

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
NEGOTIATED RULEMAKING
STUDENT DEBT RELIEF COMMITTEE
SESSION 3, DAY 2, MORNING
December 12, 2023

On the 12th 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. WEATHERS: Good morning, everyone. Welcome to session 3, day 2 of our negotiated rulemaking for school loan forgiveness. My name is John Weathers. I'll be co facilitating with Brady Roberts today from FMCS. I'd like to welcome everyone, the non-Federal negotiators, starting with civil rights organizations, Wisdom Cole.

MR. COLE: Here.

MR. WEATHERS: Hello, Wisdom. India Heckstall.

MS. HECKSTALL: Here.

MR. WEATHERS: Hello. From legal assistance organizations that represent students or borrowers, Kyra Taylor?

MS. TAYLOR: Good morning.

MR. WEATHERS: Good morning. Scott Waterman.

MR. WATERMAN: Here.

MR. WEATHERS: Good morning. State officials including state higher education executive officers, state authorizing agencies, and state regulators of institutions of higher education, Lane Thompson.

MS. THOMPSON: Good morning.

MR. WEATHERS: Good morning. Amber Gallup.

MS. GALLUP: Here.

MR. WEATHERS: Hello. State Attorneys General, Yael Shavit.

MS. SHAVIT: Good morning.

MR. WEATHERS: Good morning. Public institutions of higher education including two-year and four-year institutions, Melissa Kunes.

MS. KUNES: Good morning.

MR. WEATHERS: Good morning. Dr. J.D. LaRock? Okay, make a notation of that. Private nonprofit institutions of higher education, Angelika Williams.

MS. WILLIAMS: Good morning.

MR. WEATHERS: Good morning, Angelika. Susan Teerink.

MS. TEERINK: Good morning.

MR. WEATHERS: Good morning. Proprietary institutions, Kathleen Dwyer.

MS. DWYER: Good morning.

MR. WEATHERS: Good morning. Belen Gonzalez.

MS. GONZALEZ: Good morning.

MR. WEATHERS: Good morning. Historically Black colleges and universities, tribal

colleges and universities and minority serving institutions, Sandra Boham. Sandra, are you here? I'll make a note of that and alter it if and when she comes in. My understanding is Carol Peterson is not going to be here today. I'd like to make a note on protocols. Protocol 5, paragraph A, absence is the equivalent of not dissenting, just as a reminder of that, in case we have a situation with that. Federal family education loan lenders servicers or guarantee agencies, Scott Buchanan.

MR. BUCHANAN: Hey, good morning.

MR. WEATHERS: Good morning, Scott.

Benjamin Lee?

MR. LEE: Morning.

MR. WEATHERS: Good morning. Student loan borrowers who attended programs of two years or less, Ashley Pizzuti.

MS. PIZZUTI: Good morning.

MR. WEATHERS: Good morning, Ashley.

David Ramirez. Student loan borrowers who attended four-year programs, Sherri Gammage. Sherri? Thought I saw Sherri earlier. I'll make that note.

MS. GAMMAGE: Here. Here. Good morning.

MR. WEATHERS: Hi, Sherri. Okay. Good morning, Sherri. Sarah Christa Butts?

MS. BUTTS: Here.

MR. WEATHERS: Hello. Student loan borrowers who attended graduate programs, Richard Haase.

MR. HAASE: Good morning.

MR. WEATHERS: Good morning, Richard. and Dr. Jalil Bishop?

DR. BISHOP: Here.

MR. WEATHERS: Hello, Jalil. Currently enrolled postsecondary education students, Jada Sanford. Jada, are you here? Got that notation. Jordan Nellums.

MR. NELLUMS: Good morning.

MR. WEATHERS: Good morning, Jordan. And for U.S. military service members Mr. Vincent Andrews will not be present today. So, I've made that notation. Again, reminding everyone that absence is the equivalent of not dissenting. Consumer advocacy organizations, Jessica Ranucci?

MS. RANUCCI: Good morning.

MR. WEATHERS: Good morning. Ed Bolts. Ed, are you here? Individuals with disabilities or groups representing them, John Whitelaw.

MR. WHITELOW: Good morning, colleagues.

MR. WEATHERS: Morning, John and Waukecha Wilkerson.

MS. WILKERSON: Good morning. Present.

MR. WEATHERS: Good morning, Waukecha.
and the Federal negotiator, Tamy Abernathy?

MS. ABERNATHY: Good morning.

MR. WEATHERS: Good morning, and
representing the Office of the General Counsel of the
Department of Education, Soren Legaard.

MR. LEGAARD: Good morning.

MR. WEATHERS: Good morning. Without
any further ado, I'm going to pass it over to Tamy for
any administrative business to start the day.

MS. ABERNATHY: Thank you, John. Good
day, negotiators. Here we are day two of session 3. Last
evening, we provided you with an updated agenda. However,
we will adjust the schedule as needed based on our
discussion. Final consensus checks will be after lunch,
however, thank you for the four proposed mandatory text
changes we received from you last evening. We will
discuss these proposals a little bit later. But I think
right now, we should dive into the discussion on our next
session of proposed regulatory text. If there is not any
old business or administrative business, then we'll turn
it over to FMCS. Are there any old business or
administrative business that we need to discuss? Alright
we'll turn it back over to you, John. Thanks so much.

MR. WEATHERS: Thank you, Tamy. My understanding of our agenda is that we're going to be initially looking at 30.89.

MS. ABERNATHY: Yes, sir, that is correct.

MR. WEATHERS: If you would like, go ahead and present that. Thank you.

MR. WEATHERS: Wonderful. Thank you team. This section lays out a separate policy for addressing negative amortization from the ones that we discussed yesterday. This section does not have set borrower eligibility requirements. It would waive up to \$10,000 of the amount by which the borrower's balance exceeds what they owed upon starting repayment. We believe this provision would capture most situations of negative amortization for borrowers. This is regardless of whether the interest is capitalized. A borrower who has received the waivers under sections 30.81 or 30.82 would not be eligible for a waiver here. We understand there were some suggestions to collapse this section and the one that follows with section 30.81 and 30.82. We see each of these proposals as being distinct and do not think it would be appropriate to combine them together. At this point, I'd ask the team to stop sharing and turn it back over to you, John.

MR. WEATHERS: Thank you, Tamy. So, the order in which we're gonna go right now is any questions, clarifying questions or things of that nature, then we'll take a temperature check and then any comments that the negotiators are interested in making at that point. So, any questions for the Federal team for the Department of Education at this point? Alright. I see Lane has her hand up. Go ahead, Lane.

MS. THOMPSON: Good morning. Thank you. My question on this part is where did the \$10,000 and \$20,000 or rather the \$10,000 cap come from? I'm kind of curious why that number was chosen.

MR. WEATHERS: Okay.

MS. ABERNATHY: John? It's a level that we thought was appropriate to provide for all borrowers. And we have the ability for lower income borrowers to have additional relief. So that's what we did.

MR. WEATHERS: Okay. Thank you. Any other clarifying questions as it regards to 30.89? Any other questions before we go to temperature check? Great, folks. Let's see our thumbs. Thumb up is a green, some sideways is you can live with it and obviously, thumb down is dissenting. So, let's do a temperature check on 30.89. I see some thumbs down. Jessica and Angelika and

Wisdom, Kyra amongst them, John Whitelaw. Would any of you folks wish to make a comment as that relates to 30.89? Got Kyra first. Go ahead, Kyra.

MS. TAYLOR: I'm happy to kick us off. I do not agree to this proposal for the reasons that Yael and others mentioned yesterday. It doesn't make sense for the Department to constrain its discretionary authority at these limits. In addition, as I mentioned yesterday, we see folks, I know we're gonna talk about the low-income borrower's provision next, but I see low-income borrowers who have accrued more than \$20,000 in interest in capitalized interest beyond the original principal borrowed. And so, this just doesn't go far enough.

MR. WEATHERS: Thank you, Kyra. Real quick administrative note. Ben Lee is coming in for Scott Buchanan to the table. Welcome. Yael.

MS. SHAVIT: Thanks. Listen, I said it yesterday. Kyra just summarized it well, but I can't agree to a provision that includes this cap. I think it makes- it constrains the Department's ability to address the actual harms consumers are experiencing. And I think, you know, certainly, we're aware of borrowers who have significantly higher accrued interest than this. It also doesn't make the most sense to me because the Department can draft the regulations in a manner that allows it to

respond to the situations that it's experiencing and then apply those regulations in a way that it thinks is appropriate in light of the circumstances that it's trying to address. So to the extent that the Department decides and I'm not commenting on whether or not this makes sense, but to the extent that the Department after its own analysis makes the decision that it wants to grant \$10,000 of debt relief to all borrowers who fit the criteria under the section, it can do so without limiting its ability to provide additional relief to other cohorts of borrowers who should in fact get additional relief based on the extent of their accrued interest. So, my suggestion is that the Department remove the cap which serves no purpose other than to constrain its own ability to be responsive in a manner that I think is to the benefit of both borrowers and the Department. Thank you.

MR. WEATHERS: Alright. John Whitelaw.

