

DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION  
NEGOTIATED RULEMAKING PROGRAM INTEGRITY  
AND INSTITUTIONAL QUALITY  
SESSION 2, DAY 2, MORNING  
FEBRUARY 6, 2024

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

P R O C E E D I N G S

MR. WAGNER: Welcome. Welcome to session two, day two, of the neg reg for program integrity and institutional quality. My name is Kevin Wagner. I'm a commissioner with FMCS, and I'll be facilitating the morning session. We're going to go ahead and start off with a roll call with all the nonfederal negotiators. So, let's get started with that. Representing the business officers from institutions of higher education, Joe Weglarz.

MS. CHASE: Joe's absent today. I'll be sitting in for him.

MR. WAGNER: Okay, that leads right in- also, Dom Chase.

MS. CHASE: Present.

MR. WAGNER: Thank you, Dom. Representing the civil rights organizations and consumer advocates, we have Carolyn Fast.

MS. FAST: Good morning

MR. WAGNER: Good morning. We also have Magin Sanchez.

MS. SANCHEZ: Good morning, everyone. Happy Tuesday.

MR. WAGNER: Good morning. Representing financial aid administrators, we have

JoEllen Price.

MS. PRICE: Good morning. I'm here.

MR. WAGNER: Welcome. And Zack

Goodwin.

MR. GOODWIN: Good morning, everyone.

MR. WAGNER: Representing

historically Black colleges and universities, tribal  
colleges and universities, and minority serving  
institutions, we have DR. Charles Prince.

DR. PRINCE: Present.

MR. WAGNER: Welcome. And D'Angelo

Sands. Okay. D'Angelo is not in yet. Representing  
institutional accrediting agencies recognized by the  
Secretary, we have Jamie Studley.

MS. STUDLEY: Good morning.

MR. WAGNER: Good morning. And

Michale McComas. Okay. Representing legal assistance  
organizations, we have Robyn Smith.

MS. R. SMITH: Good morning.

MR. WAGNER: Good morning. And

Sophie Laing.

MS. LAING: Good morning.

MR. WAGNER: Good morning.

Representing private nonprofit institutions of higher  
education, Erika Linden.

MS. LINDEN: Good morning, all.

MR. WAGNER: Good morning. And Scott  
Dolan.

MR. DOLAN: Good morning.

MR. WAGNER: Representing the  
programmatic accrediting agencies, we have Dr. Laura  
Rasar King.

DR. KING: Good morning.

MR. WAGNER: Good morning. And Amy  
Ackerson.

MS. ACKERSON: Good morning.

MR. WAGNER: Good morning.  
Representing proprietary institutions of higher Ed, we  
have Jillian Klein.

MS. KLEIN: Good morning.

MR. WAGNER: Good morning. And David  
Cohen.

MR. COHEN: Good morning.

MR. WAGNER: Good morning.  
Representing the public four-year institutions, we have  
the Jason Lorgan.

MR. LORGAN: Good morning.

MR. WAGNER: Good morning. And  
Alyssa Dobson.

MS. DOBSON: Good morning.

MR. WAGNER: Representing public two-year institutions, we have Jo Blondin.

MS. BLONDIN: Yes. Thank you.

MR. WAGNER: And Michael Cioce. Okay, and Michale McComas just joined. Representing state attorney generals, we have Diana Hooley.

MS. HOOLEY: Good morning.

MR. WAGNER: Representing the state officials, we have John Ware. Good morning and Robert Anderson.

MR. ANDERSON: Good morning.

MR. WAGNER: Good morning. Representing students or borrowers, Jessica Morales.

MS. MORALES: Good morning.

MR. WAGNER: Good morning. And Emmett Blaney.

MR. BLANEY: Good morning.

MR. WAGNER: Good morning. Representing U.S. military service members, veterans, or groups representing them, we have Barmak Nassirian.

MR. NASSIRIAN: Good morning.

MR. WAGNER: Good morning. And Ashlyn Haycock-Lohmann.

MS. HAYCOCK-LOHMANN: Good morning.

MR. WAGNER: Federal negotiator for

the Department, we have Greg Martin.

MR. MARTIN: Good morning.

