that where the school is taking resources, where it may already have licenses and simply taking pieces from that, where there's no additional expense to the school to do it, and therefore there's no additional expense to the student when the school provides it. These are- that's some very somewhat complicated language that we might have to come up with. I think we, you know, we're open to that. If it does appear that you know, there's enough room for compromise, I think, on both sides, but I defer to you, Greg, as to whether, you know, we should necessarily go down that road under the circumstances.

MR. MARTIN: Yeah, yeah we can- I'm going back to addition to what Dave said, Barmak did come back and said that his suggested regulatory edit for the Department was 668.164 (c)(1) romanette 2 (b). In which he said strike at or in the sentence limiting the provision to below market rates would better enable institutions to negotiate with publishers seeking privileged access to students through institutional bookstores. So that was Barmak's suggested text.

MS. MORELLI: I think the language. Dom, are you talking about where Barmak said something about include and that we needed to change it? Is that what you're asking about?

MR. CHASE: Well, it's related to the

question about the other things that we purchase as a part of tuition. And Barmak was cautioning against breaking tuition into components. But I think the conversation was around can you offer something for free and I'd like to see that language if that's something that you're looking at bringing up. And then the question would be is that opening the door then to all of the other components of tuition, where we're already bulk purchasing on behalf of students, like other software licenses that we do? So students where they can make an individual consumer choice and buy those licenses. But there's a difference that I cannot see between textbooks, fundamentally between textbooks and those licenses.

MS. MORELLI: I'm not sure we're in the same place, but okay. I think you're talking more along the lines of something different than I think his language change was in (c)(1).

MR. ROBERTS: I think Barmak maybe just offered some clarification in the chat.

MR. MARTIN: Barmak has his hand up. We could ask him.

MR. NASSIRIAN: Very briefly. I'm sorry, I don't type quickly. So what Greg was referring to was a different suggestion I'm making today. Yesterday, I suggested replacing the word include with something like automatically bill in 164 (c)(1) romanette 1 cap (a). And that had to do with this notion. And I put all of this in the chat very slowly. So yeah, my comment happened to come in at an inauspicious time. So I kind of confused the conversation. Yesterday's comment had to do with (c)(1) romanette 1 cap (a).

MR. ROBERTS: Okay. Thank you, all. Very briefly, DC and Jessi just joined us, so welcome to the both of you. And we'll go to Jason next.

MR. LORGAN: Thank you. So I have a follow-up question to the suggestion that schools can continue to offer affordable access programs. So during the 2014 neg reg, the Department's lead negotiator went to great lengths to explain the Department does not regulate what institutions charge for tuition and fees, but can regulate how institutions settle ledger accounts. So when it comes to books and supplies, can you clarify if there are any changes to this 2014 viewpoint? Thank you.

MR. MARTIN: I'm trying to recall that conversation. It is true that we do not regulate what institutions can charge for tuition and fees. That's a proprietary decision. I'm not- you'll have to clarify what you mean by how institutions settle ledger accounts.

MR. LORGAN: Yeah. Is that what this

is all about is really the question of how institutions settle ledger accounts? Because we've heard repeatedly that once disbursement happens, students can act in any manner they wish to acquire their textbooks. So it's related to that.

MR. MARTIN: Well, right. And in this case, we would still be, you know, it would still be allowable for the institution with when- if the institution has having obtained the student's authorization to do so, to charge the student for the materials for that semester. Whatever- however many credits the student's taking and for however many classes the student's opting into to those charges for materials. It just would have to be a charge that would absolutely appear on the student's ledger account at that point. So, you know, it would only appear there if the student authorizes the charge, which is different from the current model, where you can just automatically include it in tuition and fees and do so unless the student opts out. So I'm not sure from the accounting standpoint how that's much different, except that the charge can't occur until the student is authorized it. You still use Title IV funds to pay for it it's just now essentially become a non-institutional charge. But it's still an allowable charge. David, do you want to offer any clarification on that?

MR. MUSSER: So I think what you said is the Department's position and the position that we asserted in 2014. You know, first of all, it is accurate to say that we don't regulate tuition and fees. We do have legal language in the Higher Education Act that distinguishes between tuition and fees and books and supplies, and we treat books and supplies as a separate category. That should in our view and in this rulemaking, should not be lumped in with tuition and fees, except in a very narrow set of circumstances. And our argument was, yes, and is, that in terms of how you present the charges to students, the books and supply charges need to be separate from the tuition and fee charges. And the Department has that authority under the Higher Education Act to require that in order for the institution to disburse Title IV aid to pay for those charges. All of that said, nothing would stop the institution from increasing its tuition once it separates out those charges and now having higher books and supplies and tuition charges. The point is that we are saying that the charges for books and supplies should not be lumped in with the tuition and fees, and they need to be separate. And because we have a framework for how allowable charges work and how they are paid and how they are authorized, we are also treating our proposal now is to treat the books and supplies as a charge that requires authorization and has certain other criteria.

MR. ROBERTS: Thank you, all. Jillian, sorry for getting our wires crossed this morning. I think our timing is perfect, as your proposal, I think, has just hit every negotiator's inbox and the floor is yours.

MS. KLEIN: Yeah, thanks. I mean, I wasn't going to talk about that, but I guess I'll just make a comment. And I said it in the chat too. On the conversation as a follow up from the conversation yesterday about the proprietary materials, etc. that we had and the Department's invitation to some language. I did send that in this morning. And so, you know, obviously would want to get the Department's perspective on that before I would feel comfortable doing a consensus vote in general on this language. What I was going to say, though, is sort of back to the conversation about the multiple comments I think we've heard now both today and throughout the past couple of months, related to sort of hidden opt-out language or inconspicuous opt-out language. I just, again would track back to the large proposal that I think nine of us signed on to. That included a ton of details about how the Department could require the opt-out language to be clear and conspicuous, and I don't believe that we've heard sort of a satisfactory response to why that hasn't been included or sort of discussed more broadly in the spirit of compromise. Because I think we've tried to get it. And I'll just say, I mean, I think from like a best practices perspective, every institution should have been doing this anyway. And so if there's like an oversight or compliance concern in terms of how that's being monitored, I would definitely encourage the Department to think about if there are ways to bolster that in a different way. But in general, we try to take sort of all of the best practices that we could think of in terms of disclosure and add them to that proposal that we sent in so that it would be really evident to a student what the process would be to be able to opt-out. So we would just like to hear, I think, more details from the Department about, in the spirit of compromise, why that approach wasn't sufficient, given that we consistently have heard from the Department that one of the big concerns was sort of hidden opt-out language.