MR. WHITELAW: Just a variation on that. We've heard both at this negotiation and in previous negotiations, the Department has said we never want to constrain our ability to do things, particularly when we have suggested things that would constrain their ability to do things. I don't understand why they would wanna constrain their abilities. I just don't understand why they wanna say, well, we're gonna limit ourselves to

10 k. I don't understand why they would do that. Taking away the cap doesn't mean they have to give people more than 10 k, and I think everyone acknowledges that. But why would they- why on earth would the Department want to limit its ability to provide greater relief when the circumstances warrant. That's why, while yes, clearly \$10,000 is better than nothing. From my perspective, it's nowhere near good enough to support this proposal. Thank you.

MR. WEATHERS: Thank you, John.

Alright. Next, I see Jessica Ranucci. Jessica, you're still muted.

MS. RANUCCI: Sorry. Sorry.

MR. WEATHERS: No worries.

MS. RANUCCI: I just wanna echo what the other commenters have said and make two additional points. The first one is that I submitted language to the Department last night that would get rid of this cap. And if you get rid of the cap there's no point in having the four provisions. And so, I think that was the proposal in session 2. That's the proposal that I think makes the most sense and I think you have the language in front of you to do that. I'd also like to make a point about how this played out in the real world. I've been working with a borrower who reached out to me for help who was on the

wait list for public comment yesterday and didn't get an opportunity to speak. This borrower had obtained \$64,000 of loans, has been paying \$200 a month for the last 20 plus years, and just got a collections letter asking them to immediately pay \$561,000. So, when we're talking about how interest and fees accrue on these loans, it's not a theoretical concept it's people who are making a good faith effort in paying their money like real expenses. This borrower said, look I didn't get braces for my kids because I had to pay this money towards my student loans. Borrowers are making a good faith effort, are paying money to their apartment and because of the high interest rate in the way that these loans balloon, it's just they can never climb out of this. And so, I think for borrowers, \$10,000 of loan forgiveness just doesn't make sense as a Department policy.

MR. WEATHERS: Thank you, Jessica.

Alright. Moving on. Ashley, you're next.

MS. PIZZUTI: I'm just gonna echo what the others have said that it's just not enough. Every day a lot of my borrowers are still trying to navigate borrower defense and that's a whole other thing. But we're looking at people who have been paying their loans for 10, 20 years, and they have paid them every month, and yet they still owe- they've already paid off what

their principal amount was. Their loans are still 80, 120, some of them \$200,000, where the majority of that is interest. And so, it's really hard for me to vote on something where \$10,000 is a drop in the bucket for these people. And so, I can't in good faith vote on this.

MR. WEATHERS: Okay. Thank you, Ashley. Tamy, I see your hand is up. Go ahead.

MS. ABERNATHY: Actually, I'm gonna put it down for now, I'll let others finish their comments and then we'll address it.

MR. WEATHERS: Okay. Thank you, Tamy. Appreciate it. We'll circle back to you. Alright. Next, I see Wisdom. Go ahead, Wisdom.

MR. COLE: Thank you, John. Everyone I want to agree with my colleagues here on this call particularly around this interest cap. But I want to speak to it from the perspective of the members of the NAACP as well as Black borrowers. You know, we've talked about this beforehand where for Black borrowers, the amount of student debt, that occurs, nearly doubles after graduation, and that's primarily because of interest. So, by setting interest caps at this level, this doesn't provide an equitable solution to the members that I serve to Black borrowers. I want to turn our attention to some of the language that have been submitted by our

colleagues here on this call, as well as Senator Elizabeth Warren, who is asking for all the interest to be eliminated. I think by doing that, that allows a greater accessibility to the waivers that we're putting in hand. You know, I think we've been all here working our hardest, really submitting different proposals, discussing this so that we can get this right. And I think this is an opportunity for us to get it right.

MR. WEATHERS: Thank you, Wisdom.

Alright. Next, I have Yael.

MS. SHAVIT: I just want to speak to what both Wisdom and Ashley just said and just make the broader point, that I know that members of the Department understand. The context here to consider in viewing this provision is a history of unbelievable servicer failures and departmental failures that have resulted in borrowers being in the position that they're in right now. The solution that those borrowers need is not a small one, right? It's a significant one and it's a recognition of the circumstances that they found themselves in and the fact that they're not responsible for the breakdown in the system. This rulemaking is an opportunity to actually create a clean slate for people who have been struggling for years under the weight of their student loans. But frankly, also for the Department, who I want to

recognize, over the course of the last couple of years have been making real regulatory efforts to improve the servicing system in the context of student loans to try to prevent problems from happening in the future that happened in the past. But you really can't do that without providing people the relief that will address the problems that have already happened. This provision has the potential to do that. But with the caps of the Department put into the regulatory text after the second table, I'm disappointed that this provision really could have made a meaningful difference in people's lives, but simply won't make the difference that it needs to really meet the moment.

MR. WEATHERS: Thank you. Melissa, you're next.

MS. KUNES: Thank you. And first of all, I do wanna say thank you to the Department of Education. I realized you are making a very good faith effort to resolve this student loan crisis that we and our student loan repairs find themselves in in this time of crisis. And we all see this current measure as a stop gap to fix because we wanna fix this current issue and then move on to solve the real problems in the loan borrowing that have created these problems in the first place. So, knowing that the Department is making a good

faith effort along these lines, and I know I've heard Tamy say that they've picked these figures because they've seemed appropriate. Is there something that we're missing? Can you explain to us more from the rationale of the Department of Education why these caps are being imposed and why these particular figures are being picked? If there's something that we're missing in this conversation, I'd love to hear it because I do want to be considered a good partner in helping to fix this crisis so we can move on to ultimately fix the loan program that is broken for our borrowers. Thank you.

MR. WEATHERS: Thank you, Melissa. Quick administrative point. Scott Buchanan is coming back to the table for FFEL lenders servicers and guarantee agencies. Alright. Next, I have Richard Haase. Oh, Tamy, I see you've got your hand up. Pardon me, Richard.

MS. ABERNATHY: Thank you, John.

MR. WEATHERS: If you'd like to respond? You bet.

MS. ABERNATHY: Yes, please. The Department understands that many of the nonfederal negotiators do not agree with the limits on relief. This proposal is consistent with our stance that we were considering a cap on this relief in the 2nd session. For that session, we had texts that talked about waiving all

or a portion of the amount by which a borrower's balance exceeds their original balance. This is the cap that we are proposing at this time, and we are not able to agree to remove the cap.

MR. WEATHERS: Thank you, Tamy. I know that's addressing a lot of the issues that we're discussing right now. Richard, thank you for your patience. You're next.

MR. HAASE: Yeah. I just wanna reiterate. I think I've shared this concern in prior sessions too. I keep coming back as we talk about only tackling interest that exceeds the original loan balances to how short we fall in writing some of the wrongs that have been done unto borrowers. I have a colleague of mine who, she shared her story with me a few weeks ago about borrowing \$90,000 for her college loans, losing her job, moving back in with her parents, raising her children as a single mom, and despite that, continuing to do everything that she was told to do when she was told to do it by the servicers who administered her loans. And over the course of more than 20 years, she paid back a 150 - \$160,000 by scraping again, by moving back in with their parents. The idea that someone like that could still carry a \$70,000 balance at the end of all that effort, when the original loan was 90, is more than a

150, a 160 have been paid, and someone literally tried to do everything right, and great personal expense. I just feel like we missed the mark in helping those people. So, this is why I still struggle to support anything that only focuses on what's left above the original principal balance and that neglects to recognize the real efforts that people have made to pay for their education as they were told to do so by their servicers.

MR. WEATHERS: Thank you, Richard.

Next, I have Kyra.

MS. TAYLOR: I also wanna just to add in the of not meeting the moment and not providing a solution that's appropriately tailored to the scope of the problem here. Legal aid attorneys across the country talk to borrowers who are absolutely panicked about their ballooning balances, who say, I have no idea how I'm going to do this, who are terrified about missing their student loan bill, and are making impossible choices to pay off that debt. And the unfortunate thing is that even if we're able to get them enrolled in an Income Driven Repayment Plan that has a low or \$0 monthly bill, the borrower is still terrified about that ballooning balance that is still hanging over their head. They're still worried about what's gonna happen if the IDR plans don't exist anymore. For example, it makes them extremely

vulnerable to debt relief scammers who take advantage of this fear on the part of the folks that we work with. And so, again, I think there are more reasons to remove the cap here and I deeply hope that the Department considers them.

MR. WEATHERS: On an administrative note, Jalil will be coming in for Richard to the table. Welcome, Jalil. Next, I have Sherri Gammage.

MR. WEATHERS: Thank you, Sherri. I'm going to allow Tamy an opportunity to respond.

MS. ABERNATHY: Thank you, John. First, the Department has made several attempts through previous negotiated rulemakings to address interest capitalization to remove that except where statutorily required. To also have new regulations around the SAVE Plan and IDR plans with the many efforts of onetime adjustments to correct borrowers' accounts where there were servicing errors. We also think that this policy addresses negative amortization for borrowers and through SAVE, they would not see their balance grow further because that plan does not charge unpaid monthly interest.

