

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING
STUDENT DEBT RELIEF COMMITTEE
SESSION 3, DAY 1, MORNING
December 11, 2023

On the 11th day of December, 2023, 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 to our third and final week of this 2023 Department of Education Negotiated Rulemaking. My name is Brady Roberts, with Federal Mediation Conciliation Service. We, as always, have a very packed agenda today. So I'll get right into our roll call, and then I'll move to, old business. So kicking us off, joining us on behalf of civil rights organizations, we are joined by Wisdom Cole.

MR. COLE: Here.

MR. ROBERTS: Morning. And his alternate, India Heckstall.

MS. HECKSTALL: Here.

MR. ROBERTS: Representing legal, systems organizations that represent students or borrowers, we are joined by Kyra Taylor.

MS. TAYLOR: Good morning.

MR. ROBERTS: Good morning. And her alternate, Scott Waterman.

MR. WATERMAN: Good morning.

MR. ROBERTS: Representing state officials, including state higher education executive officers, state authorizing agencies, and state regulators of institutions of higher education. Lane

Thompson, the primary, will not be joining us today, but we are joined his alternate, Amber Gallup. Do we have Amber? I'll be sure to note her when she's able to join us. Representing state attorneys general, we are joined by Yael Shavit. Oh, I see you. Good morning, Yael, you're on mute, but good morning. And we're joined by her alternate, Josh Divine.

MR. DIVINE: Good morning.

MR. ROBERTS: Morning, Josh.

Representing public institutions of higher education, including two and four-year institutions, we are joined by Melissa Kunes.

MS. KUNES: Here.

MR. ROBERTS: Morning. And joined by her alternate, J.D. LaRock. We're still missing J.D., but I'll note him once he is able to join us. Representing private nonprofit institutions of higher education, we are joined by Angelika Williams.

MS. WILLIAMS: Good morning. Here.

MR. ROBERTS: Good morning. And her alternate, Susan Teerink.

MS. TEERINK: Good morning.

MR. ROBERTS: Good morning.

Representing proprietary institutions, we are joined by Kathleen Dwyer.

MS. DWYER: Here.

MR. ROBERTS: Morning. And her alternate, Belen Gonzalez.

MS. GONZALEZ: Morning.

MR. ROBERTS: Good morning.

Representing historically black colleges and universities, tribal colleges and universities, and minority serving institutions we are joined by Sandra Bonham, Boham, excuse me.

MS. BOHAM: Here.

MR. ROBERTS: And her alternate, Carol Peterson. I thought I saw Carol join, but I'll note her once she's able to join us. Representing Federal family education loan lenders, servicers or guarantee agencies we are joined by Scott Buchanan.

MR. BUCHANAN: Good morning.

MR. ROBERTS: Good morning, Scott. And his alternate, Benjamin Lee.

MR. LEE: Morning.

MR. ROBERTS: Morning. Representing student loan borrowers who attended programs of two years or less, we are joined by Ashley Pizzuti.

MS. PIZZUTI: Here.

MR. ROBERTS: Morning. And her alternate, David Ramirez. Again, I don't see him, but

I'll note him when he's able to join us. Representing student loan borrowers who attended four-year programs, we are joined by Sherri Gammage.

MS. GAMMAGE: Here, good morning.

MR. ROBERTS: Good morning, Sherri.

And her alternate, Sarah Christa Butts.

MS. BUTTS: Present.

MR. ROBERTS: Morning. Representing student loan borrowers who attended graduate programs we are joined by Richard Haase.

MR. HAASE: Good morning.

MR. ROBERTS: Good morning, Richard.

And his alternate Dr. Jalil Bishop.

DR. BISHOP: Here.

MR. ROBERTS: Morning. Representing currently enrolled postsecondary education students. I believe Jada Sanford, the primary, will be joining us later, so we are joined by our alternate, Jordan Nellums.

MR. NELLUMS: Good morning.

MR. ROBERTS: Good morning.

Representing U.S. military service members, veterans, or groups representing them, we are joined by Vincent Andrews.

MR. ANDREWS: Yes, present.

MR. ROBERTS: Morning. Representing

individuals with disabilities or groups representing them, we are joined by John Whitelaw.

MR. WHITELAW: Good morning, colleagues.

MR. ROBERTS: Morning, John. And his alternate, Waukecha Wilkerson.

MS. WILKERSON: Good morning.

MR. ROBERTS: Morning. Last but not least of our nonfederal negotiators, we are joined by- representing consumer advocates, we are joined by Jessica Ranucci.

MS. RANUCCI: Good morning.

MR. ROBERTS: Morning, Jessica. And her alternate, Ed Boltz.

MR. BOLTZ: Good morning.

MR. ROBERTS: We are, of course, joined by our Federal negotiator, Tamy Abernathy.

MS. ABERNATHY: Good morning.

MR. ROBERTS: Morning, Tamy. And representing the office- the Department's office of general counsel, I believe we are represented this morning by Mr. Soren Lagaard.

MR. LAGAARD: Good morning.

MR. ROBERTS: Good morning, Soren. Did I forget anyone? Apologies if I did. I know we had some

folks join a little bit late, and I want to make sure we let folks know that you joined us. Okay. With that, I want to move right into, revisiting some old business, specifically, adding a new constituency group. Just a quick process, check. You should have received an email on Friday. Did everyone receive that email, noting that new constituency group?

MS. ABERNATHY: Brady?

MR. ROBERTS: Yeah.

MS. ABERNATHY: Could we- could I make a couple of announcements and handle the other old business before we jump into a new constituency group, please?

MR. ROBERTS: Of course, yeah. Please.

MS. ABERNATHY: Thank you. Thanks so much. Welcome back, negotiators. We are now in the third session of our negotiated rulemaking on student loan debt relief, which specifies the Secretary's waiver authority under section 432(a) of the Higher Education Act of 1965 as amended. On December 4th, we sent the agenda and proposed regulatory text to you. We have also publicly posted all related materials on our official website. We look forward to our discussion and to moving toward final consensus on the areas covered in the proposed text that was sent to you, over the next two days. In addition,

after final consensus, we've set time aside to discuss hardship. As a reminder, we have a good deal of work to get through, so we'll start with the old businesses Brady mentioned, and then we'll focus our attention on reviewing the proposed regulatory text. There are a few updates I wanted to make mention that all of these responses to questions from session two have been provided verbally to the negotiators, and the data requests were filled and provided to the negotiators in advance of this meeting, and there are no outstanding data requests. Seeing as this is the final session, we are unable to fulfill any additional data requests. We appreciate the regulatory text proposals many of you submitted, and we will touch on them as we navigate through the agenda today and tomorrow. Thank you, Brady. I'll turn it back to you.

MR. ROBERTS: Of course. I do just want to note, I believe that Amber Gallup, representing state officials has joined us. I just want to say good morning to Amber. Morning, Amber. Sarah, I see your hand. Oh, I believe you're still muted. I apologize.

MS. BUTTS: I just wanted to mention in regard to data requests that we did make a request for any public service professionals that qualified for PSLF forgiveness but still have remaining loans, and we

understand that the Department's unable to give us that information.

MR. ROBERTS: Okay. Thank you, Sarah. Yael, noting your comment. Welcome to the table, Josh, on behalf of state AGs. Quick process check, did everyone receive Josh's proposal on a new constituency group? I believe it was sent last Friday. Not seeing anyone note that they didn't get it. Josh, anything to add for the group for discussion? Otherwise, happy to move to a consensus check.