MR. MARTIN: That was one of our concerns. But as I pointed out earlier, it was not our only concern. I think that Denise had pointed out that there are- she has seen instances where the opt-out language was hidden. And that is a concern of ours. But as I go back to the point that a primary concern of ours is that the money we're talking about here is student money. There is, as Dave just pointed out, we are making a difference between or striking a difference between tuition and fees and books and supplies and saying that the purchase of books and supplies has to be done with the student's authorization to use their Title IV funding for those materials. So that's a fundamental possession of ours that cannot be reached simply with a better opt-out measure. Because even with a better opt-out measure, the student is still- the default practice is still that the student is charged as part of tuition and fees, is charged for books and supplies. And we are concerned that as this model continues to grow, and I think it will with electronics, with more access to electronics. We're moving away from the model that was in place certainly when I was in school where you, you know, you got the list of books for your classes, went to the bookstore, and bought the books. That's the way it worked in 1984. But it doesn't anymore. So with this becoming more ubiquitous and I think it can benefit students to have these types of materials provided by the school. But we fundamentally believe it should be a student's choice.

MR. ROBERTS: Okay. So our final comment on this and then we'll move on will be Scott. So

Scott, go ahead.

MR. DOLAN: And I apologize for earlier Brady for going over. It would have been helpful at the start for that to be laid out more clearly. Would have saved a number of us a whole lot of time, effort, and energy around trying to get to a compromise relative to what we heard in the beginning, which was around transparency and disclosure, not about opt-in versus opt-out. And if that was a fundamental, non-negotiable, being clear about that on the front end would have been helpful to all of us, I think. When it comes to bulk purchasing. A good economics course will tell us a little bit about markets and how they work, supply and demand. We're not saying it doesn't prevent us from the model. It's we're saying it allows us to negotiate the best price. Right? And I understand the concerns around the prices of textbooks. This is one of many mechanisms that institutions are doing to drive down the cost of materials. When it comes to education and the grocery store example, we make a lot of choices on behalf of our students. That's our job. You know, students don't get to decide what courses they take as part of our curriculum in order to meet learning out objectives. We're building that curriculum for them to help them get to the finish line. We're also selecting content to help them learn the material within our courses. We want them to engage with that content so that they have the skills and competencies that they need when they graduate. Emmett, I have read the proposal. I would love good research based on good methodology that allows us to do research of the impact of these programs. I apologize, but the research that is presented there is not really comparing apples to apples, as we suggest in the memos. We should do that research, right? And we should take this opportunity of the change that we made in 2014 and the models that have come since then that allow us to see what's working and what's not, and to make reasonable sound adjustments to this that work in the interests of our students and their success in the spirit of compromise. I'll only end up that I still have not seen data and evidence to support the issue that we have presented at scale, how many students are impacted, to what extent in terms of cost to taxpayer dollars? And I think that's what really should drive changes to negotiations and regulations. So I guess that's where my concern is a little bit admittedly a little bit frustrated to sit at a table and to have the integrity of a number of my colleagues questioned it's just not fair. And also let's negotiate what the real issue is, which at the end of the day, we got to today which is about choice, right? And what we define as choice, opt-in versus opt-out and if that was on the front end we would have had a more informed conversation to get here. And I think this is fundamentally we have philosophical differences. We're operating from different first principles. And I don't know if we can get to the same place. The unfortunate reality is that's going to impact students in negative ways. So I hope as we move forward, there are opportunities for us to discuss ways that we can kind of make adjustments to make these models work better for everybody at the table, everybody at the table. And I mean that.

MR. ROBERTS: Thank you all for that discussion. If we're ready to move on. Greg, I'll turn it back over to your team to walk us through the next section of the document.

MR. MARTIN: Okay. The next thing we're going to discuss is hopefully, while we're in more agreement than we had previously. We're moving on to tier one arrangements in 668.164 (e). And you can see, we'll move down to (f) to look at the changes we have made there. We made some tweaks to (f) where you can see here that we have put in no fee is automatically charged to a student when the student graduates, separates from the institution or reaches the specified age. So it's more clarifying language there. And then we've also added (g), no fee is charged to any student for inactivity on the account. So we believe that these two changes address in large part the existence of junk charges. The only other- junk fees, rather. The only other thing we did here is if we scroll down, we just made some changes you can see here and (c) with the addition of subparagraph (g). So that is all we have done in this section. It's not a lot. It's pretty much what we presented to you last time just with some tweaks. But I will open the floor for any discussion at this point.

MR. ROBERTS: Thank you. Carolyn, please kick us off.

MS. FAST: Thanks. I'm supportive of these changes, but would it be possible to put back the language that you just had on the screen for one second? Because I wanted to make one suggestion if possible.

MR. MARTIN: Vanessa has it back up here.

MS. FAST: Perfect. Thank you. So in (f) where talking about no fee is automatically charged to a student when the student graduates. I wondered if and I may not have been the intent of the Department, but when we were making these suggestions, our intent was that this would also address a fee that- so, for example, a financial product might be marketed to a student as a fee-free and then upon graduation, it would convert into something that might, let's say, have a monthly charge. And I'm not sure that this language entirely addresses that. It sort of sounds like there's like a penalty upon graduation. But not that the product can convert from fee-free to monthly fees or something. So if the Department was intending to prohibit that, which was the intent that we had when we suggested this change, then I would suggest adding something like when or subsequent to the student's graduation. Like maybe instead of making it at the point of graduation, it would be like subsequent to, at or subsequent to the student's graduation, etc.

MR. MARTIN: I'll let Denise address that.

MS. MORELLI: Yeah. Carolyn we were trying- I was just trying to get away from sunset fee because I didn't think it was common use, and I wanted to make sure everything that we have seen and you have seen is covered. So if you just tell me where and then Vanessa can potentially type it in.

MS. FAST: Oh, thanks. So thank you I appreciate that. And I agree that sunset fee was not really the best way to do it here, so I appreciate that change. I was maybe thinking that changing when the student graduates to something like, subsequent to the student graduating, separating or reaching a specific date might work because instead of a one-time fee, it would be to prevent like.

MS. MORELLI: A continuing. Yeah, I see.

MS. FAST: Okay. Thanks so much.

MS. MORELLI: Vanessa. Can you type that or whoever's presenting?

MR. MARTIN: So is it subsequent to when the student- is that what you want there?

MS. FAST: I think that would work. But I'm open to however you want to address that. But that was- subsequent to might fix that. Thank you.

MR. MARTIN: I think we can make that wording change, Denise.

MS. MORELLI: Yes.

MS. FAST: Even just adding subsequent to would work. Something like that.

MR. MARTIN: I think grammatically that's okay. Barmak will tell me if it isn't. Yeah, okay.

MR. ROBERTS: Okay. Thank you, all. Sophie, we'll go to you next.

MS. LAING: Thanks. I just wanted to ask the Department about the language choice on automatically charged and why the Department decided to use automatic instead of just when a fee is charged to the student.

MS. MORELLI: I think we're open to either. I thought that's what we were trying to cover because they're usually that's what we have seen in reviewing these situations. It's an automatic charge. I think we're okay with just charged to cover it.

MR. MARTIN: I think so. I don't think we need to- I don't think- charged would include automatically or otherwise.

MS. MORELLI: Yeah, it would cover both. We weren't trying to prevent anything, Sophia. I just was trying to capture the intent here, so I think we're okay.

MS. LAING: Thanks.

MR. ROBERTS: Alright. Anyone else on this? If not, I think we can return to the PDF and keep walking through the document.