MS. GAMMAGE: I appreciate what you're saying. However, not everyone is going to qualify for

SAVE. It's not going to capture enough borrowers and that's where I'm going with my question. That's the underlying thinking behind that. I appreciate that you have the SAVE program, you've attempted to address negative amortization. However, this isn't broad enough. It's not going far enough and not everyone will qualify for the SAVE Plan which also has a cutoff date.

MR. WEATHERS: Thank you, Sherri.

Moving on to, John Whitelaw. Go ahead, John.

MR. WHITELOW: I just wanted to mirror in some way what Tamy has said. I know that seems weird coming from me, but I want to mirror in the following sense. The Department has taken the position that we can't do any more than \$10,000 or we're not going to do more. We made a policy choice that we're not gonna do anything more than \$10,000 for various reasons. When we hear that we're not moving off that, I think many of us negotiators are also deciding that that's just not adequate for us to support the proposal. And, you know, and if that's where we are, that's where we are. Well sometimes that happens with negotiations, but I think that the Department is obviously entitled to sort of stake out this position and stick to it. But you know we're entitled to take out a position that \$10,000 is just not good enough. So, I mean, I think if that's where

we are, that's where we are. In good faith people can disagree and I think we have a fundamental disagreement so be it.

MR. WEATHERS: Thank you, John. Next, I have Lane. Go ahead, Lane.

MS. THOMPSON: Thanks, John. I wanted to speak to the administrability of this provision. I know we had talked in previous sessions about how difficult it can be to kind of process certain programs. When I look at this, it appears to me that it would be very difficult to determine exactly who this would pertain to and then also actually get it to them. For an example, I have a borrower I'm working with right now who filed for a borrower defense to repayment during the pandemic pause and she currently accrues \$1,000 a month in interest. So, if for some reason that borrower defense through a payment application does not get accepted, if that gets rejected, then she's going to have more than \$10,000 in interest just from this first 10 months of repayment. I just really want to point out that based on servicers' past behavior around record keeping and keeping track of where funds are going and how much is owed, I'm really concerned that \$10,000 in interest would be difficult to determine and to get rid of.

MR. WEATHERS: Thank you, Lane. As an

administrative note, Sarah is coming in for Sherri to the table. Welcome, Sarah. Next up, I have Jalil. Go ahead, Jalil.

DR. BISHOP: Thank you, John. First, I want to start out by just echoing Lane's point about just operationally that there could be some difficulties here, as well with the caps and trying to determine again who's worthy of what amount of relief. I would encourage the Department to think about ways to streamline and deliver this relief while taking all the lessons learned around the operational struggles and ineffectiveness that we see continuously play out. I also like to add your point Tamy, that you reminded us that with prior conversation from the Department about having some type of cap on relief that you have referred us to the SAVE Plan. In fact, many times when I've raised questions during these sessions, I've been sent the entire rulemaking documents from the SAVE Plan to review and I have reviewed them. I have come to understand the messaging from the Department of Education and the White House around SAVE. What I've learned is that in a lot of that messaging, it's been this selling point that SAVE caps interest. In the August 2023 Report from the White House that SAVE allows that borrower who borrowed \$31,000 not to experience runaway interest. The examples that the White House gave

was that the borrower without SAVE will see their balance go up to 55,000, see their balance goes up by \$24,000 and that's what SAVE is supposed to prevent. I think what we're asking for here is to take that same logic, the same selling point, the same pitching, and messaging that you all have been sending out around SAVE and apply that to these regulations. Allow borrowers to have their interest lower not only through SAVE but also retroactively borrowers who are right now sitting with \$25,000 or \$30,000 of interest. We're asking for that same logic that you applied around SAVE that caps interest in the future to apply it to borrowers who are currently sitting with balances where \$20,000 or \$10,000 will do something, but it won't come close to doing what they need. And I think that this is not a request or something that's out of that field, but it really reflects the argument, the messaging, and the solution that the Department and the White House have been sending to borrowers going forward. I think the question now is, why can't we do that for all borrowers? If that's what we're saying should be the golden standard, which you all have continued to say it is, the golden standard. It's the safety net going forward. I think we're asking why can't we apply that retroactively? I do think the Department should answer why the 10 or \$20,000? Is it

enough to just say that's what we chose. I think we should hear some evidence. Refer us to some data analysis, something that backs up that proposal in the same way we must send proposals with rationales and evidence and so forth.

MR. WEATHERS: Okay. Thank you, Jalil. Tamy, I saw your hand up. Were you still wanting to respond?

MS. ABERNATHY: Yes. We do thank you for your comments. However, we have stated our position already and they're really at this point, you know, we're happy to hear all that you guys are continuing to say to us, and we'll listen to it, but we have set our position at this point.

MR. WEATHERS: Thank you, Tamy. In light of that comment from Tamy, are there any additional comments that are covering new ground? Ashley, I see your hand up.

MS. PIZZUTI: It's not really covering new ground, but I just wanted to share my own personal story. I know that we have touched a little bit on servicer harm. My husband and I graduated in 2006. And while some of the story includes private loans which I know does not have anything to do with this. We graduated at the beginning of the housing crash and were not able

to find anything above minimum wage. We were caller services. We were on the phone with them for less than 10 minutes stating, we don't have income, we can't pay rent. They're like, that's fine, just take forbearance. No explanation of how the capitalized interest would compound daily. Each one of our loans in 2006 after 18 months of forbearance ballooned by over \$40,000 because of the fees that were added, because of the capitalized interest, and the fact that nothing was explained to us on how this would work or what we would end up owing after that forbearance. We had no idea that our loans were growing, and I know that I am not alone in this situation of having these outrageous loans just balloon to unbelievable amounts.

MR. WEATHERS: Alright. Thank you, Ashley. Looks like I have Kyra.

MS. TAYLOR: So, I just wanted to jump in and respond to Tamy's earlier comments about the prospective relief that the Department is offering through the SAVE Plan, the change in interest capitalization rules, and the IDR account adjustment, which do make some progress in responding to some of the problems. However, it doesn't change the fact that borrowers who are not yet at cancellation still have those ballooned balances from policy failures and

systemic failures and that is really what we're negotiating about here. That question of how will the Department respond and provide retroactive relief to respond to those failures? And, to the extent that these same failures occur in the future, does the Department have enough discretion to respond appropriately to those kinds of problems? So, I just wanted to respond to that comment.

MR. WEATHERS: Thank you, Kyra.

Alright. Next, I have Angelika. Angelika.

MS. WILLIAMS: Yes. Thank you to the Department for looking into these regulations and trying to find a solution. But I must disagree with the limit. Tamy, you've mentioned wholeheartedly why the limit is there in your position and the Department's position on the limit. I only asked to rereview the limit from a different lens because as an individual who has practiced financial aid for 17 years, I don't think that limit is consistent with how we've seen interest applied to loans. Meaning that we're just going to see the student in the same position they were previously in by the next interest quarter. It's not where we feel it would be an unintentional fail, as we believe it will be, as one will believe that is a relief to the student, but it actually it's going to flatline within the next interest quarter,

the next billing statement for individuals who are in a distressed position. Just to echo Kyra, I don't think the other repayment plans really will address it from another perspective.

MR. WEATHERS: Thank you, Angelika. Sarah.

MS. BUTTS: I just wanted to emphasize that we're hearing from borrowers every day that they are experiencing distress and having a difficult time paying their loans. While we appreciate these efforts, it seems a stark contrast from the initial discussions from the last session to now and not knowing what the committee is going to do or what the Department's going to do around hardship. If this is the primary broad-based relief, I think it's going to be very disappointing to many of our constituent groups. We have borrowers who the interest is accruing starting when they're students. That's been stated repeatedly. We have other borrowers of all age ranges that are impacted by this some of them have actually paid their principal balance. So, in that case, all interest could be forgiven. It would be life changing for those borrowers and it's hard to see how these different borrowers are gonna be impacted positively by this policy. There are Parent Plus borrowers that feel left out and borrowers who are in default with the

interest accumulation. I wanna emphasize that one of my colleagues, Richard, submitted a proposal that really looks at the cost of living. Those borrowers are in high cost of living states where it's very hard for these policies to have any impact. We're asking on behalf of borrowers that you please reconsider and have a proposal that everyone can see some relief from it.

MR. WEATHERS: Thank you, Sarah. Next, we have Jessica.

MS. RANUCCI: Hi. I understand, Tamy, what you're saying that the Department did put the possibility of waiver of some but not all interest above the principal balance in the 2nd session. I could be wrong, but I don't remember hearing a single comment by negotiators in support of it. I know we've been talking about this for a while, but I haven't heard any comments in support of any provision here that has a cap on the amount of interest above principal that's waived. I know there's been a lot of comments in the chat and not everyone has gotten a chance to speak. I guess I just wanted to give a chance to ask my fellow negotiators, is there anyone here who supports the type of proposal that the Department is making that caps the amount of interest above the principle that is waived?

MR. WEATHERS: Thank you, Jessica. I'm

going to move to Lane. And if there's no other comment.

MS. SHAVIT: Well, I'm sorry. To follow-up on Jessica's comment, if you had an idea about how the negotiators could demonstrate whether or not they agree with the cap on interest?

MS. RANUCCI: Yeah. It wasn't meant to be a rhetorical question. I'm happy to just sit and wait. If someone does support this, I'd like to hear why you support it, and I think that if no one does support it, that's something the Department should pay attention to as he nonfederal negotiators.