MR. WAGNER: Good morning, Greg. And representing the Department's Office of General Counsel, we have Denise Morelli.

MS. MORELLI: Good morning.

MR. WAGNER: And Donna Mangold.

MS. MANGOLD: Good morning.

MR. WAGNER: Representing the Department, we also have David Musser.

MR. MUSSER: Good morning, all.

MR. WAGNER: Good morning. And Herman Bounds.

MR. BOUNDS: Good morning, everyone.

MR. WAGNER: Good morning. My colleagues from FMCS, we have Cindy Jeffries.

MS. JEFFRIES: Good morning.

MR. WAGNER: Brady Roberts.

MR. ROBERTS: Good morning, everyone.

MR. WAGNER: Krystil Smith.

MS. K. SMITH: Good morning.

MR. WAGNER: And John Weathers.

MR. WEATHERS: Good morning, everyone.

MR. WAGNER: So, I believe today

we're for this session we're going to start with state authorizations. That's issue paper number two. The issue will be reviewed and discussed. And typically, at the end of each section, we'll be asking for temperature checks just to see where things stand with that particular section. Just a reminder, when we do temperature checks, the thumbs up is we can agree. The middle thumb is we can live with it 70% and can support it and if the thumb is down, that means you don't support it, but we'll ask, you know, what would it take to get you to support that particular section? I do see, before we get started, Dom, you have your hand up.

MS. CHASE: Yes. Thank you. I would like to call for a caucus with representatives of institutions of higher education, both primary and alternate.

MR. WAGNER: Cindy, can you weigh in on that for me?

MS. JEFFRIES: Sure. No problem. Dom, you said with the primary and alternate of higher education?

MS. CHASE: Yeah. From institutions. Yes.

MS. JEFFRIES: Okay. Can you give me those names?

MS. CHASE: Yes. You want me to read them aloud or put?

MS. JEFFRIES: Yes, please. Because we need to have them on the record.

MS. CHASE: Okay. Just pulling it up here.

MS. JEFFRIES: Sure.

MS. CHASE: Can I just ask those that are to signal some way. So that way I don't have to.

MS. JEFFRIES: I was just going to say. For the-

MR. WAGNER: If you could raise your hand, that'd be great.

MS. JEFFRIES: There you go. So, we have Jillian, right?

MR. WAGNER: It looks like we have Dom, Erika, Jillian, Jo Blondin, Jason Lorgan, Scott Dolan, DC and David Cohen. There should be eight.

MS. JEFFRIES: Okay, so, Brady, you want to in just a moment put them in a breakout room? First, Dom, can you give us some sort of idea how long you need for the caucus?

MS. CHASE: I would say 30 minutes.

MS. JEFFRIES: Okay. Alright. And we will check in with you to see if you need additional

time. I also see this on there. Okay, so I have a total of nine.

MR. ROBERTS: Yep, I got nine because I think Alyssa was off camera, but she raised her hand as well.

MS. JEFFRIES: Yes, yes okay. So about 30 minutes it is 10:08. If while you're in your caucus you need assistance, please hit the ask for help button and one of the facilitators will come in. Alright?

MS. CHASE: Thank you.

MS. JEFFRIES: So, with that, we can go off live feed while the parties caucus.

MS. JEFFRIES: Okay. Welcome back. We have briefly gone back live. There was a question posed after the live feed regarding the caucus process. Wanted to be sure that the public was involved in understanding what the caucus means. Any party, according to protocol, is allowed to call a caucus with other constituency groups and/or the Department. In this case, it is amongst constituency groups. We have always had the practice of asking the parties who they want in that caucus. So, it is a matter of record as well as how long they will be meeting. In some circumstances, the parties do share what their caucus is about. We do

expect that the caucuses that are being utilized in a daily session pertain to the topics that we will be discussing today. They do not have to necessarily tell us what they are caucusing about. Alright? That is how the caucuses have run. We will ask when you come back from your caucus if you have anything to report out for an update and then we will move into the issue paper that we have coming up. Dom?

MS. CHASE: Is there a question or?

MR. ROBERTS: I think it was a hand raised. Cindy just.