MR. MARTIN: And we'll be moving on to 668.164 (h)(1) Title IV credit balances. And you can see we made a slight tweak here. And before we go into this I just want to personally thank everybody on the committee for the support we received for this particular provision because I personally believe this is a huge protection for students. It's definitely reining in some abuses we've seen out there. This is Title IV credit balances are how students pay their, you know, pay their expenses that are outside tuition and fees. So very important that they receive those. And this has always been a big one for me. So glad we have it here. But you can see here that this was a change that we made just in wording that I think Zack Goodwin had proposed as a clarification. So the definition of Title IV HEA credit balance. A Title IV HEA credit balance occurs whenever the amount of Title IV HEA program funds in combination with any other Federal or non-Federal funds, including but not limited to scholarships, grants, and private loans credited to the student's ledger account for a payment period exceeds the amount assessed the student for allowable charges associated with that payment period, as provided under paragraph (c) of this section. So it's just offering clarification to something that we had previously indicated- everybody indicated that they were supportive of. But I will open the floor for discussion on it.

MR. ROBERTS: Any questions? Comments? Thoughts on this? Okay seeing none. Greg, are we okay to keep moving along?

MR. MARTIN: I believe we are. And we can move on to returning funds and overpayments in 167. And we're moving to some language that David added under-

I think we're going to if I'm not mistaken, we're going to (c)(7) where those language changes start. There we are. And this language was added. Remember during our discussions in February, there were some concerns about the Department's procedures for the collection of overpayments. And this is when overpayments are referred to the Department for collection by institutions. And what the protocol will be at the Department for the collection of those overpayments. So I'm going to walk through this language. We'll read through it just to see what's here. And then we'll open the floor and take any discussion on this. So let's take a look at this. When a Pell Grant overpayment has been referred to the Secretary under (c)(6) of this section, the Secretary must provide the student the opportunity to repay the amount in accordance with a reasonable and affordable monthly payment plan, on the basis of the borrower's total financial circumstances. The Secretary considers the monthly payment amount to be reasonable and affordable if it's consistent with the Direct Loan rehabilitation requirements under 34 CFR 685.211 (f)(1), which are for defaulted loans. (9), the student may- the Secretary may calculate the payment amount based on information provided in the student's FAFSA or orally, electronically, or in writing by the student or the student's representative, and provide the student with a payment plan using that amount. The student may confirm their information by giving written, electronic, or oral permission to disclose applicable tax information to the Secretary, or by providing alternative documentation of income or family size. If the student does not provide documentation requested by the Secretary to calculate or confirm the reasonable and affordable payment amount within a reasonable time set by the Secretary is not less than 30 days, the payment agreement provided is null and void. Within 15 business days of the Secretary's determination of the student's payment amount, the Secretary must provide the student with a written statement confirming the student's reasonable and affordable monthly payment amount calculated under paragraph (c)(7) of this section, the date on which the first payment is due, a statement that the payment amount is null and void if the student does not provide any documentation requested by the Secretary pursuant to paragraph (c)(9) and an explanation of any other terms and conditions applicable to the payments that must be made. The Secretary will not impose any conditions unrelated to the amount or timing of the payments. The student remains eligible to receive Title IV HEA program assistance under 34 CFR 668.32 (g)(4) until the student does not respond or provide documentation satisfactory to the Secretary for 90 days to the Department's offer to enter into a reasonable and affordable repayment plan; or the student fails to make any payment pursuant to the repayment plan for a period of 120 or more days. A student may request that the monthly payment amount be recalculated due to a change in the student's total financial circumstances by submitting alternative documentation of the student's income or family size satisfactory to the Secretary. In this case, the Secretary shall recalculate the monthly payment amounts pursuant to paragraph (c)(7) of this section. So I'll stop there and we will open the floor for discussion.

MR. ROBERTS: Alright. Thank you. Yeah. Sophie, we'll get to you but, Dave, I see your hand.

MR. MUSSER: Before we get started, I wanted to walk through some context for these changes. Especially as they relate to the negotiator proposal from which many of them are drawn. Just to make sure that it's clear why the Department made certain choices with this language. If that's okay.

MR. MARTIN: Go ahead, Dave.

MR. MUSSER: So if we could scroll back up to the top really quickly. So Greg went through each, yes thank you, went through each piece of the language. Most of this is in fact drawn from the negotiator proposal to provide this additional language to codify the Department's approach to Pell Grant overpayments and their repayment once they are referred to the Department. Our feeling was that the negotiator's proposal largely already described many of the Department's policies and procedures for doing that, with some exceptions. And we attempted to align these things as closely as possible with the proposal, but there were some significant differences. One of those is in under paragraph (8) here. The negotiator's proposal requested that we align the monthly payment amount calculation with the new SAVE Plan methodology the Department has just put in place. The Department does not believe that it's appropriate to align- to provide a different process for establishing that monthly payment amount than the way that we establish that amount for Direct Loans that have gone into default. Both of those are treated as debts to the Department that we believe need to be treated consistently. So what we've done here is we've added language to say if it is consistent with the Direct Loan rehabilitation requirements and we've cross-referenced that regulation, if that regulation ever changes, for example, if it did become more generous, this would also change under these provisions. I think we can scroll down a little bit to talk about the other significant difference. The other significant difference is under paragraph (11) here. Where the student- where we say the student remains eligible to receive Title IV HEA program assistance. We added one concept here to ensure that the student does respond to the Secretary's request. It is our feeling that when a student doesn't have any response whatsoever, the Department does need to take action to remove the student's eligibility and to take all necessary actions to treat that as a debt. The student needs to repay as soon as possible. However, if the student does respond then we agree that it's reasonable to provide that student with a substantial amount of time following a missed payment before we remove their Title IV eligibility. However, we believe that the Debt Collection Improvement Act requires no more than 120 days for that purpose. And again, we treat this as a debt. Similar to a defaulted loan. And that we don't believe we can go beyond 120 there. And I believe there are some other somewhat more minor changes. But those were the two major ones I wanted to call attention to.

MR. MARTIN: Thanks, David. You can open the floor.

MR. ROBERTS: Great. Sophie, please.

MS. LAING: Thanks. And thanks for that explanation. That's definitely helpful. And for taking a lot of the suggestions in our proposal. I do have a couple of questions for the Department and also just kind of a response to treating this debt as if it's a defaulted loan. Even those that default on their loans and are going through the rehab process, they only have to make nine payments under that affordable and reasonable repayment plan and then they do get to enter the SAVE Plan if they apply for it. But with these borrowers, they might be stuck in that kind of IBR like plan for like the whole payment of their loan. So they might be stuck making those actually unaffordable payments for much longer than someone who actually defaulted on their loan. And for these borrowers in particular, that might be a real struggle making those IBR payment amounts because they aren't actually that affordable to low-income borrowers like the SAVE Plan would be. I did want to ask about if the Department's cross-reference to the Direct Loan rehabilitation requirements included the part where borrowers can also adjust their repayment amount if it's not affordable by providing there's like a long list in those regulations about reasonable and necessary expenses and showing the Department that they can't actually afford those payments. I think the referencing to the Direct Loan rehab requirements in that section generally is a bit confusing because it, you know, talks about there being nine voluntary and reasonable payments, which doesn't apply to these overpayments. But then also wanted to ask if it does include the ability for these students to get lower payments by submitting that additional documentation. And if it doesn't, we would strongly encourage the Department to include that language. And we were able to send that as well. We updated our proposal to include that.