MR. WEATHERS: I understand. I'm going to go to Cindy Jeffries, FMCS. Go ahead, Cindy.

MS. JEFFRIES: Thanks, John. Jessica, thanks for calling the question. We do appreciate it. For the protocols, it does state, to preserve time, negotiators should not repeat a previously made point when it is that negotiator's turn to speak. The Department has made their position clear. We took the temperature check that I think made it clear that the real problem here is the cap. Beyond that, unless someone wants to raise their hand and say, I support this, I think this is probably a good time to move on to the next topic. It appears that the Department has received your message loud and clear. They have responded twice so if

we could see or hear from anyone who is in favor of the cap, please raise your hand now. Otherwise, I think it's time to move on.

MS. THOMPSON: Cindy, can I just ask a question? That's why I've had my hand raised this time.

MS. JEFFRIES: Sure. Thanks, Lane.

MS. THOMPSON: My question is just for the Department. I don't expect an answer right now, but I would love to hear how this provision's gonna be applied to loans with missing or incomplete loan history? I don't feel like we've addressed that yet. Thank you.

MS. JEFFRIES: That's a good question, Lane. Thank you. Do you want to pop that in the chat just so that they have that in their minds when they're reviewing this, drafting that draft, if you will, for the NPRM period? I'd appreciate it. Thanks. Okay. John, I'll turn it back over to you to move us on into the next topic.

MR. WEATHERS: Absolutely. Thank you, Cindy. And I'm going to hand it off to the Department. I believe we're moving on to 30.90.

MS. ABERNATHY: Thank you, John. Screen sharer, share their screen please. This section provides a path for a low income borrower who is not on IDR to receive a waiver of up to \$10,000 in amounts over

their balance upon entering repayment. We are defining low income here as under 225% of the Federal poverty guideline. The idea is that because these borrowers are not on IDR, they would have to provide their income information to us through an application. But this could pick up low income borrowers that are not otherwise able to sign up for IDR or are not on an IDR Plan. I'll turn it back over to you, John.

MR. WEATHERS: Thank you, Tamy.

Alright. Any clarifying questions for 30.90? Kyra, I saw your hand.

MS. TAYLOR: Can the Department clarify why it's \$10,000 here, but \$20,000 for borrowers under an IDR Plan for low-income borrowers as opposed to the same for all low-income borrowers?

MS. ABERNATHY: These particular borrowers would get \$10,000 and then another \$10,000 so the amounts do work out to be the same. Does that help? Yes, that's great.

MR. WEATHERS: Thank you, Tamy. And I'm showing that Richard is coming back to the table. Welcome, Richard. Alright. Any other questions or clarifying questions as it relates to 30.90 before we take a temperature check on this. Kyra, did you just leave your hand up? Okay, thank you. Alright. Any other

questions? Alright. Let's, move to a temperature check. Thumbs up, thumb sideways, thumbs down. Let's see some thumbs, please. I see some thumbs down. Kyra, Jessica, Wisdom, John, Sarah. Could we go ahead and start with those who have their thumbs down, any comments that you'd like to make? Richard.

MR. HAASE: Yeah. Hi. I submitted language yesterday. I recognize it was for part 30.81 subparts (b) (2). But I have the same concerns here with any reference to 225% of the Federal poverty line being used as a litmus test for economic hardship for borrowers. That number is completely meaningless for broad swaths of the American public. In my position that I shared yesterday, the regulatory language that I submitted pointed out that according- where I live in Suffolk County on Long Island, the poverty line was identified as 55 ½ for a single income household, whereas it's 27 ½ . According to the FPL, it's literally half of what it cost here. Actually, I was doing the math on this a little bit earlier today in any state that has a \$15 minimum wage, the Federal poverty line is below minimum. If you're a \$15 an hour employee working 40 hours a week for an entire year, you're making more than the Federal poverty line. So, I strongly oppose any language that uses that metric for determining because you're not

helping tens of millions of people.

MR. WEATHERS: Thank you, Richard.
Kyra.

MS. TAYLOR: I just wanna note that this provision has the same problems that we've identified. As to all the other interest provisions, there shouldn't be a cap here, especially for low-income borrowers. As I've noted previously, it should be full cancellation of the difference between the amount originally borrowed and the amount currently outstanding.

MR. WEATHERS: Thank you, Kyra. Next, I have Ashley. Ashley, you're muted.

MS. PIZZUTI: I'm gonna echo what Kyra and Richard have said. I live in the Greater Boston area, so the poverty cutoff would eliminate the majority of my area. The interests needs to be wiped out and not have all these caps that only collect a small amount of people. It's not reaching enough people, and especially in my area or high cost of living areas, it's just not going to do anything.

MR. WEATHERS: Thank you, Ashley.
Tamy.

MS. ABERNATHY: Using the Federal poverty guideline is a long standing approach. We use it in IDR. We think it is an appropriate use here. For

borrowers above the threshold, they get \$10,000 under section 30.89, and 225% mirrors existing programs under the Higher Education Act, which we have improved from 150 to 225% to capture more people.

MR. WEATHERS: Thank you, Tamy. Next, I have John. Go ahead, John.

MR. WHITELOW: So, certainly, I think this is the list of problems we have with this, you know, it's the same as with the others. I just also wanna point out, and I know that I've been beating on this one for a couple of days. The problem is exacerbated by what we don't know if any of our concerns would be taken care of through a catchall hardship provision. So, for example, if a hardship provision said, yeah, we recognize the 225%, but if you're in an area with high housing costs, that number is gonna, you know, we're gonna look at hardship differently. Then would we- would it solve our problem that we don't like using the Federal poverty guidelines? No. But it would make the- it would, it could depend on how hardship is defined significantly less on our concerns. But the problem is we don't know what hardship is at the back end. So, you know, all of our concerns are sort of front and center because we don't know to what extent that a catchall hardship provision is gonna take care of some of them. Which would allow us

possibly to slough over some of the fundamental sort of philosophical disagreements we have with the Department in the sense that for some of us, if hardship took care of it, you know, we could- some of us might be able to set aside our philosophical disagreements over using the Federal poverty guidelines because we would, take the position that the hardship provision solve that problem for us. And so, I think the absence of a detailed set of provisions or, you know, proposed regulations on hardship really makes it difficult for us to overlook potentially some of our philosophical and other concerns with these provisions. Thank you.

MR. WEATHERS: Thank you, John.

Alright. I'm moving on to Richard. Richard, you're next.

MR. HAASE: Thank you. I think John makes a good point here. The FPL is used as some something of an objective measure for hardship. If there were other factors being considered, that might make this something easier to move on. But again, in the total darkness that we're operating right now, regarding hardship, which has clearly been established is a priority for this group, it makes it really hard to know when we're actually helping people that we all kinda came together to help. Right? I do wanna point out also to something that Tamy said in response to my initial

objection here where you said, you kinda pointed out that that percentage of FPL is language that's used in other places throughout the HEA and throughout the policies that are formed. Even other metrics like applied in parts of the SAVE Plan where, you know, an individual making a \$125,000 or a joint filer is making \$250,000. Those exist in regulation as well, and I think that they are infinitely more workable than the 225% of FPL. So, I again, kind of in the absence of hardship language with an income cap that kind of leaves out, you know, the entire East Coast, West Coast, and a number of states in the middle. And the cap on what we're willing to forgive an interest in people here again like we saw in previous articles. I just worry that, you know, the cohort we're failing to help here is Americans. I feel like we're missing way too many people with all of the constraints put in place on this attempt at helping. So, I would like to see us improve in those areas.

MR. WEATHERS: Thank you, Richard.

Tamy, I see your hand up, please.

MS. ABERNATHY: Thank you. We wanna reiterate that while we understand your desire to consider all of these regulatory provisions together. Our continued position is that we are discussing each of these items as distinct separate proposals. So, we do not

have hardship regulatory text to share with you. So, we still want to consider each of these other provisions separate and distinct from hardship. We do understand where you're coming from, but we still wanna look at these as separate distinct policy positions.

MR. WEATHERS: Thank you, Tamy. Moving on to Jessica.

MS. RANUCCI: I wanna lift up an exchange that Tamy and Lane have been having in the chat. So, I know that Lane asked about loans with missing loan histories. This is something that we talked about yesterday and I submitted language last night that essentially says, you know, ask the Department to add a provision that essentially says, look if the Department's records are missing where the servicers' records are missing such that we can't tell if someone would be eligible for a waiver, they should get the waiver. I think that that's really important. I don't think that any burden of missing records should fall on borrowers, and I hope that the Department will adopt language similar to what I proposed. I would also say, Tamy, that I appreciate that your response recognizes that HEAL loan borrowers are included in this relief. I was gonna this yesterday, we got sidetracked, but I think HEAL loan borrowers are left out of a lot of relief and I noticed

that they're in explicitly in these provisions and were added to a certain other set of provisions. I think that's really important. I've been contact- I didn't know anything about HEAL loans until recently. I've been contacted by multiple HEAL borrowers and I think that those borrowers need relief too. And I think that, you know, to the extent your response suggests that there might some record keeping issues with the underlying HEAL loans, which, you know, were issued by banks that may not exist anymore, guaranteed by a Federal agency that no longer has authority to operate them. Like, I understand why there would be record keeping issues. I think that underscores a reason why you need to have a catch all that allows the secretary to, in his or her discretion, waive loans that are missing records.