MR. DIVINE: Yeah. I'll just give a little bit of a brief introduction. As mentioned during the November session, several different communities of interest have reached out to me to express their concern. They say that a critical interest group was never invited to the table. This all stems, I believe, from oral arguments earlier this year in the initial student loan process where the Chief Justice and Justice Alito asked questions about the fairness of the Department's previous student loan program. Namely, this is a very, very large, very, you know, that program is a very, very large, very expensive program, given to students, but not necessarily- there's essentially no program for small business owners, people who didn't go to college, people who went to trade schools or took out- or went to an

alternative or went through alternative career processes. The Supreme Court gave the example of a small business owner, a landscaper, things of that nature. And so, in November, the Department said if a committee were to add a new constituency group, somebody would need a proposed negotiator, so that's what I'm doing today. So, this is a constituency group that would represent individuals who are taxpayers representing the community of interest that does not hold student loans. One of the individuals in the document I circulated last week, one of the individuals had a conflict arise over the weekend, so I'll just discuss the other two. First is Betsy Miller. I nominate her to be the primary negotiator. Ms. Miller is a Missourian and the founder of a successful professional organizing firm called To Be Organized. Her firm specializes in organizational architecture. She helps clients move, sell their homes, downsize, event plan, things of that nature. Started in 1997, her company now has 15 locations across the country. She is also very heavily involved in community philanthropy, including helping rebuild Joplin Missouri after the devastating 2011 tornado. As the alternate, I nominate Alex Williams. I mentioned last week that Missouri differs substantially from Massachusetts and that Massachusetts is the state with the highest percentage of adults who have college

degrees, whereas 70% of Missouri adults do not have a bachelor's degree. There's one other big difference, which is that Missouri is home to College of the Ozarks, which has an innovative financing model. Nicknamed Hard Work University, the college has a zero tuition model where students, instead of paying tuition, work in on campus employment jobs. And that's how Alex Williams was able to obtain his bachelor's degree. Since then, he founded a successful foreign business in Branson, Missouri. He's also very active in the Branson community, including as a member of the city's finance committee. He's also a combat veteran. I'll leave the rest for the committee.

MR. ROBERTS: Great. Thank you, Josh. Tamy, you have your hand up.

MS. ABERNATHY: Thank you, Brady. Thank you, Josh. The Department would be interested in hearing opinions from other negotiators if they're willing to add this constituency or not. The Department has concerns about adding a constituency group this late in the process, and we do note that this constituency group is not among those contemplated in the requirement for negotiated rulemaking in the Higher Education Act. But we would like to hear thoughts from other negotiators. Brady?

MR. ROBERTS: Thank you, Tamy. Would any other negotiators like to add to the discussion? Yeah. Ashley, please.

MS. PIZZUTI: I just want to point out that I actually fill quite a bit of those spaces. I am a small business owner. I am a taxpayer. I went to a trade school, And I actually no longer have any student loans. So, I fill a lot of those roles that are already having a seat at the table.

MR. ROBERTS: Thank you, Ashley. Anyone else? Yeah, Kyra.

MS. TAYLOR: Thanks, Brady. I would also like to note that this is awfully late in the game to add a constituency group given that we've already had two rulemaking sessions, where we had robust discussion of all of the proposals on the table. I wonder why this constituency group is being added this late in the game. In addition, I'm curious as to what the student loan expertise of these proposed individuals are given that these programs are incredibly complex. The Higher Education Act is incredibly complex, and I did not see any evidence of those individuals' experience or familiarity with the Higher Education or student loans in the bios that were provided.

MR. ROBERTS: Thank you, Kyra. So, we

will take a consensus check on this. Just as a reminder, per the ground rules we've agreed to, all primary constituency groups are going to get a vote. So, if you're Primary negotiator, feel free to turn your camera on. As a quick reminder, we're going to ask for a show of thumbs. To add a new constituency group, it needs to be a unanimous consensus vote. So, thumbs up indicates a yes vote. A sideways thumb does not indicate a yes or a no, but you're not withholding consensus. So, if it is all sideways thumbs, for instance, you would still technically have consensus. And then a thumbs down would represent, an individual or constituency group has serious concerns, with voting in the affirmative for a consensus check. Any questions about that? Okay. So, at this point, I'm going to ask all folks with their camera on who are voting members to please indicate their consensus vote towards adding a constituency group, per Josh's proposal. Okay. I do see several thumbs down. So, we are not in consensus on adding a new constituency group. But, Josh, I do see your hand up, please.

MR. DIVINE: Yes. Well, I appreciate the committee taking the time to consider this today. As I said, you know, I have had a lot of people who expressed serious concerns to me about this issue over the past several, over the past several weeks. And

because the committee has decided not to go along with adding this this constituency group, I'm going to go ahead and withdraw at this time from my own participation in this committee, and I will submit something formal in writing to the facilitators. Again, thank you for taking the time this morning.

MR. ROBERTS: Thank you, Josh.

Jessica.

MS. RANUCCI: Thanks, I think that that changes a little bit what I was going to say, which is that, you know, I think that Josh has provided a voice for his constituents in Missouri. And I would also just like to note that whatever rule comes out of this negotiated rulemaking session will be subject to public comment. And so, I think that this is not by any means a last opportunity for the public to weigh in. And I think that I agree with the negotiators who said this sort of this at this stage, I think we're dealing with some technical student loan issues. It's really late in the game. But then I think that I think that there is, like, a whole another public comment period that's going to happen for, you know, after the proposed rule comes out that would be appropriate for public comment. Thanks.

MR. ROBERTS: Great. Thank you, Jessica. The only other old business that I would note, I

just want to quickly, remind folks of what the goal here today is to do. So, you all received a lot of proposed regulatory texts from the Department. Today, the plan is to have the Department share that text, provide a walk-through of the text, some of the changes that are that they're proposing. We're going to take temperature checks, which is a phrase that we've been using with some regularity in previous sessions. That is not an official consensus vote. It is really just an opportunity for the Department to solicit the group's feedback on their disposition towards the proposed regulatory changes. So, it takes the same form. A thumbs up is you have no problems with the regulatory text. You would vote in the affirmative on consensus if this was a consensus check. A sideways thumb, as always, you maybe have some reservations, but you're not withholding consensus. And then a thumbs down, you would withhold consensus. You have serious problems with the regulatory text. What we're going to do with those folks who vote, in the negative, who vote with a thumbs down, is ask you to come off of mute and share what your serious reservations with the proposed text in its current form would be and what changes you might propose to bring it in line with something that you could see yourself at minimum voting sideways, not withholding consensus from. You're going to

have the opportunity to submit any changes, minor or technical edits to the regulatory text, we might be able to do live. However, if they're more substantial in nature, we're going to ask you to submit those in writing and put them in the chat and send them to the facilitation team as quickly as possible, just so we have time to disseminate that and for additional discussion to be had. Am I forgetting any old business, Tamy? Otherwise, I'll turn it right back over to the Department to kick us off.

MS. ABERNATHY: Thank you, Brady. No. But you stole some of my thunder in my opening remarks, so I might have to repeat some of that.

MR. ROBERTS: That's alright.

MS. ABERNATHY: Thanks again. Let's take a few minutes to articulate the process and flow for the last session. We'll start by reviewing each section of the amendatory text. I'll turn it over to FMCS for temperature check, and then we'll have discussion just like Brady said. I would also like to mention that the Department may make minor changes to the amendatory text live if needed, but please be patient as the screen sharers update the text accordingly. There might be a little bit of a delay with the screen updating. So, if you have substantive regulatory text changes like Brady

mentioned, please follow that process.

MR. ROBERTS: Alright. Fantastic. Tamy, on my list first, I have Subpart g for discussion. Do you want to?

MS. ABERNATHY: Actually, what I'd like to do, Brady, is ahead just a few more things to mention about what we're doing today, if I may. As a point of clarification for the final consensus on day two, we're going to take one final consensus on all the technical corrections and changes in sections before Subpart g. So, sections 30.80 all the way through before Subpart g. We'll then take a final consensus on each regulatory provision in the new Subpart g, and that's going to be done separately. So, I just wanted to make sure that everyone understood that the technical corrections are a little bit different, and we will be grouping those together for one final consensus tomorrow. So, Brady, if you don't have any additional comments, I can go right into the other changes in part 30 and ask the team to share those screens.

MR. ROBERTS: Yep.