MS. CHASE: Oh, I think it's from previously. Sorry.

MS. JEFFRIES: Oh, okay. No worries. Jo, you have your hand up.

MS. BLONDIN: I do have a hand raised because I'm new to this. What happens when we go into caucus? I know the discussion stops but I'm just curious, like, what are the other negotiators, I mean, are they just coming back at a certain time after because they have a break, or is there conversation? I've not been involved in this, so I'm just curious.

MS. JEFFRIES: There's absolutely no more table discussions on any of the issues once you go into caucus and we break the live feed. The table

discussions cease. The negotiators are free to do what they need to do during that time frame, which is why we ask for an estimate as well as for our public viewers so that they know when approximately to come back.

Sometimes other groups will ask to caucus during that time period, which is not the case at this point. But sometimes they do. But basically, everything is on hold until you return from your caucus, which is why we ask that your caucuses pertain to the topics of the day because everybody is on hold and when approximately you will be back. Does that help, Jo?

MS. BLONDIN: Very much. Thank you.

MS. JEFFRIES: You're welcome. Any other questions? Alright, so let's go ahead and break the live feed and, Brady, if you would kindly move the participants to their caucus room.

MR. ROBERTS: Yep. Everyone's been invited. So, if the message is still up to the invitation of room five [inaudible].

MR. WAGNER: Welcome back. Just wanted to let everyone know that the group that went ahead in caucus are all back in the main room. Before we get started on going to the issue paper, I want to see if there's anything that the caucus members would like to report out to the group if they would choose so. Go

ahead, Dom.

MS. CHASE: Yes. Thank you for the opportunity. I would like to just point out that at the close of yesterday's session, Greg had mentioned that we the parties had made significant progress toward consensus. And while I'm in agreement that components of the cash management significant progress were made to consensus, there were significant concerns expressed around other areas throughout the day. So, I wanted to caucus based on that prior to moving forward with the next subject. And this group intends to submit all alternative language for the Department's consideration that is negotiating in good faith, even moving more toward transparency around a number of issues. So please look for that. Appreciate the time. Thanks.

MR. WAGNER: Thanks, Dom. Anything else? Okay. Greg, would you like to start with the issue paper number two, state authorization?

MR. MARTIN: Sure. I'll be glad to do that. This morning, we'll be going into issue paper two, again, state authorization. And, I should say something, I guess, you know, regarding, remarks yesterday, consensus is consensus. Obviously, it's reached, or it isn't. I think that characterized the discussion yesterday and I was pleased with the tenor of

the discussion and the nature of the interaction. I didn't mean to suggest that we had approached consensus. If I did that, I apologize. That was premature. But what I did want to say was that I was pleased with the nature of the discussion. So, having said that, let's move into issue paper two. A little bit about what we'll do today. We're going to review issue paper two. I'll be doing that with the negotiators. And following that, David Musser will start with distance education and that will be later this afternoon. So just so everybody knows where we are with that. Looking at issue paper two, what I'd like to do with this one, if you, just looking at the way it's broken up. Of course, it's a little bit different than the other ones we have because, we're really only dealing with two sections here. Right? So, 600.2 and 600.9, it is substantive within those sections. But I think it affects how we are going to look at the temperature checks. Again, I want to reiterate that temperature checks are not consensus. They are not a vote. They're simply an indication of how the negotiators are feeling about sections at a given time just so we can get a sense for how the discussion is flowing. So, nothing is binding. But what I'd like to do is look in 600.2, the definitions, we removed a lot of what's there, and moved a lot of it over to 600.9. So,

it would be very difficult to take a consensus of just what's in 600.2, because it relates so closely to what's in 600.9 and 600.9 (d). If we look at 600.9, what I'd like to do is go over (a) and we'll look at 600.2, and then do 600.9 (a) and (b) and we'll probably take a consensus talk about (a) and (b) because those sections can be looked at independently. And then when we take a census, I'm sorry, when we take the temperature at the end we'll look at (c) and (d) and then look at those in consideration of 600.2. So that's how we'll do this. But we'll walk through everything in order. I don't want to get out of order and walk you through the paper at all. We're going to go through the paper exactly as it's presented here for you. So, I just want to point that out. But you'll see as we go through that, I think that will make the most amount of sense. So just in starting here, the Department received a proposal to allow any member of a state authorization reciprocity agreement to enforce its own education-specific laws. So, as we walk through this paper, we are interested in feedback for what defines education-specific law. Because we've had a lot of discussion previously about education-specific and, you know, those that are not education-specific. So, we want to see what the negotiators are thinking about putting parameters around exactly what that means.