MR. WEATHERS: Thank you, Jessica. I've got John Whitelaw next. Go ahead, John.

MR. WHITELOW: Thank you. I just wanted to respond and again, this is a debate slash discussion that we had yesterday, we'll probably have again this morning. We'll probably have again this afternoon. I appreciate the Department's response that we, you know, that their view of these is we need to look at each one narrowly and in isolation. That is not the view of some of us and we, again, have a fundamental

disagreement of how to look at proposals. Our goal, well at least my goal, and I suspect it is shared by many different constituents is to come up with a set of regulations or proposed regulations that provides meaningful relief across the board to our constituency in a way that is fair and appropriate. And you can't look at each provision narrowly from our perspective because that doesn't necessarily tell you if there's going to be fair relief for our constituencies. So, my view is, I am looking at it more holistically than the Department would want me to look at it, but that's safe, which is fine. You know the Department has its views of how these should be looked at and I would like to say some of us have our views. And, again, there may be some irreconcilable tension between those two views. But I think that that's completely or that's such as life. We there are lots of areas where there are irreconcilable tensions. And I will say that from my perspective as both an attorney, a long standing legal aid on poverty attorney and a disability rights advocates. I am not looking at the package individually in some sense. I am looking at, is there a relief being provided to the constituency that I serve for in this negotiation? And I can't isolate out one package because that doesn't really tell me the answer. And, again, I appreciate that's not how the Department

wants me to look at it, but and I regret that we're in that position of tension, but there we are.

MR. WEATHERS: Thank you, John. Tamy, I see your hand is up. Would you like to respond?

MS. ABERNATHY: Yes. Thank you, John. Sometimes tension is good when you're in negotiations. I equate that to being a diamond that gets thrown into the fire and what comes out of that is something polished and new. So, hopefully, that would be the same thing that we can agree to throughout these negotiations. We have at least the disbursed balance amount, which is what we would rely on if we needed to. There are places where it gets more complicated, but for negative amortization, we think those are generally going to be a smaller number of borrowers as compared to the total. So, we would look at that disbursed balance amount.

MR. WEATHERS: Thank you, Tamy. Lane, you're next.

MS. THOMPSON: Thanks, John. A couple thoughts. One is that without a hardship proposal I think I kind of have to assume this is what folks who are suffering from hardship are getting is this part here and I just don't really think it's sufficient. Mostly because of that record keeping issue. As an example, if somebody has a joint consolidation loan with somebody that they're

divorced from, it might be pretty difficult to figure out how much of that loan was above the \$10,000 that was originally or was above the original disbursement amount, considering that two different people had the loans dispersed, it was later combined, and now one person has it. So that's just an example of a group that might be kinda difficult to determine how to apply a provision like this. The other thing I wanted to add is, you know, folks who have both Parent Plus and their own loans. That might be another group where it'd be really difficult to figure out how to apply a provision like this. And mostly, what I wanna kinda bring to the forefront here is that while these provisions are separate provisions and we're addressing them that way, I think it's also important to point out that borrowers are not experiencing these as separate things. Right? Borrowers experience this all as one phenomena. So, I think it's just important that we kinda keep that front of mind that while we're looking at how all of the kind of details of this might work behind the scenes that for the folks that this may actually impact, it doesn't really feel like a whole bunch of different things.

MR. WEATHERS: Thank you, Lane. Moving on to Richard.

MR. HAASE: I'll be quick. I put this

in the chat for the records as well, but I do want to be on record saying that I'm formally requesting that we replace any references in the regs to the 225% of FPL, change it to language that looks more like what we have for SAVE, where we're using the salaries of \$125,000 or joint salaries of \$250,000. I'm not just sharing thoughts, I'm really submitting those as a formal request for change. I still have concerns with the forgiveness caps and a bunch of the other things that are shared here. But I can't in good faith with our constituency group, go back and say that we are exempting all New Yorkers from getting any help. I think it's important for people who work in other parts of the country to remember that everyone struggles. In New York, there's this practice of taxing Long Islanders to fund what happens in other parts of the state. And at the Federal level, there's this practice of taxing New Yorkers to fund what happens in other part of the country. The end result is that young people are fleeing my county and my island because they can't afford to live here anymore, all because people make faulty assumptions about how they live. So, yeah, I am adamantly opposed to the FPL here and I do want that on record.

MR. WEATHERS: Thank you, Richard.

Alright. Doesn't look like we have any other comments on

30.90. I will hand it off to the Department. It looks like we're next addressing 30.83.

MS. ABERNATHY: Alright, moving right along. Before we turn to the conversation we had on this topic yesterday, I wanna highlight a few things. In the last session, we proposed a waiver for loans that had first entered repayment 25 years ago. We've adjusted this language to include a new provision that provides a waiver for borrowers with only undergraduate loans that first entered repayment 20 years ago. We have also adjusted this language to reflect Jessica's good suggestion to base this waiver upon the date the loan entered repayment, which is simpler to follow. Finally, between what we circulated last week and what we circulated last night, we made some changes about how we treat consolidation loans. Our goal here is we do not wanna have borrowers who consolidated see their clock fully reset since some borrowers may have been paying loans for a long time before they consolidate it. And at the same time, we do not wanna forgive significant amounts of loans that are not as old. So, we are proposing to treat loans consolidated before we started this process differently from those consolidated after, where we might be picking up newer loans that we did not intend to include. For consolidations that occur after we

started this process, we are proposing to use the date that represents the midpoint between the date the oldest and newest loan in the consolidation entered repayment. That is our current best thinking of how to balance these issues. And we also wanted to respond to a few suggestions we heard yesterday. First, what is the inclusion of timelines for SAVE? The time that counts towards SAVE or IDR is not the same as what we are crediting here. We are talking about using the waiver authority here as opposed to the income contingent repayment authority we used for SAVE. Here, we are looking at thresholds of 20 or 25 years based on what exists in statute. The idea is for many borrowers who have longer periods in payment today who might have already reached forgiveness had they been able to use IDR Plans when they first entered repayment. We do not think the same logic applies to SAVE where we just created those thresholds. The second issue is related to making this forgiveness ongoing as opposed to one time. We're not able to accept this suggestion at this time. We've been considering the items related to borrowers who are eligible but have not applied those whose programs or institutions lose aid because they did not provide sufficient financial value as the ones that are best suited for ongoing actions. The other policies, such as

the different ones related to negative amortization and this one, we see as one time actions to address issues. While we understand the concerns about this being a onetime action for borrowers in default, we do note that the account adjustment will apply to borrowers with loans held by the Department and that borrowers in default have an extra opportunity to get out of default through Fresh Start. Finally, we've received suggestions to similarly adopt shortened time frames for borrowers in certain categories, such as those who completed a bankruptcy or having received a Pell grant. We do not see a basis for adopting such a policy based upon what has been submitted so far. So, at this point, we'll stop screen sharing and turn it back over to you, John.

MR. WEATHERS: Thank you, Tamy.

Alright, a couple quick administrative points. Sherri is coming back, as primary and Jalil is coming to the table. Welcome, both of you. Any questions? Any clarifying questions for the Department as to 30.83? Jessica?

MS. RANUCCI: This is minor, but as to the second part about consolidation loans, I understand what you're doing. I understand why you wanted to bifurcate it. I was wondering if you could just talk about any basis for using July 1, 2023, as that date rather than maybe a date now or next year. I think the

Department's real encouragement for people to be consolidating right now to access some of the programs, including Fresh Start. Like you mentioned, the date didn't make a lot of sense to me, but maybe you have a reason for it.

MR. WEATHERS: Go ahead, Tamy.

MS. ABERNATHY: Yes, that's when we announced this negotiated rulemaking.

MR. WEATHERS: Thank you, Tamy.

Alright, questions, clarifying questions as it relates to 30.83. Jalil, I see your hand up.

DR. BISHOP: Thank you. I just wanted the Department to speak more about proposals around particular categories. If there were students who receive Pell, other categories that many negotiators have identified as being distressed borrowers, can you explain a little bit more about why the evidence or proposals or rationales presented so far did not have what you described Tamy? As you know, did you not warrant those categories receiving relief or being carved out as target groups as you already did under SAVE where you carved out borrowers with 12,000 or less as a group that needs some type of quicker timeline to relief?

MR. WEATHERS: I see Tamy has a response to that, Jalil. Go ahead, Tamy.

MS. ABERNATHY: The rationale here is to rely upon the statutory thresholds for IDR. We don't see how you would use those proposals through that same framework.

MR. WEATHERS: Thank you, Tamy. Alright. Any other questions for clarification as it relates to 30.83? Anything at all? Alright. Why don't we go ahead and take a temperature check on this section? Let me see your thumbs. Okay, keep them up there for a moment so I can. I see some thumbs down. Scott, Sherri, Ashley, Jessica, Jalil. Those thumbs down. Any comments as it relates to 30.83? Jessica, go ahead.