MS. ABERNATHY: Thank you. Alright. So, in 34 CFR part 30, debt collection, in Subpart (a), we have made a correction to some outdated language in (a) (2). We're going to refer the debt to the Government

Accountability Office for collection. In (4) (b), we have made technical corrections to update 31 CFR parts 900-904 as opposed to what was listed before was in Subpart (4). Excuse me. It was in part (4). Additionally, we have added point (7), which is waive repayment of a debt under Subpart G of this part. We have, of course, remunerated paragraphs (8) and (9). We've also added a severability clause. Additionally, in part C, which is 30.20, we have once again in (a) (1) romanette (ii) updated the IRS tax refund to the treasury offset program. And we've changed the word exists to exist. In romanette- in 2 in 3 romanette two, we've removed or excuse me, we've removed paragraph 4. We've proposed for deletion in paragraph 4 and did a minor grammatical update in romanette (ii). In 30.23, we have again changed (b) (1) to just some minor changes removing, including the debtor's Social Security number from the reg text. In 30.25, we have another minor conforming edit change. 30.27 C, we have updated the regulatory reference from 4 CFR 102.3 to 31 CFR 901.8. In 30.29, paragraph (a) (3), we've again updated the regulatory text to 31 CFR 901.3. In paragraph 3, we have updated yet again, there's a pattern here, the regulatory text to reflect 31 CFR 901.3. And in 30.33, we have again changed the IRS tax refund to treasury offset program. Subpart E 30.62 (a), we've updated the regulatory text

and we've added or to the extent that waiver of repayment of these amounts is appropriate under section 30.80. In (b) (1), we've updated regulatory text changes again to 31 CFR part 902. And then in (d) (1), we've updated again 31 CFR 901.8. We've added a severability clause in 30.69. In Subpart F 30.70, we have changed from the Secretary uses to the Secretary may use in paragraph (a) (1). Again, in C (1), the Secretary may use the standards in FCCS. And in paragraph 2, we've added the words of this section after paragraph E. In paragraph E (1), we have added the reference to the Health Education Assistant Loan Program authorized by sections 701.720 of the Public Health Service Act 42 U.S. code 292-292o. And in 30.79, we've added another severability clause. And that brings us to where we'd like to stop and turn this over back to Brady.

MR. ROBERTS: Alright. Thank you, Tamy. Richard.

MS. ABERNATHY: I'm sorry, Brady. I do still have more comments. I'm sorry. I'm a little slow in the uptake today.

MR. ROBERTS: That's alright.

MS. ABERNATHY: As you've seen, we've made small technical corrections to this section because most of these regulations have not been amended since the late eighties, and many references are out of date. So

even though these changes and corrections are technical, we will take consensus on the changes tomorrow. And while there was a suggestion for a number of changes to 30.70 around compromise, our focus is on waiver. So, we're not going to take those substantive changes here, but we may discuss those ideas presented under the hardship discussion on day 2. Alright. Now back to you, Brady.

MR. ROBERTS: Thank you. Richard and Kyra, I see your hand. Are these questions for the negotiating committee? Okay. Great. Go ahead, Richard, please.

MR. HAASE: Good morning. Sorry. I didn't- we jumped right into the text. I actually should have asked this question, in the beginning when we were kind of setting the table for the day. So, one of the questions I had, I know we spent a lot of time in the last four gatherings talking about hardship, and a lot of the proposals that were submitted were centered on the issues of hardship, but I noticed that they're absent in the agenda here. Can someone from the Department clarify what the plan is for continuing discussion of those items and the hardship topic in general?

MS. ABERNATHY: Yes. We plan to discuss that at the end of final consensus. We did mention that a little bit earlier, perhaps, not as

clearly as we should have, so thanks for bringing that up. But we will at the end of final consensus on day 2, we will have time for a discussion and if time permits a presentation.

MR. HAASE: So, if I can understand correctly, the expectation is that the negotiators will be taking up down votes on what's in the language here without knowing at all what the plan is for handling the hardship? Which was I think it represented a large portion of where our concerns were concentrated.

MS. ABERNATHY: Yeah. We have not proposed regulatory text for the negotiating committee to review and provide consensus on. So, the paragraph of hardship, we have much like last session where we discussed it and we did not have proposed regulatory text, we did not bring forth proposed regulatory text this session either. So, our hope is to- and we'll talk more about this tomorrow, but our hope is to engage in additional conversation with the negotiators and get additional information so that we can take that back and make additional decisions later.

MR. HAASE: I understand. If I can just share as long as, we're still having this exchange that, I understand that it's a big topic for us to tackle but it's going to be hard to really get a clear sense of

where, personally, where I want to be on some of the items we're going to discuss in the next day and a half, not knowing where we're going to go with the hardship issue because that represents so many borrowers. So, I understand that the agenda is laid out and maybe it's not possible to change it, but I do think that it represents a problem in the decision making process. So.

MR. ROBERTS: Thank you, Richard. Kyra and Jessica, I also see your hands. Are these, again, more questions, or is it feedback for the Department?

MS. TAYLOR: Feedback for the Department.

MR. ROBERTS: If it's okay, is it okay to take a temperature check first and then solicit that feedback?

MS. RANUCCI: Wait.

MS. TAYLOR: I'm not speaking for you. Just for myself.

MS. RANUCCI: Sorry. Usually, when we do this, like, the Department goes through the red text, and then we get to say stuff, and then we take the temperature check, but you wanted the Department to go through the red text, and then we do the temperature check, and then we say things?

MR. ROBERTS: That's the plan, yes.

MS. RANUCCI: Okay.

MR. ROBERTS: Okay.

MS. RANUCCI: I mean, that's fine now.

And I think in the future, that might be hard because I think the responses to what we have to say might depend on how we do the temperature check, but you could facilitate how you want to facilitate. I'm just a little confused.

MS. ABERNATHY: Jessica, what we're trying to do here is get a gauge right now today on where we are with the reg text and do a temperature check on that so that we can engage in discussion with you. Perhaps there are things that you bring to our attention that we need to take back to present tomorrow for further consideration and final consensus check. So, this is the way that we've chosen to do this because we want to make sure that we capture important essence of things, and we may not be able to do that if we have to take those items back. So, it's best if we discuss after we take, you know, we want to know, are we there? Are we not there? What do we need to do? And so, this is the way that we've chosen to do that for this session.

MS. RANUCCI: Okay. Sorry. I don't mean to belabor this. This is not important for the background, but I think it's important for the rest of

the day. Okay. Tamy talks, we have the screen share, and then we do a temperature check, and then we get to say what we want and then we do another temperature check or, like, then we're done and we just wait?

MR. ROBERTS: No. From a process perspective, we're going to- the temperature checks are nonbinding and relatively informal. It's really just the chance for the Department to solicit feedback from folks that might have serious reservations about an eventual consensus check. All the official consensus votes are going to be held tomorrow after everyone's been given a chance in this process in the more informal temperature check to offer feedback to the negotiating committee on where they stand right now on proposed regulatory text.

MS. RANUCCI: Okay.

MR. ROBERTS: Okay.

MS. TAYLOR: Just to jump in on that procedural point really quickly, I think it would be helpful if there's the possibility of a subsequent temperature check just to assess whether or not the Department's responses ameliorate any of the concerns that were raised initially. And that will expedite how we move through things during the day and tomorrow potentially as well.

MR. ROBERTS: Understood. Gotcha.

Okay. Tamy, did you want to walk back through, Subpart G or that initial walk through do you want to take the temperature check now?

MS. ABERNATHY: We wanted to do- because we're going to take consensus on all of those changes tomorrow, we wanted to present this as one pre, like, 30.70 and above, pre Subpart G collectively. So, if we would just take the temperature check on 30 point, excuse me, on everything pre Subpart G and then we'll go from there after discussion. Thanks, Brady.

MR. ROBERTS: Alright. Thank you. So, with that, again, we got a little practice this morning. But again, if folks actually wanted to use their physical thumbs, rather than the react buttons on Zoom where they stand on a temperature check. Again, an informal, check on where you are on everything preceding Subpart G. A thumbs up would be like, you know, love it, can live with it, serious reservations. I see at least two thumbs down. I see Kyra and Ashley. Did I miss anyone? Okay. Thank you. So, what I'm going to ask Kyra and Ashley to do now is feel free to come off of mute. Ashley, if you'd like to go first. If you want to share what your serious reservations are and then critically, if there are amendments you'd make to the proposed changes that would, at minimum, move you to a sideways thumb.

MS. PIZZUTI: Get off mute here. Okay.