Additionally, we are interested in feedback on how the regulations can better distinguish between state authorization requirements for approval and renewal and those related to state oversight. So, I'd like to discuss those questions in the relevant sections of the regulations as we get to them. The language presented in this issue paper for your consideration reflects a combination of components of various proposals that we received from the negotiators. So having said that, let's pull up 600.2 and we'll start with what we have there. This is the definition of a state authorization reciprocity agreement. Remove the language related to prohibiting states from enforcing general purpose laws and our proposed language on governing boards, from the definition to the overarching state authorization regulation 600.9. So, we'll see where that goes. And you can see there what we've done in the definition of state authorized reciprocity agreement. So, you can see what's been excised from that. And you note that, in the first part there, we have moved that over to 600.9. So, all of what you see here, though it's been eliminated from 600.2 definition will move over into 600, move into 600.9 when we get there. So, I don't think we want to look at 600.2 outside of the context of what's being done in 600.9. So, we will get there. So, you can see what

we've done in 600.2. Let's move on to 600.9 in (a) and talk a little bit about what's going on there. Overall, we made some changes to this section that reworks it to provide clarity because we believe the current way regulations are written to create confusion. Previous rulemakings we've attempted to provide clarity to colleges and universities for what state authorization meant. We believe further clarification is needed to outline that. The first way we've done that here is, by inserting a provision saying that a state ensures the institution complies with any applicable state authorization or licensure requirements and continues to meet a state's general purpose or education-specific laws and regulations. So you can see there, if we look at 600.9, the inclusion of that language ensures an institution described in 600 described rather under 600.4, 600.5 or 600.6, and institutional eligibility is legally authorized by a state if the state ensures the institution complies with any applicable state authorization or licensure requirements, except as described in subsection 3 of this section, and continues to meet a state's general purpose or educational specific laws and regulations. So, you can see what was done there. And what's removed there is just references to other areas that we have taken out. And again, we can

move to, as it says here, except as under subsection 3e, so we can move to 3 and look at what we've done there.

MS. R. SMITH: Can I just ask a question about that particular language?

MR. MARTIN: Sure.

MS. R. SMITH: I am wondering why it's an or and not an and in between the general purpose or education-specific laws, it seems to me you'd want an and there. And then this other section would clarify. But if you have an or, it doesn't make sense to me.

MR. MARTIN: We're talking about, let's go back. So, you're talking about insures the institution complies with any applicable state authorization or licensure requirements, except as described in subsection 3 of this section, and continues to meet the state's general purpose or education-specific laws and regulations. And you believe you're saying that it should be the or should be an and.

MS. R. SMITH: Right, because you don't want a choice between one or the other. You want both as you clarify in this subsection three later on would be me.

MR. MARTIN: I think that makes total sense. Actually, I'm going to suggest that we make that change. Thank you. That does make for a better

[inaudible]. Okay. So, let's go over to subsection 3. And these are the exemptions as we've reworked them. So, a little bit about these exemptions. We have removed the language related to exemptions if an institution is accredited by an accrediting agency recognized by the Secretary, or if an institution has been in operation for 20 years and moved those to a new subsection, rather to new section in 600.93. In this section related to our discussion questions, we clarified that the exemption is subject to requirements from initial and required application for authorization or licensure for exemptions due to accreditation and being in operation for 20 years. We added a date to phase out this exemption, so institutions must be reviewed by their state within 5 years of an effective date of July 1, 2025. Assuming we are able to meet the master calendar requirements, we believe this gives states sufficient time to make any necessary changes to laws and regulations and set up processes that are not in place currently. So, let's take a look at what is in three together. The institution may be exempted from the requirements for initial or renewed application for authorization or licensure, if the institution is offering distance education in that state under a state authorization reciprocity agreement as defined in 600.2. The students