MR. MUSSER: I'd say the Department's intent is to allow for that process. So if it's not represented in the language here, I think we're open to slight amendments to get to that.

MR. ROBERTS: Yeah, Barmak, go ahead.

MR. NASSIRIAN: Yeah. One of the- this may come as a surprise to the Department, but one of the admonitions that I was so used to hearing from the Department in previous rulemakings was that the Secretary does not regulate him or herself. Which kind of makes sense. In multiple places in this text, I see a formulation that reads the Secretary must. Which is kind of odd because, you know, typically it's like the Secretary may or, you know, so on so, shall. I think it's probably good practice to replace that verb with like will just to keep consistency. I don't know whether that's helpful or not. But it just struck me as very odd to see the Secretary must do x, y, and z in regulations.

MR. ROBERTS: That makes sense, Barmak. We were thinking about simply saying provides without saying will, etc. So we may make that change.

MR. ROBERTS: Thank you, both. Sophie.

MS. LAING: I also just kind of wanted to push back a bit on treating these overpayments as if these are students that have defaulted on their student loans. I mean, these students may have had to withdraw or leave school or just drop credits due to some life circumstance outside of their control. And then immediately or fairly immediately they have an overpayment due to their school or the Department, whereas the defaulted loan, they, you know, have missed nine months of payments and have had the option to enroll in Income Driven Repayment Plans and choose the repayment plan that makes the most sense for them. And the timelines for these overpayments are so much shorter. And the students in these situations are there probably because something really terrible just happened in their life that they're trying to deal with. So I think, you know, the SAVE Plan offers them an actually affordable repayment plan amount. And, you know, with that formula wouldn't require, I think, the additional alternative documentation process that's under the Direct Loan rehab regs, because the payments would already be affordable under the SAVE formula.

MR. MARTIN: They've addressed the specifics of why we settled on this and don't believe we can go any further. But I do understand your point that, yeah, in many cases, when a student knows an overpayment, there could be a variety of difficult circumstances involved in that. But fundamentally, we have to understand that these are not loans, these are not borrowers, they might be borrowers in other ways, but these are grants. So we're talking about, in this case, Pell grants and we mirror the language for FSEOG grants in the other section. But it's money for which, for whatever reason, the student is simply no longer eligible and the default position would be that and used to be that the student owed that amount up front and renders the student ineligible to receive aid. So we don't want that to happen, obviously. And we've, I think, gone as far here as we can, but I think we have to keep in mind that although we have referenced some elements of defaulted loan rehabilitation. This is a grant overpayment. And for whatever reason it occurred, it's funds- it represents funds for which the student is not eligible. But I'll turn it over to Dave for Further explanation of the details.

MR. MUSSER: I think that's right, Greg. Ultimately we understand your perspective, Sophie on this that these are debts that are that occur differently under different circumstances. And if we had the ability to go further, I think we probably would. I am not an expert on the Debt Collections Improvement Act and the folks that we talked to who are experts on that, they believe pretty firmly that these debts fall into the category of debts that are covered by that act. It may be that with additional legal analysis, we could get further. But unfortunately, we just don't have the time to do that here. I don't know that we could. As I said, the Department's view right this moment is that they are debts that fall under that law and for that reason, we believe they should be treated consistently in certain respects- with respect to the requirements of that law and with respect to consistency with the Direct Loan rehabilitation requirements. We do agree that to the extent that we can make that more consistent. We were open to that here. Because we want to ensure that students don't have an easier time getting, you know, maintaining their status and if they have a defaulted loan than they do in a Pell Grant overpayment or FSEOG overpayment situation. But at least for now, that's the Department's position.

MR. MARTIN: Thank you, Dave.

MR. ROBERTS: Thank you. Sophie, do have a new comment, or is this follow-up?

MS. LAING: Yeah. I just wanted to clarify that the Department's proposal references the rehab regs (f)(1), but I believe the like alternative process to potentially lower the payment is in (f)(2). But we additionally are ready to submit language incorporating that process. And then I also just wanted to note that Robyn will be coming back to the table for legal aid organizations.

MR. ROBERTS: You're working me out of a job, Sophie. Welcome back, Robyn.

MS. R. SMITH: I just wanted to explain the (f)(1), (f)(2). So your paragraph (8) refers to 34 CFR 211 (f)(1). That specifically refers to the nine out of ten monthly payments, which doesn't really apply here. And it doesn't include the alternative payment arrangements that people can request under rehab, which is in (f)(2). And we want to make sure that to the extent that the Department's going to stick with this and stick with IBR, it does so with language that works. And that includes the alternative, the ability for students to request an alternative calculation based on their individual financial circumstances. We have language that we think fixes this problem. And we can submit that right now.

MR. MUSSER: Thank you. Yeah, we're open to that.

MR. ROBERTS: Thank all of you. Greg, I think there's one more section to walk through. Do you want to bring that up now?

MR. MARTIN: I believe we can look at it, but I believe this is for FSEOG overpayments and mirrors pretty much what was in Pell. But I will ask Dave if there's anything specific in here he wants to highlight that was not highlighted in the Pell Grants.

MR. ROBERTS: He's shaking his head.

MR. MARTIN: Okay.

MR. MUSSER: It should be entirely consistent. I did want to highlight one quick thing before we finish on this topic. One thing that is not immediately apparent in the regulatory text, but which I think the schools, in particular, should be aware of, is that the various changes that we made to the Title IV eligibility requirements, including that very first one that Greg talked about yesterday, essentially result in a somewhat significant change to how schools deal with the cases where they identify the overpayment. The school does not actually assign the student to NSLDS for them to make them Title IV ineligible. They follow the same procedures that currently follow to get them into a satisfactory repayment arrangement and or eventually send them to the Department. And it is only the Department that makes the determination that the student should lose Title IV eligibility if one of those two conditions are met. So I don't know if that was entirely clear from the regulatory language, but that is, in our view, how this would work.

MR. MARTIN: And I think that's a significant benefit for the students over the current practice.

MR. ROBERTS: Thank you all for that discussion on cash management. Greg, how would you like to proceed? I know that the intent was to move to a consensus check right now, but I know.

MR. MARTIN: The Department would like to request an internal caucus. Give us 20 minutes. It might be faster.

MR. ROBERTS: 20 minutes might be faster? Okay, we'll say- I'll check back in at 11:35 and we'll have an update for them. Jillian, do you want to say something?

MS. KLEIN: Yeah. I just want to say one thing. Since I mentioned my proposal, I don't know if folks saw the chat, but Barmak had some suggestions, and I'm working feverishly to try and address those in the proposal that I sent. So I just wanted to provide an update. Thanks.

MR. ROBERTS: And we'll send that to obviously the Department and facilitators the moment that we get them so there should be time hopefully soon.