I once again want to thank the Department for the time and consideration. After two months of being involved in this committee, sitting here, listening to hours upon hours of folks trying to define hardship and who is worthy of cancellation, I'm disappointed and frustrated. This policy leaves a lot to be desired. The policy changes are in no way big enough, fast enough, bold enough to address the proportions of the catastrophic student crisis that we are dealing with. It feels like everything that has been said in the last four sessions has fallen on deaf ears. It really feels out of touch. And to be honest with you, there isn't any of the language defining a hardship. But there's something even more important that I want to remind everybody here. The Department of Education does not need new regulations in order to cancel the student debt. Under the new regulations, it can, under the current regulations, it can order to release people from the shackles of the student debt with the stroke of a pen. Over 30,000 people have filed demand letters directly with the Department, expressing their hardship and need for cancellation now. Every single piece of paper behind me represents one of those borrowers demanding that you use this authority to release them from this unjust debt. Does the Department

plan on using these demand letters? If so, when will people expect to hear from you? People cannot wait until 2025 or whenever the Department decides to roll out these insufficient and vaguely defined policies. They certainly can't wait for the inevitable court fight to allow the policy to move forward. Heck, have any of the borrower defense applications that have been reviewed at this point outside of the several lawsuits against the Department of Education? It is extremely lucky that I am able to be at this table. Most ordinary borrowers can't take days off work to sit on hold for hours and hours when their servicers mess up their payment schedule, the amount they owe, or refuse to honor their SAVE plan or lawsuit cancellation. Real people depend on their credit reports to function in society. These loans are the cruel incompetence of the Department keeping them in poverty. Millions of families are unable to live the American dream that they were sold when they signed up for higher education. It doesn't have to be this way. Folks are burnt out and waiting and squeeze beyond their means. They're apathetic about voting on empty promises. It's actually pretty terrifying going into the next year's election cycle knowing firsthand how done people are. All of my data requests and suggestions have been denied or ignored during this process. I'm here representing

borrowers, not clients, not cash flow, not votes, rather real humans who have lives.

MR. WEATHERS: Jessica, 30 seconds.

MS. PIZZUTI: With the yoyo promise of fixing this mess, we are out of time. My question is to you, when will the Department process this cancellation? When it's too late? Thank you for your time.

MR. ROBERTS: Thank you, Ashley. Kyra, I know you also voted thumbs down. Do you want to- would you like two minutes to speak? Please go ahead.

MS. TAYLOR: Great. Thanks, Brady. So, I would just like to note, I support the discretionary use of the Federal claims collection standards, in 30.70. However, like Rich and like Ashley have noted, we don't have all of the proposals on the right now. We're missing a significant portion in not having the regulatory text for what the Department is considering doing regarding hardship. But even if we had the hardship proposal, I would strongly encourage the Department to take this opportunity to revise 30.70 to create an enduring process for borrowers to compromise their debts. As we've seen time and time again, when the Department has tried to provide targeted relief to borrowers, there are still borrowers who get left out. In addition, while 30/70 is on the books, the Department is not using its compromised

authority either under 10.82 or under the Debt Collection Improvement Act and Federal Claims Collection Standards to its fullest extent. This must change moving forward because we have to take bolder steps to make sure that distressed borrowers are not within the student loan portfolio and the debts are right sized to what borrowers can afford to repay. So, for that reason, I cannot support these changes.

MR. ROBERTS: Thank you, Kyra. As we move to the next session, I do just want to remind negotiators, I know we said it once before, but any proposed changes to these regulatory texts, we welcome the submission of those, especially, the folks who currently are thumbs down on these. Anything else on this particular piece of the reg text, Tamy? Are you okay to move to, 30.80? I believe you're muted right now.

MS. ABERNATHY: I am. It wouldn't come off. I think we're ready to move on. Thank you.

MR. ROBERTS: Okay. I'll turn it over to the Department.

MS. ABERNATHY: Great. So, the reg text in paragraph section 30.80, I'd like to point out that we've separated each proposed waiver policy into its own section. We believe this makes it easier to view the distinct policies and assist with the process of

temperature checks. We've made some edits in every section that we will discuss as we go through the individual sections. Let's start with section 30.80. This is an overall lead in section. We've not made any significant changes here from our last session, and this text still captures the same loan types. As a reminder, this waiver authority, excuse me, as a reminder, this waiver authority only applies to loans that are held by the Federal Government. It does not cover commercial Perkins, Federal Family Education Loan programs or FFEL or Health Education Assistant Loans, HEAL. There was a suggestion from a negotiator to strike the mention of direct loans. We do not think that is appropriate. The Secretary's authority under the Higher Education Act applies to direct loans. These are loans that the Department owns and loans that the Secretary has been granted the authority to waive, modify, and release. We also wanted to mention that while there was a proposal to require an analysis of the effects of persons who never attended college, paid off their loans, and taxpayers, we do not think that adding such a requirement would be appropriate. The Secretary of education is authorized and required to administer the Federal student loan programs, which considers the participants and stakeholders of those programs. However, as part of the regulatory

process, we're required to develop and include in the notice of proposed rulemaking and the final rule regulatory impact analysis, which includes analyses of costs, benefits, and transfers. And from a regulatory standpoint, the spending on issuing a waiver that relieves borrowers of some of their obligation to repay would be considered a benefit the borrower and a transfer from the Federal Government to borrowers. We believe that required analysis will appropriately address the issue of overall costs and benefits in a manner consistent with the analysis of other Federal regulations. I'll turn it back over to Brady now to discuss 30.80.

MR. ROBERTS: Alright. Thank you, Tamy. We can now unshare the text. Any questions for the Department at this time? Otherwise, I'll move us to a temperature check. Yeah. Jessica.

MS. RANUCCI: Hi, Tamy. I just want to clarify something that I think I understood you to say, which is that 30.80 and the subsequent provisions apply to all FFEL loans except for commercially held FFELs and that the narrower FFEL provisions that are the end here in the FFEL section apply only to commercially held FFEL loans. Is that the right relationship here?

MR. ROBERTS: I see her nodding.

MS. ABERNATHY: Yes. I can't find the

mute button today. I'm so sorry. Yes, Jessica. You are exactly correct. Thank you. And I would mention that it's the Department held Perkins as well so that we clarify it's not commercially held Perkins either.

MR. ROBERTS: Alright. Thank you. I do just want to note, I know I missed you during roll call, but I just want to welcome, Jalil Bishop, on behalf of graduate student borrowers to the table who's stepping in on behalf of that constituency group. So good morning, Jalil. With that, I'll move us to a temperature check. Folks want to indicate how they feel about, 30.80, with their thumbs. Let's see. Most folks have voted. I see one thumb down. Jalil, feel free to come off a mute and share your reservations with the Department, and then, as always, if you have any proposed modifications or changes to the regulatory text.

DR. BISHOP: So just clarification on process. We hear, we'll share reservations and then have the opportunity to send in amendments or alternative text?

MR. ROBERTS: Yeah. Absolutely. And if you can do that as quickly as you can so we can disseminate it to the negotiators, that would be great. This is- the temperature check is fairly informal just to get a sense of where the committee is right now. And

Cindy, feel free to.

DR. BISHOP: Yeah. And I think really echoing a lot of the points raised by Kyra and Ashley around just the need to make sure we're providing relief that reflects the urgency and the burden of the student debt crisis. I think that we need to see some type of regulatory text here that's really addressing borrowers having some type of full cancellation or some type of significant decrease in the original amount that they borrowed. So, from my understanding, a lot of this is getting at borrowers' interest, it's tackling some of the issues that borrowers are experiencing around a growing interest balance, but I would like to see cancellation that reflects the amount of research that shows just what that overall balance does for borrowers. Which I think my proposed or amended text would be some type of regulatory text that actually is canceling the full debt for some of our borrowers who are low income, some of the borrowers who are carrying a disproportionate amount of debt. I think a lot of this could be tied into hardship regulatory text which we don't have. And then my other big issue is around the \$10 or \$20,000, cutoff. So, I think that I'm not sure how we got to the \$10 or \$20,000. I haven't heard evidence yet from the Department of why those two numbers were selected as cutoff, but I think

that borrowers should be seeing relief where they see at the very least their overall original balance decrease, not just a decrease in the interest that accumulated over time. So those kind of be the two big points for me of why this text doesn't feel like it's where it needs to be.

MR. ROBERTS: Thank you. Cindy, I see your hand up. Cindy.

MS. JEFFRIES: Yeah. I just wanted to kind of touch on Jalil's question. If you have a concept of an amended text or actual verbiage, feel free to put it in the chat. Or if you don't, get it to us as quickly as possible, so the Department can consider it for tomorrow's session. Okay? So, I just wanted to reiterate those two things. You have the chance to put it in chat and or send it to us and we'll disseminate it.

MR. ROBERTS: Thank you, Cindy. Yeah, Tamy.

MS. ABERNATHY: So, I just want to make one comment to Jalil's comments. You talked about why the \$20,000. We believe this is an amount that provides meaningful relief to most low income borrowers or borrowers on the SAVE plan.

DR. BISHOP: And around that meaningful relief, you know, I guess, how are you

defining meaningful? You know, was that being based on dataset? Is it being based on, you know, some type of range of evidence? I'm just trying and understand how meaningful is being defined here so that the \$20,000 doesn't seem arbitrary.