in that state but is not physically located in that state. Romanette two, not later than July 1st, 2030. A charter, statute, constitutional provision or other action issued by an appropriate state agency or state entity establishes that the institution by name- establishes the institution by name as an educational institution and authorizes it to operate educational programs beyond secondary education, including programs leading to a degree of certificate. Or not later than July 1st, 2030. A state action exempts the institution based on the institution's accreditation by one or more accrediting agencies recognized by the Secretary. Or based on the institution being in operation for at least 20 years. So, you can see the exemptions are retained. However, there is a sunset date there of not later than July 1st, 2030, again corresponding to a five-year period after the date that we believe these rules would be effective, rather, if we meet the master calendar, that would be July 1st of 2025. So now, we've looked at (a) and (b) of 600.9. I'd like to open the floor for discussion at this point.

MR. WAGNER: Yes, John, I see your hand. Go ahead.

MS. WARE: Yeah, I agree with what Robyn said in that first section. It makes more sense to

have an and in there, because I think generally schools should be- I think what you're trying to say there, right, is that schools are in compliance with the laws of the state, essentially where they're located. Which makes sense, obviously. And as to the next section. I'm trying to figure out, does that mean that the exemptions go away after 2030, or does it mean that if you've been exempted prior to 2030 that the exemption is still good? I think what you just said seems to be that after 2030, no one can be exempt after that.

MR. MARTIN: That's correct. It provides an off-ramp for the exemption, after which time states would have to look at those schools.

MS. WARE: Okay, so then any schools that have been previously exempted via statute or any other provisions would have to go through an authorization process.

MR. MARTIN: Yes.

MS. WARE: Okay, thanks.

MR. WAGNER: Barmak, I see your hand. But really quickly, I just wanted to announce that Emmett will briefly be in for student borrowers. Go ahead, Barmak.

MR. NASSIRIAN: So the institution is offering distance education in that state under state

authorization reciprocity agreement. This is a kind of a bigger picture framing issue, perhaps, but I just want to flag it for the Department's attention. Carolyn and I submitted a proposal after the last reg neg suggesting that reciprocity agreements should only apply to institutions that have an incidental presence or a fairly minor presence in the states. That institutions that have a significant footprint in a given state should go directly to the authorizers in that state for purposes of operating there. And the rationale for that is that state regulators need resources. You can't have institutions that actually eclipse many in-state institutions in terms of their enrollment size, via distance, play by a different set of rules and fundamentally deny those regulators the resources they need to actually do the job that they're supposed to do. So, I really would encourage the Department to contemplate a modification here so that the state reciprocity agreements cover those institutions that really should not have to go to every state in which they may have a fairly small footprint to obtain authorization. But that mega universities that, as I said, eclipsed in terms of their enrollment size, many of the in-state providers, should go directly to the state authorizers. Corporations do this all the time. They

operate in the 50 states, and the Department should not create a back door for evasion of fundamental rules that apply to everybody else. This is a matter of leveling the playing field within each state secondly, providing adequate resources to the regulators. So, I would encourage the Department to contemplate that change. Thank you.

MR. MARTIN: Thanks, Barmak. I'd like to hear specifically, all comments, obviously, but any comments in response to what Barmak has just made.

MR. WAGNER: I just want to let everyone know that Rob Anderson is in for state regulators, and he has his hand up. So, Rob, take it away.

MR. ANDERSON: Thank you, Kevin. This isn't in response to Barmak, but looking at clarification regarding this education-specific language, which I'm trying to kind of encapsulate this in a real-world example to see how the Department might handle this. And first of all, of course, the institutions must follow state law that's not controversial. We all support that. But there's important clarifications within this. In the Department's recent rulemaking on certification procedures, you know, requiring compliance with state closure requirements. It used a similar type