MS. RANUCCI: I think, you know, I hope that you will reconsider that date for consolidation. I don't think that it makes the most sense but that's not the basis of why my thumbs down is. I'm just really concerned about the cliff. I think that this draws a line in the sand on July 1, 2005. I hope the Department will recognize the people who entered treatment on July 2, 2005, will be essentially in the same position as to needing the availability of this relief. And I submitted language. I know that others have submitted language that would allow the Department to do this, and I hope that you reconsider.

MR. WEATHERS: Thank you, Jessica. I

next have Ashley.

MS. PIZZUTI: I too can't agree with this cliff. It separates people into being worthy and unworthy of this forgiveness just by an arbitrary date, especially since loans are often dispersed in September, sometimes there's late enrollment. So, you're separating two people into sections of who can have this loan forgiveness and change your life, but if you had taken this out two days later you're not gonna get it and that just doesn't make sense. Without any kind of rolling language where this can be rolled, then it just doesn't seem like it'll work.

MS. JEFFRIES: John, you're on mute.

MR. WEATHERS: Thank you, Cindy. Thank you, Ashley. Next, I have Lane.

MS. THOMPSON: I have a borrower who most recently attended school in 1999. She reconsolidated all of her debt in 2006 at the instruction of the Department. There are no records for the loans prior to 2006. So, under this provision, that borrower would still have the same amount of debt that she has today. She wasn't captured by the IDR adjustment, and she wouldn't be captured here. I know that's not the only borrower in that situation. There were several times that the Department pushed folks to consolidate their debts

together and there aren't always underlying records for what happened before that. So, I just really wanna point out that group missing or incomplete loan histories one more time. You know, I'm not sure how somebody who consolidated in 2006, 2007, 2008 would be helped by this even if they had started in repayments much earlier on.

MR. WEATHERS: Thank you, Lane. Next, I have Kyra.

MS. TAYLOR: I'm really disappointed that the Department is not considering at least revising aspects of the proposed language that was provided given that it would remove the cliff. Tamy, you mentioned that borrowers with periods in default can opt into Fresh Start, but it's not just borrowers who are currently in default that need relief. It is also borrowers who have periods in default where they may have consolidated or rehabilitated, but that time in default will not count under the IDR account adjustment. And so, they are still looking at a longer period of repayment than the folks who would qualify for relief under this proposal and that is what we are concerned about, that those borrowers are more likely to default in the future. They're still looking at potentially years of times when they're going to be in repayment. Additionally, I am also concerned about the Department. I hear the Department's position

around why it cannot provide a shortened repayment period here for borrowers who have a lower balance. However, as others have mentioned, it is distressing to me that there isn't a discrete piece of language that pertains to those borrowers given that we know that they default more often given that we know that they're in distress, and given the fact that we don't have hardship language at the table here. With all those reservations, it's not lost on me that there are approximately 2,000,000 people who have had loans that are older than 20 years who will not get relief under the IDR account adjustment again because they have long periods of time in default and that they would be captured here. However, I strongly ask the Department to consider substantially revising this language.

MR. WEATHERS: Thank you, Kyra. Next, I have Yael.

MS. SHAVIT: Thank you. And I won't belabor the point because I think Kyra just said everything I wanted to say. The one thing I'll note is the Department has asked in the past to see some proposed language to smooth this cliff and address the concerns that we're raising today, and the Department now has those proposals. So, please implore the Department to review them and reconsider this. This is an unnecessary

hardship to impose borrowers who are in a category where they are especially vulnerable in the additional relief. Thank you.

MR. WEATHERS: Alright. Quick administrative note. It looks like Richard's coming back in, as primary, and I'm going to move on to Sherri.

MS. GAMMAGE: Thank you.

MR. WEATHERS: Your next.

MS. GAMMAGE: I wanted to take my hand down because I agree with what Yael is saying and what many of the other fellow negotiators have said. My problem is that the this arbitrary is related to the arbitrary setting of a date for a cliff, and that it does not, again, help distressed borrowers, those who have had consolidations, and it just doesn't capture enough people, especially four-year borrowers who consolidated years ago and still have- would not be in a better place than they are now with this reg regulation.

MR. WEATHERS: Thank you, Sherri, and I appreciate the comment as to not repeating previously made points, harkening back to what Cindy said earlier. So, moving on. We've got John Whitelaw. Go ahead, John.

MR. WHITELOW: Just very briefly. It's the cliff. I am really on the fence on this one. And I think there are various proposals made about fixing the

cliff. I'm not sure that you would have to go to the best fix to get me on board with this one, but to get me on board, I think you gotta do something. This is one of the ones where I think it's finely balanced. I'm close to at least a neutral or a yes on this. I'm saying that my vote is completely dependent upon getting rid of the cliff in its entirety? No. But about something less bad than where we are now.

MR. WEATHERS: Thank you, John. Next, I have Richard.

MR. HAASE: Maybe kind of a similar sentiment to what John just shared. I know that there are multiple versions, multiple proposals in for this language. It doesn't need to be the best one, but I share the concerns that everybody else has shared before me about the cliff arbitrarily creating people who get a lot of help and people who get none at all. I think if you know if someone's fate could be decided by a coin toss, I feel like we must do a little bit better than that. I know that in a negotiation you don't get everything you want, but I must share a little bit of where I'm feeling right now. I know there were multiple proposals submitted regarding caps on the amount forgiven and interest. I know there were multiple proposals submitted to try and address concerns over the cliff. I know that there were

many proposals submitted to raise attention to multiple factors that define hardship for borrowers. And I know that, you know, I've shared in a couple of concerns over the income caps. Whether I treat those in isolation as isolated disappointments or lump them together in a way I'm being told not to do. I can't help but feel that if it's going to be hard for me to consider myself a moderate, reasonable person, I don't expect to get everything I want, but it's going to be hard to get behind some of those items. I feel like I'm just being totally honest. I need to see movement on not all of them, but any of them would be great. I'm having a hard time, you know, putting my thumb in the air, and raising it in the favorable position when so many of these high priority items are just not where I think people need them to be.

MR. WEATHERS: Thank you, Richard. I have Scott. Go ahead, Scott.

MR. BUCHANAN: Yeah, thanks. I think beyond the sort of material legality issues here in this provision, I want to note that for a technical matter for the Department, the new language inserted here refers to Federal consolidation made on or after July 1, 2023. No such loans can exist under the law. As a technical matter, it might be stricken, for drafting clarity. So

just a suggestion for the Department.

MR. WEATHERS: Hey, Scott. Would you mind throwing that in the chat so we can preserve that? Thank you.

MR. LEGAARD: And thanks, Scott. We'll look at that.

MR. WEATHERS: Thank you, Soren. Alright. Not seeing any other comments at this point. Gonna hand it off to Tamy. I see that we're through so I'll defer to Cindy at this point. Go ahead, Cindy.

MS. JEFFRIES: Thanks. Thanks, John. I think it might make sense at this point it might make sense to go ahead and take a combined lunch and break and return at 1 o'clock unless I hear any objections to that. Then when we come back at 1 o'clock we can promptly pick up with the discussion around 682.403, the waiver of the FFEL Program loan debt. Any thoughts on- any objections to that?

DR. BISHOP: I do have a question. I'm- this is Jalil. I'm wondering why the break right now rather than continuing the conversation till the scheduled lunch?

MS. JEFFRIES: First, there were no additional hands on this topic. Jessica now has her hands up. We're willing to continue the conversation as long as

there's hands and it involves new ideas or information for the Department. Jessica?

MS. RANUCCI: Yeah. I agree with Jalil. I mean, we don't have a lot of time today, and it seems sort of silly to waste 35 minutes here when we don't need to necessarily. Unless the Department is waiting on something with the FFELs, I would suggest that we just go ahead to do the FFELS now and that would save us time to dive into more substance after lunch. But, if the Department's not ready, that's fine.

MS. JEFFRIES: Right. I think the thought is too that we don't wanna break in the middle of a discussion. Alright? And it will require breaking in the middle of that discussion, especially if there are additional caucuses or anything like that that need to take place during that. So, that is why we're not suggesting that we move into the FFEL, so that it's not disrupted by the people's train of thoughts in the lunch process. Tamy?

MS. ABERNATHY: I did just want to- we did a little research behind the scenes. The last FFEL consolidation loan was made in 2010. Just wanted to put that out there for the committee.

MS. JEFFRIES: Thanks, Tamy. Jessica?

MS. RANUCCI: Yeah. I just would be

shocked if the FFEL discussion took longer than 34 minutes, and the Department could persuade me that I'm wrong, but if people want to use this time differently, it would make sense to not just sign away these 34 minutes for no reason unless the Department has a reason, I'd like to hear it. But if not, I would suggest we keep moving.

MS. JEFFRIES: Okay. Thank you for that, Jessica. And I do want to note that normally we do give you about a 20-minute break in the morning and again in the afternoon, and we did not do that yet today. So, Ashley?

MS. PIZZUTI: Tamy, can you just repeat that statement on the FFEL, last FFEL consolidation date again?

MS. ABERNATHY: Yes, ma'am. The last FFEL consolidation loan was made in 2010.

MS. PIZZUTI: And that was commercially held FFEL? Because I know that I consolidated a Direct Loan in 2015.