MS. ABERNATHY: So, I would hope that we could go back to 30.80 because some of what you're talking about now is in 30.81 and 30.82. So, if we could kind of just rewind just a little bit and finish up with 30.80 then I can go into some of the information there that may provide additional clarification for that.

MR. ROBERTS: Thank you. Tamy, anything else you want to solicit from the group on 30.80 or are we okay to move, as you adjusted, to 30.81 and 82.

MS. ABERNATHY: We're all set, Brady. Thank you.

MR. ROBERTS: Alright. I'll turn it over to our screen sharers again.

MS. ABERNATHY: In sections 30.81 and 30.82, we're proposing two separate policies here related to negative amortization. We will discuss two other policies that are separate and distinct on negative amortization in sections 30.89 and 30.90 tomorrow. In section 30.81, we are proposing to cancel up to \$20,000 of the amount above what a borrower owed when they

entered repayment. In other words, we would be waiving up to \$20,000 of accrued or capitalized interest. Borrowers would be eligible if they're on an IDR Plan and have income at or below 225% of the Federal poverty guideline, which is about \$67,500 for a family of four for 2023. We know a borrower's income if they are on an IDR Plan, so therefore, we may not need the borrower to provide additional information in this case. Additionally, because we're including the Department held FFEL, we have included a reference to the IBR Plan for FFEL. And as a reminder, this waiver does not apply to commercial FFEL. In section 30.82, we're providing up to \$20,000 in negative amortization relief for borrowers who are saving on a valuable education or SAVE Plan. A borrower who is on the SAVE Plan and whose income is less than \$125,000 as a single individual or \$250,000 as a household may receive this waiver. Because we are addressing negative amortization going forward in the SAVE Plan, we wanted to target this change for borrowers on the SAVE Plan instead of all IDR Plans. One thing to note on this provision, we are not including requirements related to time and repayment. We discussed this during the last session and think we can use data on the balance owed at the end of a borrower's grace period for loans dispersed starting in 2005. This allows us to focus on negative amortization

after entering repayment. We do not have data that would allow us to make that calculation for loans older than 2005. So, for those loans, we focus on the amount disbursed. It is our hope that borrowers with older loans would have paid down their in-school interest by now. We received some suggestions from regarding forgiveness tied to the amount already repaid or eliminating any borrower eligibility requirements. Unfortunately, we're not able to take these suggestions. We considered suggestions regarding amounts paid. However, we are concerned about those being accurately captured. Next, our proposed text addresses having borrowers adjusted gross income or other income documentation that is acceptable to the Secretary. And finally, we note that a borrower cannot obtain a waiver under both of these sections. Their benefits would be the lesser of \$20,000 or the amount by which their current balance exceeds what they originally borrowed. Brady, I'll turn it back over to you.

MR. ROBERTS: Alright. Thank you. Any clarifying questions for the Department on 30.81 or 82? Yeah, Jessica.

MS. RANUCCI: Sorry, this is just a minor drafting thing. I just know that some borrowers might have loans that fall into categories 1, 2, and 3, and I'm not sure it's written that it necessarily would

capture that, but I think I understand what you're intending.

MR. ROBERTS: Thank you, Jessica. Any other clarifying? Yeah, please. Richard.

MR. HAASE: Hi. Yes. I have concerns with the number of items in 30.81. For one, I'd like to propose that we get rid of the use of the language says the lesser of, waive the lesser of \$20,000 or the amount by.

MR. ROBERTS: Richard, very, very briefly. If this is a suggestion for the text, we might just wait for the temperature check.

MR. HAASE: Okay.

MR. ROBERTS: Because then we can just capture everyone's potential suggestions sort of at the same time. But if you want to clarify the Department's current [inaudible].

MR. HAASE: No. I understand the process. I'll wait for the temperature check.

MR. ROBERTS: Okay. Thank you. Any other clarifying questions? Okay. Great. Sorry about that. If folks want to indicate where they are right now with a vote of their thumbs. I see 1, 2. If folks do have their thumb down and want to share suggestions or what their reservations are. If you just want to raise your

hand because we had a number of thumbs down on that one. I want to make sure I don't miss anyone. And since I cut you off initially, Richard, I'll turn it over to you first. Sorry about that.

MR. HAASE: No problem. So that was 1. I would like to propose that the Department consider removing the language that says waive the lesser of the \$20,000 or the amount by which the borrower's loans cumulatively blah blah blah. That's one piece. I've shared concerns in all of our prior sessions about formulas that are tied to income, not necessarily working for all parts of the country equally. I feel like, part B, I think it's B (2) here, might kind of fall back into that trap a little bit and I think it's important to try and address it. And finally, just, you know, in general, I feel like the cancellation of anything that exceeds what the original balance was. I still think, I'm going to be honest, I think I used the phrase in one prior session about kind of righting the wrongs that had been done to people. If we have borrowers who've taken out, let's say, \$80,000 in student loans have been making payments for 20 years and still owe \$70,000 in those student loans. This does absolutely nothing to, I think, if I'm understanding it correctly, to really correct that situation. So, I'll be the first to admit, I don't

necessarily have alternate language that would fix that. I think I like some of what I've heard in the past about applying payments that have gone towards interest towards reducing the actual original principal balance. I think that's the closest I've heard to anything that I think would really address that problem. So, there's a number, it's a good start, but I think that there are a number of issues here that I'd like to see improved.

MR. ROBERTS: Thank you. Yael, I'll turn it over to you.

MS. SHAVIT: Thank you. I was very disappointed to see the Department add a cap to student relief here. I feel strongly that borrowers should have at least the amount that exceeds their original balance forgiven. And it sounds like the Department's explanation here was technical and administrative but that doesn't explain to me why the Department can't draft the text as it was drafted before and give itself the discretion to determine the appropriate amount of relief. There's a distinction between the draft of the regulation and the way the Department ultimately applies it. And it may well be the case that there are times that the Department comes up with a number that they think is the appropriate number and through whatever action they take to implement that relief, they can explain that number and they can do

it that way. But to deprive themselves of the discretion, discretion which is typical in these types of regulations. To make determinations that vary from this 20% or 10 or sorry, \$20,000 or \$10,000, seems short sighted to me and leaves me quite concerned that there are a large number of borrowers who will not be getting relief that they so sorely need and should be getting. And I really encourage the Department to draft these regs in a fashion, again, this was a surprise coming out of the second session, these caps, to draft the regs in a way that give the Department the discretion to be responsive when it is necessary for them to be responsive and to make determinations that are appropriate given whatever circumstances they decide to use or in whatever circumstances they decide to use their authority to forgive student debt. Thank you.

MR. ROBERTS: Thank you. Kyra, I have your hand next.

MS. TAYLOR: Like Yael, I am also very disappointed to see this proposal. I will say amongst my legal aid colleagues, we routinely see people that have accrued more in \$20,000 of outstanding debt beyond what they originally borrowed. This is especially true given the history of forbearance steering, folks who have been in lower \$0 IDR Plans, where their balance has ballooned

over time. And so, I'm deeply concerned that this proposal will not provide those people with appropriate relief. I would propose that the Department could limit providing discharging the entire amount so that it is somewhat income targeted by targeting Pell recipients, by providing discharging the full amount that exceeds the original principal borrowed for Pell recipients, low income borrowers, or individuals on the SAVE Plan. I'm also concerned that not everyone will be eligible for the SAVE Plan. So, I would hope that the Department would broaden this proposal, broadly as well, because I do not think that the SAVE Plan is going to capture enough people. And I will stop there.

MR. ROBERTS: Thank you. Jessica.

MS. RANUCCI: I agree with a lot of what Kyra and Yael said but I want to, so take that. And then I want to make one additional point, which is, I hope that I misunderstood what the Department said at the beginning, but I think that, you know, many of us had proposed focusing here on, you know, a borrower's payments and payment history and how much, you know, potentially reallocating those payments so that they were to principal, not interest. And I thought I heard the Department say that the Department wouldn't have payment records for some or all borrowers as a reason not to

consider those proposals and I just I find that extremely concerning. And I think that, you know, we made this point over and over, but that a principle of this rulemaking should be if the Department doesn't have records of what on their loans that absolutely should not be collecting on them. And I think if there are any places, you know, where the Department thinks that it lacks accurate payment data, that in and of itself should be a basis for loan cancellation. And so, I just like to make that point generally here, and I think there are some other places later it applies, but also specifically here. I think to the extent we don't know what the payment history is, we should be really making that in favor of the borrower.