of framing, where institutions are now required to certify that they comply with state laws regarding closures. And the way this was put was, the Department stated that the certification requires institutions to affirm that they are complying with applicable state laws related to, in this case, closure. For instance, if a state's tuition recovery fund exempts out-of-state institutions, those institutions would not have to abide by it. The Department further wrote, we note that many states exempt closure requirements for institutions under a reciprocity agreement. So, this regulation, you know, didn't affect how states may choose to promulgate their laws. So, one clear example is the state of Virginia, which has broad education-specific laws for out-of-state distance education providers. But in regulations, states clarify that the laws are not applicable to institutions participating in SARA. Virginia can easily ensure that the out-of-state institutions offering education within the Commonwealth are compliant within SARA. So, the way it states in Virginia is, any degree-granting postsecondary school providing distance Ed to residents of the Commonwealth from a location outside shall be certified to operate or shall be a participant in a reciprocity agreement to which the Commonwealth belongs. So that's what they have decided to do. That's their

direction, their determination. So, does this portion of what you've proposed regarding regulation, enable Virginia to do this, or does it, fundamentally change their right to address it in this way as a state?

MR. MARTIN: I'm sorry, are you talking about what we've done in (three)?

MR. ANDERSON: Yes. Regarding the language regarding that. Yes, exactly.

MR. MARTIN: Well clearly, we've eliminated these exemptions because we believe that that state should look at these institutions and that these exemptions that have been in place shouldn't continue beyond 2030. So, we've offered the off ramp for that. So I'm not sure the context of your question beyond, you know, do we feel that that limits states? No, we don't.

MR. ANDERSON: So, Virginia can't make that self-determination to handle it in that manner anymore then as far as what the Department is saying? They can't say you're going to be authorized like this, or you're going to participate in a reciprocity agreement that we're a member of, and we've agreed to the terms They can no longer approach it in that bifurcated manner that they choose to as a state?

MR. MUSSER: Greg, can I jump in real quick? I want to clarify something with Rob. You're

actually referring to the language in the definition of the requirements for a state authorization reciprocity agreement. Correct? We're not talking about.

MR. ANDERSON: No, exactly. And I'm trying to see if these are put together or if it's separated. You know, exactly what's being referred to here. Because it could either be a nothing burger or it could be a big deal.

MR. MUSSER: So, I actually think we probably would want to take a look at the exact language before we opine on whether the wording as it's currently stated in the proposed language would affect the state's ability to do what you're suggesting, Rob. So would you mind putting it in the chat and we'll take a look at it and see if we can get back to you on this maybe after lunch. Would that be okay?

MR. ANDERSON: Oh, yeah. Absolutely, absolutely. I'm just trying to see how it intertwines or doesn't. Yeah. Thank you.

MR. WAGNER: Thanks, Rob. Barmak, I see your hand.

MR. NASSIRIAN: This is a comment on Rob's observation here. I just want to clarify that nothing in this regulation intrudes on the state's rights to pass their own laws as they see fit for their own

purposes. What we are talking about is what the Federal Government's requirements are for participation in Title IV. There's a statutory basis in federal law, for state authorization. And the Federal Government has the right to articulate what kinds of state authorization are acceptable to it. So, I just want to make sure that there is no confusion as to whether the Federal Government in regulating this issue is in any way constraining Virginia's decisions for Virginia's purposes on how it wants to authorize institutions. That's one point. The second point, I am just kind of confused with the language in (three). What I'm hearing is that the intent is to ensure that none of these conditions obtain after 2030. That's the way John kind of asked that question. So, I just want to make sure I understand, is this proposed language intended to say, for example, in romanette three, that states may not collapse state authorization onto accreditation or is it saying that if they pass a law by 2030 that they can collapse state authorization by delegating it to a recognized accreditor? Is that question clear?

MR. MARTIN: I'm not sure exactly what you mean, Barmak.

MR. WAGNER: Denise, go ahead.

MS. MORELLI: I think I understand

Barmak and we're trying to phase out the exemptions, so if you have better wording, please provide it. This is what we came up with. So, it's not for them to pass a new law to do the exemption over again. That's not the intent. I think that's what you're asking.

MR. NASSIRIAN: So, in plain English. And we can work on the language but in plain English.

MS. MORELLI: Correct.

MR. NASSIRIAN: After July 1, 2030, the state cannot simply declare an institution authorized based on accreditation.