MS. ABERNATHY: This is FFEL consolidation, so.

MS. PIZZUTI: Okay. Yeah. Okay. Got it. Thank you for the clarification.

MS. ABERNATHY: Yes, ma'am. Because

the FFEL program basically ended in 2010, you would have only been able to consolidate into Direct Loans from that point forward, but the last FFEL consolidation was in 2010. Makes sense? Good.

MS. JEFFRIES: Jessica?

MS. RANUCCI: Look, I don't mean to push this, but I think what you hear from borrowers and advocates at the table is that we're here to really talk about these proposals. We care about them. We want to get the most out of this day as we can. I honestly think the same is true of the Department of Education, so I think I guess I would just put this to Tamy or your colleagues. If you really need this break, tell us you really need the break, but if not, is there anything that we can do to keep making progress right now? I don't wanna take a break for no reason.

MS. ABERNATHY: Personally, I think Cindy has mentioned it and clarified it appropriately. We have not had a break this morning. I don't believe we are permitted to start lunch earlier and end earlier because we've publicized to the community that we'll start the afternoon session at 1:00, and so starting that early might not be in the best interest of our public. We did not have a break, and I think it is appropriate at this point that we take a break and come back refreshed and

start with FFEL and then move through the rest of the afternoon. I believe we have adequate time to discuss FFEL and all the other issues that we need to discuss in addition to the hardship discussion that we've left time for as well.

MS. JEFFRIES: Jalil, something new?

DR. BISHOP: Yes. Can we take a 10-minute break and come back and get into the conversation? I don't think we have adequate time to have a hardship conversation right now. And if there's a way to build in some time on the back end to expand that conversation, I just think we should aspire to that. So, can we take a 10-minute break rather than waiting- till lunch?

MS. ABERNATHY: What we think would be appropriate, Cindy, is if Richard and the FFEL constituency group had a caucus regarding joint consolidation- spousal joint consolidation at this time.

MS. JEFFRIES: Okay, Richard Haase?

MS. ABERNATHY: Yes, ma'am.

MS. JEFFRIES: Okay. So, Richard, Scott Buchanan, and Benjamin Lee?

MS. ABERNATHY: Mhmm.

MS. JEFFRIES: Who else would be in that caucus?

MS. ABERNATHY: If they would like the

Department to be a part of that, we can. That would be Ben, myself, Soren, Brian, Toby, [inaudible], Brian Siegel.

MS. JEFFRIES: Can we hear from Scott or Richard or Ben on whether or not they'd like the Department in there and/or FMCS?

MR. BUCHANAN: I'll defer to Richard since I don't know what we're talking about.

MS. ABERNATHY: Spousal joint consolidation.

MR. HAASE: Yeah. I've received a message this morning encouraging that we do this, but I'm not entirely sure to what end either.

MS. ABERNATHY: We'll be happy to join.

MR. HAASE: Okay. Would I be able to- Kyra, would you be able to join our conversation?

MS. TAYLOR: Sure, I'd be happy to join.

MR. HAASE: Alright. Thank you. I don't know how to go into a breakout.

MS. JEFFRIES: We'll set it up here. So, I have Richard, Scott, Ben, Kyra and from the Department, we have Tamy, Ben, Soren, Toby. Help me out here, Tamy. Where did it go?

MR. ROBERTS: Well, she joined the room, but I think I can set it up.

MS. JEFFRIES: Are you okay, but we need to record who's in that room.

MR. ROBERTS: Right now, I have in the room, Richard, Ben, Ben Miller, Brian Siegel, [inaudible], Kyra, Soren, Tamy, Toby, and I'm just going through- Scott Buchanan.

MS. JEFFRIES: Okay. [Inaudible] Go ahead and cut the live feed for now. And, yes, when they come back from their caucus, we will get back together. Welcome back, everyone. The caucus has ended, and everyone is back in participation. First, I'm going to ask if there's any report out that either party wants to do from the caucus. If not, we will go over the outline for this afternoon's session, and then we'll break for lunch. Okay. Not seeing any hands on a report out. What we'll do is we'll break from lunch. We will start promptly at 1:00 p.m., and we will go directly into the FFEL discussion. After that discussion, we will move to final consensus checks on the individual parts of the regulations. Once we complete that, we can take a quick break or not. It'll be up to you, and we'll move from there right into the additional hardship discussion, which will include allowing the one researcher. She will

present, and she will have slides to share with you, and then we'll wrap up. Okay? So, with that, have a nice lunch, and we'll see you- try to be back so that we can start promptly at 1 o'clock. Thanks.

MS. ABERNATHY: Thank you, Cindy.

Zoom Chat Transcript

Student Loan Debt Relief Committee - Session 2, Day 2, Morning, December 12, 2023

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

AM

From P - Scott Buchanan - FFEL, Servicers, GAs to Everyone:
Benjamin Lee is coming to the table

From A-Susan Teerink - Private, NonProfit Institutions to Everyone:
agree with Yael and Kyra - caps are too restrictive

From P-Sandra Boham-TCU, HCBU, MSI to Everyone:
Agree with both of these comments

From (P) Angelika Williams: Private Nonprofit Institutions to Everyone:

Same as my comments yesterday. Agree with Yale and Kyra.

From P- Kyra Taylor, Legal Assistance Orgs to Everyone:
+1 - strongly agree with Jessica's proposed regulatory language

From (A) Scott F Waterman Legal Assistance Org to Everyone:
I would like to hear from Dept of Ed why they insist on the limit in the Regs.

From (P) Richard Haase - Graduate Borrowers to Everyone:
Agree this proposal fails to recognize the good faith efforts borrowers have made often for many years and at great personal expense

From P-Sherrie Gammage 4 Year Borrowers to Everyone:
+1- strongly agree with Jessica's proposed regulatory language, Kyra and John's points. I could be moved to a yes if the cap on interest was more generous

From A-Susan Teerink - Private, NonProfit Institutions to Everyone:
Reacted to "Agree this proposal ..." with 👍

From P-Sherrie Gammage 4 Year Borrowers to Everyone:
Or rather, the cap on interest was removed

From A- Sarah Butts, 4-Year Borrowers to Everyone:
+1 on eliminating all interest.

From P - Scott Buchanan - FFEL, Servicers, GAs to Everyone:
Scott Buchanan is returning to the table

From P-Sandra Boham-TCU, HCBU, MSI to Everyone:
I could get to yes, if the caps were removed. the Department needs to have discretion so that it can address the issues in front of them and not be tied by arbitrary caps.

From P-Sherrie Gammage 4 Year Borrowers to Everyone:
Reacted to "I could get to yes, ..." with 👍

From A- Sarah Butts, 4-Year Borrowers to Everyone:
Reacted to "I could get to yes, ..." with 👍

From P- Kyra Taylor, Legal Assistance Orgs to Everyone:
Replying to "I could get to yes, ..."

+1

From P-Sherrie Gammage 4 Year Borrowers to Everyone:
Removed a 👍 reaction from "I could get to yes, ..."

From P-Sherrie Gammage 4 Year Borrowers to Everyone:

Reacted to "I could get to yes, ..." with 👍

From A - India Heckstall, Civil Rights Orgs to Everyone:

Reacted to "I could get to yes, ..." with 👍

From P- Lane Thompson - state officials to Everyone:

+1 to Melissa - if there is a non-arbitrary reason that \$10K cap was chosen, it would be helpful to understand

From P- Lane Thompson - state officials to Everyone:

+1 to Richard, the amount a borrower has paid should be considered here

From A-Susan Teerink - Private, NonProfit Institutions to Everyone:

Reacted to "+1 to Richard, the a..." with 👍

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

Jalil Coming in

From (A) Scott F Waterman Legal Assistance Org to Everyone:

The Dept has still not explained why the limits have been placed in the regs. Is it political or do they think that the regs need to specifically have a number to better withstand a legal challenge?

From P-Sherrie Gammage 4 Year Borrowers to Everyone:

Sarah Butts will be coming in as Primary for 4 year borrowers

From A- Sarah Butts, 4-Year Borrowers to Everyone:

Sarah Butts coming in as primary for 4-year borrowers.

From P- Lane Thompson - state officials to Everyone:

+1 to Jalil - continuity of programs and messaging is key

From P-Sherrie Gammage 4 Year Borrowers to Everyone:

+1 Jalil apply the SAVE regs to all borrowers!

From P-Sherrie Gammage 4 Year Borrowers to Everyone:

I appreciate the stating of the DOE's position, yet isn't this supposed to be a negotiation rather than arbitrary procedure?

From (A) Scott F Waterman Legal Assistance Org to Everyone:

The Dept's refusal to explain why makes it absolutely impossible for there to be consensus.

From (P) Richard Haase - Graduate Borrowers to Everyone:

I agree with Sherrie. How is it OK to say "we already decided what we're willing to do"?

From P- Lane Thompson - state officials to Everyone:

+1 to Scott - tough to reach consensus without data based solutions/explanations

From (P) Richard Haase - Graduate Borrowers to Everyone:

+1 to Kyra. How do we address the ballooned balances that resulted from years of systemic failure?