MR. ROBERTS: Thank you. And then, Ashley? I believe you're muted right now.

MS. PIZZUTI: I just wanted to follow-up and kind of reiterate what Jessica said. I'd like some clarification about concerns about not having accurate info and certainty around payment amounts. I also agree that the cap is really just unjust. There are so many borrowers that I know that I deal with on a daily basis that have way more than \$20,000 in just interest alone. I myself took out my loans in 2002. A lot of my classmates are still waiting for the borrower defense applications

to go through all from those time periods. So, it's a little concerning to me that, 1, there's a cap, and 2, that the Department does not have the records in order to adequately manage these loans. Can we get some clarification on that?

MR. ROBERTS: Not seeing an immediate response. I do want to turn it back over to the committee and if anyone else wants to share a serious reservation to have or any new proposed amendments to 30.81 or 82. Yeah, Kyra.

MS. TAYLOR: I would just like to make the additional point that in the earlier regulations that exist that discuss the waiver of interest in collections. It appears that the provision that applies to nonstudent loan debts is actually more generous than the provision that's provided here. And like Yael and Jessica mentioned, I think it makes more sense for the Department to provide itself with the discretionary authority to meet the moment if it becomes obvious that there have been mistakes in policies that have resulted in ballooning balances and the accrual of interest. As the Department has corrected which we applaud moving forward or if it becomes obvious that there's servicing misconduct that has resulted in borrowers having ballooning balances due to ballooning interest as well.

MR. ROBERTS: Thank you. Tamy, any other questions to pose on 30.81 or 82 to solicit additional feedback or are we okay to move to 30.83?

MS. ABERNATHY: Actually, Brady, we have had a minor adjustment in the I don't have anything to add on 30.81 or 30.82 but we are moving 30.83 to after lunch today, so we would actually draw your attention to 30.84 and 30.85 next when we're ready.

MR. ROBERTS: I'm ready if the Department is.

MS. ABERNATHY: We're ready.

MR. ROBERTS: Alright.

MS. ABERNATHY: So, we're going to focus our attention on 30.84 and 30.85. While these are similar ideas we had in the last session, they're now in individual sections. We did not make any significant changes to what is now section 30.84. This still captures the various repayment plans that provide forgiveness after a certain amount of time in repayment. Again, you'll see here a reference to the FFEL IBR Plan, which is included because of the Department held FFEL. In section 30.85, we simplify this language. We received some language from the negotiators who proposed using a catchall instead of listing every type of forgiveness opportunity. There are various targeted loan discharge,

cancellation, and forgiveness options in the HEA, in the Higher Education Act, and many of those are not considered programs. We think using the word opportunity is the appropriate way to refer to these. We also note that this approach would address the proposal regarding false certification discharges that was provided by negotiator as well. And lastly, we received some suggestions from negotiators to include issues such as servicing errors that made borrowers ineligible for a benefit or program. We do not feel that would be workable. The standard of what would rise to that level is unclear. And as you can see in our announcements regarding various fixes to IDR and the resumption of payments due in October, the Department steps in when we identify problems and we resolve these problems, which is something we do all the time. This is an area where we had some other suggestions from negotiators about Public Service Loan Forgiveness. As we discussed in other sessions, we are not amending the rules around PSLF. So, changes adjusting the definition of public service or addressing items related to the limited PSLF waiver do not work here. Brady.

MR. ROBERTS: Thank you, Tamy. We can bring down the text. Thank you. Any clarifying questions for the Department on 30.84? Yeah, Jessica. Oh wait, I

saw your hand.

MS. RANUCCI: Sorry. I was just going to ask if we could separate them. That was all.

MR. ROBERTS: Right. Absolutely. Yeah. Sure. Not seeing any immediate questions arise on 30.84. Would the voting members of the committee indicate where they stand right now on 30.84, the language that was just shared? Still waiting for a few folks to indicate where they are. I don't see any thumbs down. Apologies if I'm missing anyone. I think we are- we have a few sideways thumbs, but I don't see any thumbs down. I will turn it back over to the committee. Any additional feedback or consideration for the committee on 30.84? Okay. Tamy, anything additional for their consideration on this part of the reg? Alright. Then I think I'll turn it back over to our screen sharer for 30.85.

MS. ABERNATHY: Brady, I think we did both of them. So, I think if we could just unless I'm missing something. I don't think that I am. No. We did both of them together.

MR. ROBERTS: Gotcha. Gotcha.

MS. ABERNATHY: Yep. Thank you.

MR. ROBERTS: Richard, I see your hand.

MR. HAASE: Thank you. Yes, I have a

couple of questions on 30.85. First one, I was wondering if someone could speak to the process for identifying those who are eligible but haven't applied here. Are there, you know, is there progress being made towards automation? I know that's one of the things that we talked about in prior sessions, but, you know, just would like to see how we do a better job of capturing these eligible borrowers. That's one question there. Second question, I was wondering if I understand we're not looking to amend the PSLF language necessarily, but I'm curious, I know we are expecting updates to it. And I'm wondering if the Department has any information on when those might actually be coming.

MS. ABERNATHY: So, if we can identify them with administrative data then we could catch them. So, we will be doing everything that we can on the administrative side of this to look at the data and find those borrowers.

MR. HAASE: And the updated language, I believe there were a number of items in those regs that were supposed to be clarified, but maybe they would answer some of the other proposals that have come in?

MS. ABERNATHY: So, I do want to mention your PSLF question, though, because I think that we do plan to issue additional information on PSLF in a

later regulation. So, we're not really- and that focuses on eligible employers. And so that's not part of these negotiations so we won't really go into PSLF here. But do back to hear from the Department at some time in the future on within a separate regulation about the PSLF eligible employer issue.

MR. HAASE: So, there's- I wasn't asking that we dive into the language itself here but I was asking if you had an ETA on when we can expect some of that language.

MS. ABERNATHY: I don't.

MR. HAASE: You do not.

MS. ABERNATHY: I don't have an ETA, but we are working on it.

MR. HAASE: Thank you.

MR. ROBERTS: Any other questions before we ask for a temperature check on 30.85? Alright. Not seeing anything. If folks want to indicate where they are on the proposed text for 30.85 with a show of thumbs. Don't see any thumbs up. Again, if I'm mistaken, feel free to correct me. Great. Thank you. While no one did indicate serious reservations, is there any other, questions or comments for the committee?

MR. WHITELAW: Hold on, I thought Kyra had a thumbs down.

MR. ROBERTS: Oh, did I miss that? I'm sorry. Kyra, go ahead.

MS. TAYLOR: Thanks, Brady. So, I will say I am all in support of trying to automate relief for as many borrowers as possible. However, under this section, I am really concerned about the possibility that borrowers will be treated differently if this authority is used versus the authority provided by the relief program themselves. Some of these relief programs provide supplemental authority in the form of refunds, the deletion of adverse credit history, etcetera. This additional relief is especially important to borrowers who have who have had their loans go into default and have lost potentially thousands of dollars to involuntary collections. This regulatory language does not ensure that those borrowers would receive that supplemental relief. In addition, while right now, there is a law that excludes loan cancellation from Federal income and taxability. That provision is set to expire. And some of these relief programs have their own independent statutory language excluding them from being counted as taxable income. And so there too, I'm concerned that under this provision, if this authority is used as opposed to the relief program, those borrowers may face tax consequences depending on what happens to that

statute. So there again, while I support automation and I was thrilled to see the group relief provisions in these relief programs themselves. I'm concerned about what will happen to these borrowers if this authority is used.

MR. ROBERTS: Thank you, Kyra. And as always, any proposed amendments from the committee we still do have time to hear those out if folks want to submit anything in the chat or via email. Tamy, anything else you'd want to solicit from the group on 30.85? No?

MS. ABERNATHY: Nope. Not at this time, Brady. Thank you.

MR. ROBERTS: Alright. I think that there's been a request for a short break. So, if negotiators are okay to hit pause right here and just take a quick 15 minute break or so and we'll resume, let's see, I have 11:07, let's say, 11:25 to be back on camera. Okay. See you in a bit. Alright. Welcome back, everyone. I think I want to pick us up- before we head to lunch just if there's any additional feedback for the negotiating committee or the Department on any of the proposed regulatory texts that we've discussed thus far today. I know there's some more to come but anything that folks want to add, particularly questions for additional consideration of the committee before we move on? Yeah, Jalil, you're muted right now, but go ahead.