MR. MARTIN: Thank you.

MR. ROBERTS: Okay. Yeah, DC.

DR. PRINCE: Just a question on formality. As I understand the conversation, there are a number of proposals coming. Is it- it sounds as though, is 20 minutes of a caucus going to be long enough to give the negotiators due diligence of a response to their request to properly vote in 30 minutes, basically?

MR. MARTIN: I'm not 100% sure what we're- I don't want to commit to anything right now. We do need to look at- we have a lot of things on the table. I think we need to be cognizant of time. I mean, you know, we're coming down- we have to do accreditation. We have other things we have to do so we cannot spend the rest of the day or the rest of the two days on cash management. Looking at proposals takes time, absorbing them. So I want to be- I want to go into caucus and determine what we can look at quickly and come back with- my intent is not to cut off debate or discussion or to- but we do have to be cognizant of the timeline we're working with.

MR. ROBERTS: I'll speak just from our perspective, DC. If in 20 minutes there's changes to the document, obviously the negotiating team, the non-Federal negotiating team will have, you know first pass at that, opportunity to discuss. And then from there, you know, depending on how that shakes out a consensus check and then moving on into the rest of the business that we would like to get to before kicking off accreditation.

DR. PRINCE: Does it make sense just to go straight to consensus check now? Because the concern I have is the proposals that are being submitted may not get the due diligence of a review and might be shortchanged anyway. And so we would have gone through, and sorry, I'm not trying to stress people out, but I'm just recognizing a level of- there may not be enough due diligence for people to get what they need in for the Department to review and provide valuable feedback to individuals to even have a proper vote. So we would have wasted 30 minutes, in essence, and still come out with the same outcome. That's the thing.

MR. MARTIN: We do have a number of proposals for language change that are in play here that we want to be able to see if we can incorporate. So I don't- there'll be no lack of due diligence. Whatever we have- whatever we come back with will be presented to the negotiators and reviewed. So everybody will have an opportunity to look at it. So we're not going to be putting anything in here asking you to vote consensus or non-consensus on anything that you have not viewed. So whatever it is we come back with, you will certainly see.

MR. ROBERTS: Cindy, did you want to weigh in?

MS. JEFFRIES: Yeah, I just, you know, I don't believe that it is a waste of time to allow this caucus. We need to let the party- let the Department get into their caucus so that they can commence their due diligence and, you know, the time that they have set aside to do this. Alright? There are late proposals coming in that were generated from discussion. And, you know, at some point, the Department needs to be able to just say, you know, look at those and say, we can do this or not, you know, and so let's go ahead and let them go to their caucus and get that piece underway.

MR. MARTIN: Thank you, Cindy.

MR. ROBERTS: Yep, yep, we're good to go. And I think we can all pop in in about 15 minutes just to see where the Department is.

MR. MARTIN: Thank you.

MR. ROBERTS: Thank you for your patience during that brief caucus. Greg, I'll turn it right over to you and your team. I know you were discussing some potential changes.

MR. MARTIN: Thanks, Brady. We will look at that. We have made some substantial changes to the overpayment section in response to some of the concerns voiced before we went to caucus. I do want to- We'll review that change- we'll review those changes. I do want to state up front that we understand that there's a significant divergence of opinion at the table on the proposal and I want to acknowledge that and I want to acknowledge the, you know, the points made on both sides and the discussion that we've had got a little heat at some points. But I think overall, it was a, you know, a good discussion. Before we move on, I want to say that we have reviewed another proposal that came in and the Department is not amenable to any language that provides opt-out. We are going to remain with our proposal of requiring student authorization for books and supplies offered as part of inclusive access or any other way we would term that process. The only- we do understand that there are some issues around how books and supplies are provided. The Department would be open to suggestions only if they involved- only if they were as or rather acknowledging of the opt-in position that we currently take. So we're not in a position to entertain any other submissions that would allow for a modified opt-out process whether it was- even if it was restricted. So I want to say that. So what we'll do is- acknowledging that, we will move to the changes that we've made with respect to- well, before we do that, I want to go- Vanessa, could you take us to disbursements where you made the change that Barmak had requested under the- let's see if I can find it. The language where we had include.

MS. MORELLI: No, that's up. She was already there. Vanessa, you were already there.

MR. MARTIN: I'm sorry. I didn't see that. Go back to that, Vanessa. Yeah, that's what I wanted to do. Yeah. So. Yeah. Right there. This is the first change we made. This is crediting a student's account ledger. And we made some changes here to clarify that an institution may not assess a mandatory charge for institutionally provided books and supplies or charge books and supplies as part of tuition and fees unless the student is a confined or incarcerated individual. So that's just clarifying the language there from the previous language which said include to making it clear that the school may not assess any charge for those materials. And then I think we can move on to the payment language. And when we get there I'll let David walk through those changes.

MR. ROBERTS: This is page 12.

MR. MUSSER: Yeah. So here we did make some changes in terms of wording. I think we agree with Barmak that generally we don't regulate ourselves and that it was an oversight on our part not to frame it in those terms. We believe we made the changes that the negotiators requested with respect to ensuring that the components of the Direct Loan rehabilitation requirements pertaining to the calculation of the monthly payment and the process for requesting changes and having the Secretary provide notice of the option to do so by incorporating (f)(1) romanette 1 instead of (f)(1) broadly to exclude the concept of the nine payments, and then to include paragraphs (f)(2) through (f)(4) of that section. Our view is still that this should be primarily a cross-reference to those provisions and not include other language as to the extent possible. We did add the provision suggested about a prominent statement that the

Secretary provides that the student may object orally or in writing to the payment amount and providing the time frame for that objection. Scroll down a little bit, Vanessa. We did make the change to (8). That was also a typo on our part. So thank you for that catch. And then finally we made this change here (7) through (10) which we did not add that full paragraph that the negotiators requested because we believe that that is incorporated in the earlier change to add those paragraphs in the Direct Loan rehabilitation regulations. And we believe this does address the negotiator's concerns. We did the same things for the FSEOG section. Essentially, we mirrored those.

MR. ROBERTS: Okay. Thank you, all. At this point. Oh, sorry. Go ahead, Robyn.

MS. R. SMITH: Could you scroll back up? I just want to make sure the cross-references are right, and I just- if you could scroll back up to the (f) the cross-references to the alternative payment plan, I'm just comparing them. But thank you. Thank you for doing this. I think probably you've addressed our concerns. I just want to make sure the cross-references are right. Thank you.

MR. ROBERTS: Okay. Thank you.

MS. R. SMITH: I think the cross-reference. Thank you. I think that works.

MR. ROBERTS: Jillian, I know the intent was to hopefully take a consensus check on this. Do you have a question or is it feedback?

MS. KLEIN: Well, I mean, I guess I would just say- so thanks for, I guess, sending me some language. I would just say, I think regardless of the opt-in or opt-out, there's still, and this is what I said yesterday, a huge issue with how proprietary materials or bundle materials are provided to students, even if you make them opt-in, because there's no way that an institution can price check against what's publicly available. So and this was the exchange, I think, Greg, you and I had yesterday. And at one point you said, well, if an institution has looked around and there's no comparable price, then they've done their job from the Department's perspective. So I guess I would just highlight that there should be regulatory language that speaks to that or something. Because regardless if we're talking about opt-in or opt-out, that experience- there's no way for an institution to actually even provide proprietary materials in your language to a student because we can't fulfill the requirement to price check against the market.