From P-Sherrie Gammage 4 Year Borrowers to Everyone:

Reacted to "+1 to Kyra. How do w..." with 👍

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

Here is the report where the White House is bragging about saving interest for borrowers in the future which raises why they will not help current borrowers whose balances have ballooned in this regulatory session

<https://www.whitehouse.gov/cea/written-materials/2023/08/22/new-student-loan-repayment-plan-benefits-borrowers-beyond-lower-monthly-payments/>

From P - Wisdom Cole, Civil Rights to Everyone:

Reacted to "Here is the report w..." with !

From P- Lane Thompson - state officials to Everyone:

Reacted to "+1 to Kyra. How do w..." with 👍

From P-Sherrie Gammage 4 Year Borrowers to Everyone:

+1 Angelika's points. Interest can quickly accrue in the next year for those with larger loan balances, which is why it is a "give" and a "take back".

From (P) Richard Haase - Graduate Borrowers to Everyone:

+1 to Sarah B - Combining this artificial cap with a lack of insights regarding movement on hardship just fall way too short on really giving distressed borrowers the help we need, which is why we're here

09:43:09 From P-Sherrie Gammage 4 Year Borrowers to Everyone:

Reacted to "+1 to Sarah B - Comb..." with 👍

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

Temperature check

From P-Sherrie Gammage 4 Year Borrowers to Everyone:

Removed a 👍 reaction from "+1 to Sarah B - Comb..."

From P-Sherrie Gammage 4 Year Borrowers to Everyone:

Reacted to "+1 to Sarah B - Comb..." with 👍

From (P) Richard Haase - Graduate Borrowers to Everyone:

Negotiators have made their positions clear

From P- Lane Thompson - state officials to Everyone:

how will this provision apply to borrowers with missing or incomplete loan histories?

From (P) Richard Haase - Graduate Borrowers to Everyone:

Richard coming back in for grad borrowers

From P-Sherrie Gammage 4 Year Borrowers to Everyone:

+1 Richard, the 225% does not take into account regional differences in salaries and cost of living

From A- Sarah Butts, 4-Year Borrowers to Everyone:

+1 on Richard's proposal re: Accounting for high cost of living areas

From P - Wisdom Cole, Civil Rights to Everyone:

Agreed on full cancellation

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

+1 for full cancellation of all interest as you plan to already do with SAVE

From A-Jordan Nellums-Currently Enrolled Borrower to Everyone:

+1 for full cancellation of all interest

From A- Sarah Butts, 4-Year Borrowers to Everyone:

+1 for full cancellation of all interest

From P- Lane Thompson - state officials to Everyone:

+1 to Richard and Kyra - the FPL may be a useful metric for monthly IDR payments, but is not indicative of who needs relief


From Tamy Abernathy - Director, Policy Coordination Group, ED to Everyone:

For Lane - I would say that from 2005 onward we have the balance upon entering repayment, which we would use. For older loans, we have originally disbursed amounts. The places where we think it would be most challenging is a consolidation loan that includes a HEAL loan, which is going to be a small number of borrowers.

From P- Lane Thompson - state officials to Everyone:

+1 John - hard to know whether to agree or disagree with this provision without knowing whether there is additional relief available for people in hardship category

From A-Susan Teerink - Private, NonProfit Institutions to Everyone:

Reacted to "+1 John - hard to kn..." with 

From P- Kyra Taylor, Legal Assistance Orgs to Everyone:

+1 re: concerns about the limits in this proposal given that there is no hardship reg text. I'd also add this this is especially concerning in light of the lack of significantly revised regulatory language around compromise as well (as I discussed yesterday)

From A- Sarah Butts, 4-Year Borrowers to Everyone:

+1 for John's comments. Many borrowers are experiencing hardship and distress. They need relief and we are not convinced these proposals go far enough.

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

The Department is correct that FPL is standard use. Capping it at 225% is a policy choice and you have been presented with strong evidence that you should have went higher. Using the FPL again here is making the same mistake which is not holistically measuring material hardship

From P- Lane Thompson - state officials to Everyone:

Replying to "For Lane - I would s..."

Thank you Tammy. However this does not address the concern regarding borrowers for whom some or all of that information is incorrect or missing - is there a plan for that specific group?

From (P) Richard Haase - Graduate Borrowers to Everyone:

That is what we are doing

From P- Kyra Taylor, Legal Assistance Orgs to Everyone:

+1 the need to have a catchall to include loans that are missing records

From (P) Richard Haase - Graduate Borrowers to Everyone:

I'd like to formally request that the department replace the 225% of FPL to the 125K and 250K amounts used in other parts of the regulations

From A- Sarah Butts, 4-Year Borrowers to Everyone:

Reacted to "+1 the need to have ..." with 

From P- Lane Thompson - state officials to Everyone:

+1 to needing a catchall for missing records

From A-Susan Teerink - Private, NonProfit Institutions to Everyone:

Reacted to "+1 to needing a catc..." with 

From A- Sarah Butts, 4-Year Borrowers to Everyone:

Reacted to "I'd like to formally..." with 

From P-Sherrie Gammage 4 Year Borrowers to Everyone:
 Reacted to "I'd like to formally..." with 👍

From A-Jalil Mustaffa Bishop- Graduate Student Borrower to Everyone:
 +1 on needing a relief solution for missing records that places the burden on the Dept to provide accurate records and to cancel debt where records are not whole

From (A) Edward Boltz (Consumer Advocates) to Everyone:
 Why not conduct a temperature check to see how many negotiators share the holistic or the segregated view?

From P- Kyra Taylor, Legal Assistance Orgs to Everyone:
 +1 on borrowers experiencing these proposals as a collective whole, not one by one

From A- Sarah Butts, 4-Year Borrowers to Everyone:
 Reacted to "+1 on borrowers expe..." with 👍

From P-Sherrie Gammage 4 Year Borrowers to Everyone:
 Reacted to "+1 on borrowers expe..." with 👍

From P - Wisdom Cole, Civil Rights to Everyone:
 Reacted to "+1 on borrowers expe..." with 👍

From P- Jessica Ranucci (Consumer Advocates) to Everyone:
 Reacted to "+1 on borrowers expe..." with 👍

From John S. Whitelaw, (he/him) P- Students with disabilities to Everyone:
 One example of why Poverty numbers are insufficient. Median rental price for !BR apartment is a little over \$1,300. Using the shelter as 30% or income as a guide, that means need over 50k to live in Chicago. The federal poverty numbers do no reflect actual poverty.

From A-Susan Teerink - Private, NonProfit Institutions to Everyone:
 Reacted to "I'd like to formally..." with 👍

From A- Sarah Butts, 4-Year Borrowers to Everyone:
 +1 on Richard's proposal.

From P - Ashley Pizzuti - 2 Year Borrower to Everyone:
 +1 On Richard FPL removal

From P-Sherrie Gammage 4 Year Borrowers to Everyone:
 Reacted to "+1 On Richard FPL re..." with 👍

From A- Sarah Butts, 4-Year Borrowers to Everyone:
 Sherrie is coming in as Primary for 4-year borrowers.

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

From A- Sarah Butts, 4-Year Borrowers to Everyone:
 +1 for Jessica's comments. We do not want to limit borrower(s) access to relief because of arbitrary date/deadline.

From (P) Richard Haase - Graduate Borrowers to Everyone:
 Also can not support use of arbitrary date to create winners and losers here. We must remember that actual people's lives are affected by what we do here, and telling someone, sorry, you borrowed a day too late to qualify does not pass the straight face test

From A-Susan Teerink - Private, NonProfit Institutions to Everyone:
 Reacted to "Also can not support..." with 👍

From P- Jessica Ranucci (Consumer Advocates) to Everyone:

To clarify the consolidation point, I would propose changing the date in 30.83(c)(4) from July 1, 2023 to at least January 1, 2024. I don't think that there any reason to tie that date to the start of this rulemaking.

From (P) Richard Haase - Graduate Borrowers to Everyone:

Rich coming back in for grad borrowers

From P- Lane Thompson - state officials to Everyone:

Replying to "To clarify the conso..."

+1 to this - IDR adjustment is allowing folks to consolidate up until 1/1/24 at least, it would make relief more streamlined if this provision could at least match that date

From P- Kyra Taylor, Legal Assistance Orgs to Everyone:

Additionally, I am disappointed that we do not have discrete proposals that would target borrowers who did not complete their program (a population we previously identified as facing hardship due to their student loans and where the Department's own data indicates are more likely to default on their debt), OR who have a history in default. Both populations could be partially captured by providing a shorter repayment period for borrowers who took out smaller balances, or by the Department adopting proposals that have been submitted during these negotiations.

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

Agreed

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

Agreed with Jessica

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

Jalil coming in

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

I'm ok with waiting until lunch

From (A) Edward Boltz (Consumer Advocates) to Everyone:

iI('ve got COVID and would push through

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

Can we take a 10 min break?

From P- Lane Thompson - state officials to Everyone:

so are we taking lunch now or not?

From P-Sherrie Gammage 4 Year Borrowers to Everyone:

So when are we coming back?

(b) DRAFT REGULATIONS

(1) IN GENERAL

After obtaining the advice and recommendations described in subsection (a)(1) and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing this subchapter and shall submit such regulations to a negotiated rulemaking process.