DR. BISHOP: Thank you. My raise hand function wasn't working. It wasn't working. I want to come back to some of the earlier regulatory texts, 30.81, .82, and so forth. Because I think that we are in a moment where I first have to question kind of the good faith approach of this negotiating process. So, we have had months of conversation both here at the table but also negotiators, the Department preparing for these sessions. We were presented with hardship categories with different topics to discuss. And I think it's really hard to engage in what I would consider a good faith conversation, let alone a negotiation without having some indication of where we're going on the hardship text. I think in addition to that, to introduce the \$10,000, \$20,000 caps at this stage in the negotiation. Again, I still haven't heard a rational explanation of why those were introduced and why they're justified? Again, just makes me wonder about the good faith effort negotiation, research, proposals, and expertise that went into really trying to create relief proposals for borrowers. So, I'd really encourage my other facilitators on the negotiators on the call to really advocate and speak up if you also are sharing these sentiments and feelings that something about this negotiation process has taken a turn where we are not seeing the conversation, the buildup, and what we

have been focusing on reflected in this moment in time. And I also would like to remind the Department that there are real borrowers on the other side of this regulatory text that just yesterday I sat in Philadelphia with 40 teachers in the Philadelphia School District where they talked about their student loan debt. They talked about the hardship of carrying balances that are hindering not just their ability to stay for retirement or buy a house but hindering their ability to have a good sense of self as they're moving through their life to hindering their ability not to be stressed, to feel hopeful, to navigate a lot of the work and things that they are trying to do in our public school district, not just as teachers, but as human beings who shouldn't be under burdensome student debt. And that is one group on top of the many groups that we have talked about so far in these sessions and I just don't see that reflected here in this regulatory text. And I'm just really more encouraging the other negotiators to speak up and speak loudly about your groups if they're not reflective because I think there's some real dangerous restraints that I see being proposed right now in the regulatory text that don't offer us the bold and justice driven relief that we need.

MR. ROBERTS: Thank you, Jalil. Yael.

MS. SHAVIT: Thank you. I just wanted

to flag that one of the requests that I and other negotiators made in recommendations following the regulatory text that was proposed at the second table and also in discussions since the first table. Is that these regulations more clearly create avenues for the Department to provide relief to people who have been deprived of relief in other forms or generally have been subjected to service or misconduct. I don't think that the proposals that the Department has put forward do enough to address both the historic harms that have befallen borrowers due to widespread and pervasive service or misconduct of which we have seen considerable evidence. And truly, it's irrefutable that that's the case. And in addition to that, I don't think the Department has done enough to create avenues for itself to address the types of service or problems that have occurred historically, if they occur in the future and there's no reason to think that they couldn't. I really do want to emphasize that the Department could be doing more on this point and also that it would be beneficial for the Department since it's going through this rulemaking process now to make sure that it's really creating tools that it can use. Right? It's discretionary. It's not obligated to, but that it can use in the future when unforeseen problems arise so that it

doesn't find itself back in the position of needing to go through another regulatory process to try and respond to problems that are both predictable, and even if they're not predictable, could be addressed through the creation of discretionary tools that are broader than what the Department has put on the table. So, you know, as we go into the last, you know, day and a half of the session, I really do hope that the Department can consider ways to expand the regulations that were proposed. And I encourage the Department to take a look again at the regulatory text that we've proposed. Thank you.

MR. ROBERTS: Thank you. Richard.

MR. HAASE: I think I'm going to echo a lot of what you're hearing right now. Really as I kind of took a step back over the last few minutes while we're on break to process where we are and where we haven't actually moved. Really concerned by the number of strains that are still in place, you know, in not addressing servicer issues, in the absence of hardship language, and in some of the ceilings that have been placed on 81 and 82. Honestly, I feel like in good conscience, I can't support where we are on 30.81, 30.82 without hardship language or hardship language without 30.81, 30.82. I think that those three pieces and adding this service or misconduct, I feel like capture so much of the hardship,

so much of the struggle that's out there that we've been talking about, and I don't see how we move forward without some of those pieces getting addressed.

MR. ROBERTS: Thank you. From the Department, anything else you'd want to solicit from the group?

MS. ABERNATHY: Not at this time. But if there are no, well, after there's no additional discussion, I'll have something to say.

MR. ROBERTS: Okay. Sherri, please go ahead.

MS. GAMMAGE: I want to echo the comments that have been made here. I voted neutral on 30.81 and 30.82 because I have real concerns. And question also, are we really- is the Department really negotiating in good faith? You know, has this committee and the work that they've done and the discussions we had had any meaning at all? I too find it difficult to discuss anything's really going forward without discussing hardship. I'm concerned about the cutoffs. I'm concerned that some of the dates that the Department has chosen for what loans they'll look at and when will fail to meet the needs of my constituency, which is four-year borrowers, especially those with older loans. And I'm also concerned about the \$20,000 cap and it not really

doing enough to address the amortized interest and the capitalization of interest and that \$10 and \$20,000 isn't going to provide the relief that my constituency really needs. I'm also concerned that with the offsets and being able to, you know, garnish folks' Social Security checks and their income taxes, refunds, that basically, all the language that I've read is not going to help people. It's not going to- it's pushing people further into poverty. Especially those in the low income group, you know, low middle class, working class folks, and that the work that this committee put into this, both in our discussions in the last four meetings and in our other work with each other that all the proposals and the work and the research that we did is being ignored.

MR. ROBERTS: Thank you, Sherri. John?

MR. WHITELAW: Yeah. And I just want to reiterate that community of students with disabilities. Talking about hardship is incredibly important. And in fact, a lot of, I think my and some of our other negotiators' concerns about some of the, and I agree, unnecessary narrowness of the proposals put forward could impart or significantly be assuaged if we knew what hardship says, but we don't. And that's a real problem because at the back end we don't know to what extent people, you know, the Department is considering

hardship as another- and I'm not- I'm going to use this advice as catchall for all sorts of things that should get caught by these narrow proposals but don't get caught. That might well change some, certainly my attitude towards some of these more narrow approaches. And for us to sort of not have any sense of what hardship is going to look like at the back end makes it really difficult to look at these more narrow proposals in isolation without knowing if some of the problems that we've identified could get fixed during hardship such that we wouldn't necessarily want to vote them down but not having any clue about what the Department's going to do if a hardship leaves us, you know, we're all screaming into the void here. And I think you've heard pretty much from everybody that given all the questions you asked us about hardship, then the evidence that we on the proposals we put out to talk about hardship and then to have it be oh, we're going to talk about that later. I think that's problematic for many of us at the table.

MR. ROBERTS: Thanks, John. Kyra.

MS. TAYLOR: I'd just like to reiterate Yael's comment that it was disappointing that we didn't see language that would provide the Department with discretion to respond and provide relief in light of servicing misconduct. In addition, like the other

negotiators have commented, while I understand that much may be captured in the Department's hardship proposal, I was disappointed to see that there aren't- there isn't a discrete proposal intended to target borrowers in default. The data that the Department shared shows that nearly half of borrowers in default have been in default for 7 years or more. That is 7 years where they could be subject to wage garnishment, losing their tax refund, which they may use to pay for medications, to pay for housing, to pay to fix their car, and 7 years where they may be losing a portion of their other Federal benefits like Social Security income, etcetera. The Department has data, at least as to the most distressed borrowers, and so, I'm disappointed that there isn't a more discreet proposal targeted towards those borrowers. In addition, when we do discuss hardship, I would hope that a borrower's default status on their loans would broadly capture more people in default. But at a bare minimum, I am disappointed that we don't see a discreet proposal for defaulted borrowers in particular and extremely distressed borrowers in particular as well.

MR. ROBERTS: Thanks, Kyra. Wisdom.

MR. COLE: Yeah. Just wanted to agree with my colleagues just around the lack of transparency in terms of our discussion around hardship, I think, for

particular constituency that I represent, civil rights organizations as well as young borrowers. Many of the things that have been proposed so far, do not really speak to what we have shared in the sessions prior that allow a broader expansive view of how debt may be canceled or waived as we've talked about in these sessions. I think it's important for us to really understand how this will have implications, not just in the upcoming 2024 year but for years to come.