MR. MARTIN: I want to- we want to voice a reasonable position here. I think you're right that if the school has, you know, design materials such that there's nothing on the market to which it can be compared. That you've having done, I mean, we do require you to check for that if that's- if you've done your diligence there and there's nothing to compare it to then we would consider that done. I don't know what- that would be a fairly clunky construction in the regulation. I can't, you know, I think the regulation as written accommodates for that. I don't, you know, I understand your position, but I don't know what, you know, what I could put in the regulations. I'm certainly willing to address that in guidance in the preamble and to commit to doing that. I'm not going to put any school in a position of having to do something which simply cannot be done because there's nothing to compare it to. But I think you've- if you have made that determination and I would say that, you know, you have to- it has to be a good faith determination that there is nothing comparable and that the institution has made every effort to offer it at the lowest price possible.

MS. KLEIN: Which, with all due respect like that is- if you just take out the opt-out stuff that's what I sent you. I mean, I put in tons of- so I would just encourage the Department to look at that and I know we're done talking about this. But like as you guys move towards draft language, I gave you that. I put in so many different qualifiers about the narrow ways that this would be used. And you can take that out regardless of opt-in or opt-out to add it into regulatory language. Please do not regulate in the preamble. Thanks.

MR. MARTIN: We will certainly consider it.

MR. ROBERTS: Alright. Barmak, you'll be the final comment on this and then I'm going to see if the committee is okay with taking a check at that time, but go ahead.

MR. NASSIRIAN: Very briefly, I submitted something in writing. I just want to alert the Department that we're almost coming full circle here. This conversation was initially focused on certain kinds of misconduct by institutions, typically involving, like, you know, cosmetology kits that were vastly overpriced and so unique that they could charge whatever they wanted to. I'm sympathetic to this notion of bundling educational materials at a lesser cost than buying 12 books at full price. Maybe the mechanism- it should not just be the uniqueness of the bundle, because anybody can create a unique bundle that doesn't exist anywhere else. Maybe the safeguard would be that neither the school nor the bookstore is actually charging anything beyond cost to ensure that they don't put together a flimsy little packet and then call it a $500 unique product.

MR. MARTIN: Well, I agree with what you're saying there Barmak about the fact that yes, I want to say that the practice of saying that we've assembled, you know, various components of a kit, you know, various things, and it's only- you can only get this assemblage, but we've offered it. Ergo, that's something you can't get anywhere else. That's completely disingenuous. I don't think that's what Jillian was talking about. She was talking about, like, you know, institutionally designed materials. I think we'd have to construct that in such a way that we made that clear. I don't want to open up the regulation for gaming by people doing that type of thing because again, I agree with you that just because you've bundled a certain way doesn't mean I can't get it these other ways if I choose to do so. So yeah. So I definitely take that. Can I ask Jamie to- Jamie, you put a question in the chat and I would like you to- I'm asking you rather to ask that.

MS. STUDLEY: You know, I put it in the chat because I don't know that it'll influence the vote here, but there- I think there are places that say, let's avoid all these extras and let's just say to take this class, it costs this much. And instead of asking students to buy things separately in the publicly posted tuition. So that's the easiest thing for people to compare to others. This place it costs a thousand. That place it costs $1,200. But one of them says, I will just include everything that you need to take this class. So it's not a separate books and supplies issue. I just don't want somebody to- I'm just picturing a school not being clear about whether- in a way that seems the most visible to students, the most crisp that there's no extras, there's nothing else that you- you take this class, everybody needs to have this clay and paint, and that's going to be part of the institution's budget to teach that class, just like we're turning the lights on and we're giving you if it's, you know, it on site we're giving you a chair and we paid the teacher, that we don't take those apart. I don't know if that's a real question for institutions, so I didn't want to bother you here.

MR. MARTIN: No, I think it's a legitimate question.

MS. STUDLEY: It would help for schools to know that.

MR. MARTIN: Right. We had actually- that very question came up. It was one of the last questions I think I discussed with John Klaus and Jeff Baker still present at the Department. So I have all these memories of like, the Titans at the Department that I discuss things with.

MS. STUDLEY: They sure are.

MR. MARTIN: And then they left and all you have is me. So anyway we had discussed that and no, we're not- and we discussed it and I remember Jeff saying about the context of an art class where there were supplies or clay, whatever needs to be used for modeling. It's not the students- it's just part of the- what's necessary to do the work. Or maybe an engineering class where there are, you know, materials for building.

MS. STUDLEY: Or science classes. Some places make you buy your own microscope. Some places may say, here's.

MR. MARTIN: So no, it was never our intention to do that. And certainly, again, we don't control tuition. We don't regulate the tuition and fees. If an art class has a charge that's inclusive of those materials, we would be okay with that. But David, do you want to?

MS. STUDLEY: And it wouldn't be a separate charge. Can I just say one more thing? The reason I think it matters is that it does mean if it's included in tuition, the tuition to take this whole class, to me, it seems like a benefit for aided students because they know what the cost is and if support is available to them, they get support for a class that provides the microscope, the tools, and the things that they need. But you wouldn't want them in the school to be in the position later of being surprised and saying, no, you weren't allowed to do that and it was ineligible, that would be.

MR. MARTIN: Right. I definitely want to put some parameters around it because the way we viewed it in, you know, when we were discussing it before, was that it has to be, you know, something generally provided in the class, which is not like a student purchasing his or her own books or kit. It's that the class uses these materials in general. So I don't want to preclude that, but I want to make certain that I put some, you know, put some parameters around that. And I would open it up to my colleagues David or Denise. Dave, you want to.

MR. MUSSER: In the interest of time, I don't want to spend too much more time on it, but I agree with Greg. I think this is our current position and I also hear the negotiators that on this particular point, some additional clarity is needed. And we can go back and think about that. But I don't, you know, I don't believe it will affect the consensus vote. So I don't want to do that here.

MR. MARTIN: Thank you, Dave. Thank you, Jamie.

MS. STUDLEY: Really briefly, if I might, the segway is if Jillian decided to solve the situation she's describing by saying, you know what, I'm going to make those- I’m going to do those for everybody, I'm going to count it in my institutional copying or printing budget, and I will just hand it out to every student in this class. And if that means that I have to raise tuition by $42 or $12 to cover that, that will keep me from having it as an extra or an accessory. And in that case, I think people would want to know from the Department whether that was okay to be in the budget, even if it meant handing everybody the materials or whether it required some additional, you know, monitoring.

MR. MARTIN: Well, I think I think in that case, we talk- first of all, you're talking about staff time in developing all this. Which that's part tuition fees anyway. What professors are- what you're paying staff in order to develop coursework to do what they do. That's part of what is included in tuition and fees. So if as part of that compiling writings and whatever else is in there and publishing and printing those out or making them available via digital means as part of the expense of the class, yes, we would be agreeable to that.