MS. MORALES: Accreditation or years of business. And the other ones, yes.

MR. NASSIRIAN: Sound policy. Thank you.

MR. MARTIN: It does. But it is that we provided the off ramp to that but that is the ultimate [inaudible].

MR. WAGNER: Denise, do you have anything to add? No, okay. I see Robyn, your next, go ahead.

MS. R. SMITH: I just want to ask. I am curious about how this subsection (three) is modified or related to subsection (d). So, I guess you'll be able to answer that when we get to (d). But it seems like

there's some disconnect between the two and just curious how they relate. For example, does subsection (d) modify the requirements of (3)(i)? But we can wait until we get to subsection (d), that might help.

MR. MARTIN: Yeah, when we go over subsection- I think we can look at these independently for now, but we'll get to subsection (d) and then go through that. So, you know, when we look at that, we can discuss anything you want too there.

MR. WAGNER: Okay, Jamie. You're up.

MS. STUDLEY: My question goes back a step to the 2030 proposed change. This uses the word state action exempts. The other day we had a few other possible categories. I would read this to say that this is an effort to prohibit the state from exempting, but that it still might do something else with that information. It could draw on the fact of it could weigh- it could determine whether it's, well, I guess I'll put it as a question. Could it look at accreditation and say, this answers the questions that we have about whether we want to approve this institution to operate in this state? And we don't need to make them go through the same exercise if we have confidence in that information. It may be something other than an exemption, but they continue to determine whether it gave

them the information that they wanted and use that as part of its consideration?

MR. MARTIN: The purpose here is not to let states pass off their responsibility to look at these programs. So would it be possible for states to stand up other ones that are?

MS. STUDLEY: Well, what I was trying to say was, could they say we will accept the same material? We will use that to answer some of the questions that we have about whether an institution should be allowed to operate here, and we will use the data provided to take into account in making our determination. So, it's not an exemption from attending to but could be an efficient way to answer the state's questions. I think the answer is the state gets to decide, but I'd like to hear the Department say it too.

MR. MARTIN: Yeah. Well, obviously I would say the state gets to decide, but are you proposing a specific language here to clarify this or to put?

MS. STUDLEY: No, at the moment I'm just trying to understand the intent and scope of this language.

MR. MARTIN: Well, the intent here is these are existing exemptions not later than July 1, 2030, a charter statute or constitutional provision or

other action issued by an appropriate state agency or state entity establishes the institution by educational, institutional authorizes it to operate. And here you're talking about (three) not later than July 1, 2030. The state action exempts the institution based on the institution's accreditation for one or more accrediting agencies. So, I mean, I think it's pretty clear there that we're saying that exemption exempts it based on the institution's accreditation by one or more agencies is going away. They can no longer do that. Can the state use information, you know, from that process to make its own determinations? I would imagine, yes. But I think- I don't want to think we'd have to look at specifically what kinds of things you're asking Jamie, if you have examples of that you can provide to us so we could provide a little more detail there.

MS. STUDLEY: I think it's a question of what the states want to do to reach the determination that they have to make, but I'll think about it some more. Thanks.

MR. MARTIN: Okay. And if you have language, please put it in the chat so we can take a look.

MR. WAGNER: Thanks, Jamie. Jillian, I see your hand. Go ahead.

MS. KLEIN: Thanks. Good morning. I know, related to the education-specific laws, I think, Greg, you asked for maybe feedback or that's an open conversation. But I would like to better understand, I guess, from the Department's perspective, what it is you mean by that phrase, not being an expert in this space exactly but I interpret education-specific laws as it could involve laws that apply to students, teachers, public systems, private systems, sort of, you know, pre-K through post grad. It's very broad. So, I know you asked us the question, but can you start by outlining how it is exactly the Department thinks that this applies within this section?

MR. MARTIN: You know, right now, I mean, you see our proposed language and we'll look at the proposed language when we get to reciprocity agreements. Indeed. The Department is not taking an absolute position here, with respect to what that is. I think that we're looking at that phrase education-specific as being able to encompass a variety of things. So, if we're going to place some more parameters around that, you know, we want to gather from negotiators what those might be. I mean, some, you know, some examples might be higher education related to recruitment laws, requirements related to institutional finances. So, I

mean, trying to reach something besides the broad term education-specific laws. The Department doesn't have a steadfast position right now is exactly what that would mean. So that's why we're reaching out to you to see if you have feedback on it.