Particularly thinking about students who are currently in college, thinking about different ways in which we are looking at hardship, understanding that we have talked and not really discussed, the understanding of financial hardship, educational hardship, social hardship, and how that plays a role within what has been proposed here. I think that, like, if we are going to really have a discussion about hardship I propose and ask if there's an opportunity for us to change the agenda, for us to have that conversation earlier rather than later.

MR. ROBERTS: Thank you, Wisdom. To the question on the agenda, I think we're going to provide an update on the proposed agenda after lunch. So, I think more to come on that. But I do want to turn it over to Tamy because I know you'd mentioned you had some comments.

MS. ABERNATHY: Yes. I would like for us to call a caucus with Kyra please. The Department and Kyra. And then I think, Brady, make that a 15 minute caucus, and we can come back in, wrap up and then break for lunch.

MR. ROBERTS: Okay. That sounds good. So just as a reminder for the caucus, they're not live streamed and any negotiator, while there's one caucus going on, can always follow second if they want to speak to some folks as well. So, we can go off live and I can make that move. Alright. Welcome back, everyone. Thank you for your patience during that caucus period. We are going to break for lunch now for the next hour and five minutes, and we're going to kick back off, at 1:00 p.m. to resume discussion on proposed regulatory text. So, with that, we will see you in a little over an hour and I believe we can go off live.

Student Loan Debt Relief Committee - Session 3, Day 1, Morning, December 11, 2023

***Chat was copied as presented, as a result minor typos or grammatical errors may be present.**

From Rene Tiongquico - U.S. Department of Education to Everyone:
<https://www.govinfo.gov/content/pkg/FR-2008-12-31/pdf/E8-31176.pdf>

From P-Yael Shavit-State AGs to Everyone:
Josh Divine will start off in for State AGs

From P- Richard Haase -Graduate Borrowers to Everyone:
Thanks Sarah B. It would be accurate to say that all data requests were "responded to," not "answered" or "fulfilled."

From P- Kyra Taylor, Legal Assistance Orgs to Everyone:
I would like to note that many individuals that attended trade school do in fact have student loan debt.

From A-Jalil Mustaffa Bishop- Graduate Student Borrower to Everyone:
I believe it is too late to add members. Further, I run two small businesses and I too have paid off all of my student loans

From P- Richard Haase -Graduate Borrowers to Everyone:
I also have no student debt

From John S. Whitelaw, (he/him) P- students w/disabilities to Everyone:
Will the State AGs be bringing in a different alternate or proceeding with just the Primary.

From A-Jalil Mustaffa Bishop- Graduate Student Borrower to Everyone:
Jalil coming in

From P- Kyra Taylor, Legal Assistance Orgs to Everyone:
Additionally, with regards to 30.1(a)(2) Is it true that the DCIA still allows the GAO to engage in collections? Or is that language a reference to 31 USC 3711(a)(2), the Comptroller's compromise authority?

09:41:08 From P- Kyra Taylor, Legal Assistance Orgs to Everyone:
+1 on clarifying that 682.403 only applies to commercially-held FFEL loans

From P- Jessica Ranucci (Consumer Advocates) to Everyone:
Replying to "+1 on clarifying tha..."

Yes. I propose changing the title of 682.403 to "\$ 682.403 Waiver of FFEL Program loan debt not held by the Department" or similar so that the relationship between those two provisions with respect to FFEL loans is clarified.

From A-Jalil Mustaffa Bishop- Graduate Student Borrower to Everyone:
+1 that the cancellation caps are unnecessary and foreclose relief both now and in the future

From P-Sherrie Gammage, 4 Year Borrowers to Everyone:
Reacted to "+1 that the cancella..." with 👍

From P-Yael Shavit-State AGs to Everyone:
+1 to Jessica's point that if the Department lacks payment records, it should not continue collection

From P- Richard Haase -Graduate Borrowers to Everyone:
 +1 to Jessica's point. Doesn't make sense to collect on loans the department doesn't have a clear sense or record of

From P- Kyra Taylor, Legal Assistance Orgs to Everyone:
 +1 to Jessica's point re: missing payment histories

From P-Angelika Williams: Private Nonprofit Institutions to Everyone:
 The information provided focuses on income eligibility criteria without considering the financial implications for borrowers with multiple or advanced degrees. This oversight disregards the potential influence of additional degrees on borrowers' income levels and debt burdens, especially if they pursued graduate studies. Consequently, the text lacks acknowledgment of how pursuing further education, like graduate degrees, could affect individuals' debt, income, and their overall financial situation.

From Sarah Butts, A- 4-Year Borrowers (she/her) to Everyone:
 Reacted to "+1 to Jessica's poin..." with 👍

From P-Sherrie Gammage, 4 Year Borrowers to Everyone:
 +1 to Angelika

From P-Vincent Andrews-Veteran & Military Groups to Everyone:
 Reacted to "The information prov..." with 👍

From A-Jalil Mustaffa Bishop- Graduate Student Borrower to Everyone:
 Jalil coming in

From P - Ashley Pizzuti - 2 Year to Everyone:
 I support Yael on addressing servicer harm.

From Sarah Butts, A- 4-Year Borrowers (she/her) to Everyone:
 +1 regarding Jalil's comments. We are representing many borrowers across the country who desperately need student loan debt relief. The negotiators have submitted proposals that would cover many more borrowers.

From P- Richard Haase -Graduate Borrowers to Everyone:
 Richard coming back in for grad borrowers

From P- Kyra Taylor, Legal Assistance Orgs to Everyone:
 +1 re: needing to add servicing misconduct

From P - Wisdom Cole, Civil Rights Organization to Everyone:
 Agreed

From Sandra Boham to Everyone:
 Agreed

From P - Ashley Pizzuti - 2 Year to Everyone:
 Agree

From Susan Teerink - Private, Non-Profit Institutions to Everyone:
 Reacted to "+1 to Jessica's poin..." with 👍

From P-Amber Gallup-State Higher Education Officials to Everyone:
 +1 from State Higher Education officials group

From Susan Teerink - Private, Non-Profit Institutions to Everyone:
 Reacted to "+1 re: needing to ad..." with 👍

From A-Jalil Mustaffa Bishop- Graduate Student Borrower to Everyone:
 +1 on servicer misconduct, especially when the Dept is fining loan servicers right now for misconduct

From P-Angelika Williams: Private Nonprofit Institutions to Everyone:

I'm also worried about the \$20,000 limit and other content under review today. Mr. Cole consistently highlights the job market challenges faced by communities of color or marginalized student groups. These individuals often resort to pursuing graduate or advanced degrees to enhance their job market competitiveness. However, this choice can negatively impact their current situations, and they typically view these degrees as a last resort.

Cultural capital, encompassing knowledge, skills, and experiences acquired through social and cultural exposure, isn't equally accessible among different groups. Marginalized students might lack access to certain types of cultural capital, creating barriers to securing desirable job opportunities. Consequently, they may feel compelled to pursue graduate degrees to gain additional skills and qualifications needed to compete effectively in the job market.

From P-Angelika Williams: Private Nonprofit Institutions to Everyone:

Regrettably, grant funding for graduate students is limited compared to the assistance available for undergraduate education. This scarcity of grants significantly affects marginalized students, leading them to rely more on student loans to finance their graduate studies. This pursuit of higher education can exacerbate their student loan debt burden, resulting in financial challenges and potentially perpetuating economic disparities.

From A-Jalil Mustaffa Bishop- Graduate Student Borrower to Everyone:

+1 limiting cancellation to \$10k/\$20k when you have power to do more is directly inflicting racial harm on people of color

From Susan Teerink - Private, Non-Profit Institutions to Everyone:

Reacted to "+1 limiting cancella..." with 👍

From P-Sherrie Gammage, 4 Year Borrowers to Everyone:

Exactly, asking us to consider a vote on any part of the regulatory text without knowing or having some idea of the concrete, specific ways that hardship will be addressed or is reflected in the regulatory text does not help me as a negotiator make an informed decision. In addition, the agenda as written, makes the discussion of hardship appear as an "add on" and may be neglected if we run out of time at the end. I suggest we move the discussion of hardship up in the agenda prior to taking any formal vote on any parts of the regulatory text

From P- Richard Haase -Graduate Borrowers to Everyone:

Agree with Sherrie. I feel uncomfortable with the idea of voting on something that's missing some of its most important parts.

From P-Amber Gallup-State Higher Education Officials to Everyone:

Reacted to "Agree with Sherrie. ..." with 👍