MR. MUSSER: And I also think Barmak brought up a great notion of if it's done at cost. And whatever exactly it costs the school then they can incorporate that. And so, like I said, we'll, I think we understand these issues and we will go back and think about them.

MR. ROBERTS: Thank you all for that discussion. With the utmost respect to the positions that have been articulated and, you know, the somewhat, you know, intractable differences partially elucidated at the table. Greg, is it okay to move to a consensus check on this? Again, with apologies for eating into your break period.

MR. MARTIN: It is.

MR. ROBERTS: Okay. So with that we'll do a consensus check. As folks appear on my screen, a thumbs up means full support, sideways, you may have some issues but you're not withholding consensus. Thumbs down, serious concerns. Anyone who withholds consensus will have the opportunity to articulate new things for the Department to consider as they move into the NPRM period. So with that, Jillian, I have you first on my screen.

Thumbs down. Jamie. Sideways thumb. Jessi. Thumbs up. DC. Thumbs down. Barmak. Sipping coffee. Thumbs up. Jason. Thumbs down. Carolyn. Thumbs up, John. Sideways thumb. Jo Blondin. Thumbs down. Thank you. Laura. Sideways thumb. Diana. Sideways thumb, JoEllen Price. Thumbs down. Robyn. Thumbs up. Dom. Thumbs down. Voting on behalf of business officers, my apology. And Scott on behalf of private non-profits. Thumbs down. Greg. Thumbs up. Anyone who voted thumbs down, there were a number of you. Feel free to raise your hand if you have anything new for the committee or the Department to consider on this issue. Okay. Again, my sincere thanks to all of you for all your hard work and discussion on this. Apologies for eating into your break hour. We'll see everyone at 1:00 p.m. Eastern. And we will resume the discussion. Thank you, all.

MR. MARTIN: Thank you.

**Zoom Chat Transcript**
**Program Integrity and Institutional Quality- Session 3, Day 3, Morning, March 6, 2024**
***Chat was copied as presented, as a result minor typos or grammatical errors may be present.**

From P, Jillian Klein, Proprietary Institutions to Everyone:

Was ED planning to send around their most recent state auth language promised yesterday?

From P - Erika Linden - Private Nonprofit Institutions to Everyone:

Scott Dolan will remain at the table for private nonprofits

From P. Jo Blondin, Community Colleges to Everyone:

Also, can we have an updated agenda for tomorrow with the cadence of issues/votes still needed?  Thank you.

From P-Robyn Smith, Legal Aid Orgs. to Everyone:

Sophie Laing will be coming in for Legal Aid organizations.

From P - JoEllen Price, Financial Aid Administrators to Everyone:

Zack will come to the table for FA Administrators

From Joe Weglarz (P) NACUBO to Everyone:

Dom will be coming to the table

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

data and evidence

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

how many students

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

and they can choose to opt out

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

my apologies brady

From Cindy Jeffries - FMCS Facilitator to Everyone:

Replying to "Also, can we have an..."

Hi Jo, yes an updated agenda will be provided for tomorrows session.

From A - Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

Reacted to "Hi Jo, yes an updat..." with 🙏

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

which is more about disclosure and refund rules

From P. Jo Blondin, Community Colleges to Everyone:

Reacted to "Hi Jo, yes an upd..." with 👍

From P. Jo Blondin, Community Colleges to Everyone:

Agree with Zack

From P - JoEllen Price, Financial Aid Administrators to Everyone:

Reacted to "Agree with Zack" with 👍

From A-D'Angelo Sands - HBCUs, TCUs, MSIs to Everyone:

Dr. Prince with be joining the table for HBCUs, TCUs, and MSIs

From P - Barmak Nassirian, Veterans & Military Students to Everyone:

suggested regulatory edit for the Department on 668.164(c)(1)(ii)(B): Strike "at or" in the sentence. Limiting this provision to "below market rates" would better enable institutions to negotiate with publishers seeking privileged access to students through institutional bookstores.

From P, Jillian Klein, Proprietary Institutions to Everyone:

I have a proposal on this topic Dave is mentioning that I just sent to facilitators.

From P, DC, HBCUs, TCUs, MSIs to Everyone:

P, DC, HBCUS will be returning to the table

From P - Barmak Nassirian, Veterans & Military Students to Everyone:

Denise is right: my comment yesterday addressed 164(c)(1)(i)(A). I suggested replacing "include" with something like "automatically bill"

From A, Emmett Blaney, Students/Borrowers to Everyone:

Jessica Morales returning to the table for Students/Borrowers.

From A - Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

Does this not bring us back to a school's option then to increase tuition and give students books/supplies for free?

From A - Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

This would arguably reduce student choice.

From P - JoEllen Price, Financial Aid Administrators to Everyone:

Reacted to "This would arguably ..." with 👍

From P - Barmak Nassirian, Veterans & Military Students to Everyone:

Spending else's money--no matter how benevolent the purpose--requires their affirmative consent. Post facto opt-out policies, regardless of how transparent they are--fail that baseline consumer right.

From P - JoEllen Price, Financial Aid Administrators to Everyone:

I agree with Zack. Shouldn't there be a concern that the bad actors will mask the costs in Tuition, so it appears they are offered for free?

From P - Carolyn Fast, Civil Rights/Consumer Advocates to Everyone:

+1 to Barmak's comment above.

From P. Jo Blondin, Community Colleges to Everyone:

Reacted to "I agree with Zack...." with 👍

From A, Magin Sanchez, Civil Rights/Consumer to Everyone:

+2 to Barmak’s comment

From A. Ashlynne Haycock-Lohmann (vets) to Everyone:

Reacted to "  +1 to Barmak's com..." with 👍

From A, Emmett Blaney, Students/Borrowers to Everyone:

Reacted to "Spending else's mone..." with 👍

From P - JoEllen Price, Financial Aid Administrators to Everyone:

As I listen to this conversation, I turn my attention to the various automatic fees colleges charge that students have complained about for years. Student organization fees, transportation fees for shuttles, etc.... Aid is applied to those fees even though students don't participate and they complain about those fees. I believe in student choice but also believe in student success, which requires books and materials needed to be successful.

From (A) Dom Chase - Business Officers to Everyone:

Reacted to "As I listen to this ..." with 👍

From P, Laura Rasar King, Specialized Accreditors to Everyone:

Reacted to "As I listen to this ..." with 👍

From P, Jason Lorgan, Public 4-year to Everyone:

Reacted to "As I listen to this ..." with 👍

From A - Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

Reacted to "As I listen to this ..." with 👍

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

Erika will step back in for private nonprofits

From P - Erika Linden - Private Nonprofit Institutions to Everyone:

Thank you, Scott, for articulating the frustration some are experiencing.

From P - JoEllen Price, Financial Aid Administrators to Everyone:

Reacted to "Thank you, Scott, fo..." with 👍

From P, Laura Rasar King, Specialized Accreditors to Everyone:

Reacted to "Thank you, Scott, fo..." with 👍

From P, Jason Lorgan, Public 4-year to Everyone:

Reacted to "Thank you, Scott, fo..." with 👍

From (A) Dom Chase - Business Officers to Everyone:

Reacted to "Thank you, Scott, fo..." with 👍

From P. Jo Blondin, Community Colleges to Everyone:

Reacted to "Thank you, Scott, ..." with 👍

From P. Jo Blondin, Community Colleges to Everyone:

Replying to "Thank you, Scott, ..."

I feel like I am back in January. Time is running out. That appears to be a strategy, sadly.

From P - Barmak Nassirian, Veterans & Military Students to Everyone:

I am sympathetic to Jillian's comments about schools attempting to reduce the cost of books and supplies by creating packets. But her proposed 164(c)(1)(i)(A)(3) strikes me as needing significant changes, lest it turn into a license for potential bad actors to price-gouge students by creating over-priced "unique" packets. Maybe Jillian can add some additional criteria to guard against that threat.

From A - Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

Thank you for the including the clarifying text regarding credit balances! Was any further consideration given to how this may impact funds escheating to the State?

From P, Jillian Klein, Proprietary Institutions to Everyone:

Replying to "I am sympathetic to ..."

Thanks for the feedback, Barmak. Let me see what I can do.

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

Reacted to "Thanks for the feedb..." with 👍

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

Reacted to "I am sympathetic to ..." with 👍

From P - JoEllen Price, Financial Aid Administrators to Everyone:

Zack will be coming to the table for FA Administrators.

From A, Sophie Laing, Legal Aid to Everyone:

Robyn is going to step back in for Legal aid orgs.

From P - Carolyn Fast, Civil Rights/Consumer Advocates to Everyone:

+1 to Sophie's comments that students in this situation should be able to access the most generous repayment plan.

From A - Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

JoEllen has returned to the table for Financial Aid Administrators.

From A, Magin Sanchez, Civil Rights/Consumer to Everyone:

+1 to Sophie and Carolyn

From P., Diana Hooley, State Attorneys General to Everyone:

Reacted to "+1 to Sophie's comme..." with 👍

From A, Magin Sanchez, Civil Rights/Consumer to Everyone:

Reacted to "+1 to Sophie's comme..." with 👍

From P - Barmak Nassirian, Veterans & Military Students to Everyone:

+1 on Sophie's comments

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

thanks!

From P-Robyn Smith, Legal Aid Orgs. to Everyone:

We would like to ED to review the proposal we just submitted to ensure that if ED sticks with IDR on the repayment proposal, it incorporates alternative calculation option, thanks.

From P-Robyn Smith, Legal Aid Orgs. to Everyone:

Sorry, IBR plan, not IDR!

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

I think it makes sense to allow the Department to review in caucus. For one, I am appreciative of them taking this step.

From P - JoEllen Price, Financial Aid Administrators to Everyone:

Reacted to "I think it makes sen..." with 👍

From P. Jo Blondin, Community Colleges to Everyone:

Agreed, and the recognition of the time constraints. I look forward to the report after caucus.

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

Reacted to "Agreed, and the reco..." with 👍

From P - JoEllen Price, Financial Aid Administrators to Everyone:

Reacted to "Agreed, and the reco..." with 👍

From A, Magin Sanchez, Civil Rights/Consumer to Everyone:

Reacted to "I think it makes sen..." with 👍

From P - Erika Linden - Private Nonprofit Institutions to Everyone:

To ED and Facilitators - I've lost track. Is the plan to take consensus vote on Issue 2 (state auth) later today or on Friday?

From P, Jillian Klein, Proprietary Institutions to Everyone:

Replying to "To ED and Facilitato..."

Erika wants to come back on Friday :)

From P - Erika Linden - Private Nonprofit Institutions to Everyone:

Replying to "To ED and Facilitato..."

Yikes - I meant Thursday - thanks, Jillian, for keeping me on the right day.

From P, Jillian Klein, Proprietary Institutions to Everyone:

Reacted to "Yikes - I meant Thur..." with 😂

From A - Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

Reacted to "Yikes - I meant Thur..." with 😂

From P-Jessi Morales, Students/Borrowers to Everyone:

Replying to "To ED and Facilitato..."

I had a slight panic attack just now lol

From P-Jessi Morales, Students/Borrowers to Everyone:

Reacted to "Yikes - I meant Thur..." with 😂

From A - Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

Reacted to "I had a slight panic..." with 🤣

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

Reacted to "Yikes - I meant Thur..." with 😂

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

Reacted to "I had a slight panic..." with 😂

From A, Magin Sanchez, Civil Rights/Consumer to Everyone:

Replying to "To ED and Facilitato..."

Never been more frightened in my life

From P, Jillian Klein, Proprietary Institutions to Everyone:

Reacted to "Never been more frig..." with 😂

From P-Jessi Morales, Students/Borrowers to Everyone:

Reacted to "Never been more frig..." with 😂

From P - Erika Linden - Private Nonprofit Institutions to Everyone:

Reacted to "Never been more frig..." with 😂

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

Reacted to "Never been more frig..." with 😂

From A - Zack Goodwin (he/him), Financial Aid Administrators to Everyone:

Here it's scorpions.

From P, Jillian Klein, Proprietary Institutions to Everyone:

Reacted to "Here it's scorpions." with ‼

From P-Jessi Morales, Students/Borrowers to Everyone:

Sorry, what page are we on?

From P-Jamie Studley, Institutional Accreditors to Everyone:

so re not including charges for supplies in tuition, if an art school included the cost of clay and paint and canvas for students in its budget and provided them to students in art classes would that be ok or a prohibited practice?

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

agreed with Jillian. A number of negotiators raised this yesterday too. And Barmak seemed to be open to some language modifications today.

From P-Jamie Studley, Institutional Accreditors to Everyone:

Above I mean expense included in the institutional budget, and folded into the tuition for the class, not an addl item in student budget

From Joe Weglarz (P) NACUBO to Everyone:

I have another obligation from 12 -1 ok if Dom votes?

From Brady Roberts | FMCS Facilitator to Everyone:

Yes and my apologies for running into lunch

From P - Barmak Nassirian, Veterans & Military Students to Everyone:

Again, I do support allowing schools to create reasonably priced bundled packets, but worry about potential abuses by bad actors.

From P - Barmak Nassirian, Veterans & Military Students to Everyone:

Also, beyond possible manipulation of Regarding unique products "not available elsewhere," beware of publishers making minor changes to legacy products to make them unique and otherwise unavailable elsewhere.

From A, Scott Dolan, Private/Nonprofit IHEs to Everyone:

to my point in January, this feels more like an enforcement issue. With that said, fully understand and empathize with complexity of enforcement

From P, Jillian Klein, Proprietary Institutions to Everyone:

Replying to "Also, beyond possibl..."

Thanks Barmak. I made a good faith effort to get at this but always open to ongoing suggestions/conversation about how to do this well. I tried to get something together quickly but recognize it might not be perfect.

From P - Erika Linden - Private Nonprofit Institutions to Everyone:

I have to leave for a meeting - Scott will return to table for private non profits and will vote.