MS. KLEIN: I don't know if this is allowed. If I can ask Carolyn maybe her perspective of what she meant by that phrase, since it sounds like the Department just borrowed it. I don't know, I'm just trying to have a conversation about what exactly we're talking about before I make a broader comment. Can I ask Carolyn or Barmak or either of you?

MR. NASSIRIAN: Carolyn.

MR. WAGNER: Carolyn, would you?  
Okay. Thanks. Barmak. Carolyn, go ahead.

MS. FAST: Absolutely. So, when we were looking for language about this, we were concerned with the fact that, reciprocity agreement, the current one that the states are now involved in permits states to enforce their general purpose consumer protection laws, but prohibits them from enforcing, anything else. So we use the term education-specific, because a lot of states have determined that it's important to protect their students against risks posed by predatory or in some cases, financially unstable institutions by a number of

different types of laws, some of which are outlined really helpfully in Robyn Smith and Libby Webster's paper that was provided. And these include things like, education, specific deceptive practices laws that provide for specific content that is prohibited by educational institutions, like, for example, pretending that they're affiliated with the military when they're not, or pretending that they're a government agency when they're not, or, you know, guaranteeing 100% placement rates when they don't have that or things like that. So those are the types of laws that are important to protect students. And right now, states are impeded in their ability to enforce those types of laws by the fact that they are prohibited from doing that with respect to out-of-state schools that are operating in their state under the current SARA guidelines. So, it's an issue of making sure that students are able to be protected and also that there's not different standards that apply to different, students enrolled in online programs. And the kinds of things that we're talking about are very wide-ranging. Anything from like state requirements related to withholding transcripts to disclosure requirements to help students understand what completion rates are and placement rates are at a particular school. There's really a whole slew of protections that right now states

are unable to provide to their students. And feel free to jump in anyone if I've forgotten or mis-said anything.

MS. KLEIN: No. I think, directionally, I think that's helpful. I would just say, I made this comment last month, so I'm sorry to be duplicative, but I'll say it again anyway, which is some of those things that you listed off actually did get codified by some of you, in fact, maybe you were part of that Carolyn. When you wrote the rules that go into effect, I think, in July around, things like misrepresentation, precipitous closures, pain and distress, those things are already about to be requirements for out of state institutions anyway. There's something in there about transcript withholdings. Institutions are already subject to the general-purpose laws that cover things like misrepresentation. So, I just think it's important. I think Greg's answer highlights it's important to be really specific about what we see as the outstanding risk or issue that hasn't already been addressed through general purpose laws, or is about to be in effect in July with the rules that I think many of you were there and wrote them with the Department. I understand you probably wrote the word not thinking the Department would take it without putting some definition around it, but using sort of a broad

education-specific law phrase which literally can involve like preschool students, teacher- like, you know, K-12 teachers, etc. to make sure that institutions understand what the requirements are too.

MS. FAST: Well, I don't think we have to worry that we're being overly broad and worrying about the things that have to do with kindergartners or something like that obviously doesn't apply.

MS. KLEIN: It obviously doesn't apply because it says education-specific, I mean, so type of clarification, I guess, is exactly what I'm asking for, because as written, an institution that wants to stay in compliance would feel like they have to read it through a very broad lens.

MS. FAST: I think that we mean, well- a state couldn't enforce a law that has to do with, high schools, for example, against a postsecondary school, like, those laws don't apply to those schools, so that couldn't be enforced. So, I don't think that's an issue here. But perhaps Robyn or anyone else could weigh in. But I do not think that the problem was solved by the last round of negotiated rulemakings. Although the problem was raised. The protection is, very narrow. It doesn't address the issues that we have raised. And I'd be happy to talk in more detail, but I don't want to

overuse more of my time, so perhaps I'll jump back in later.

MR. WAGNER: Okay. Thank you. Let's see, Rob Anderson is back in. Go ahead, Rob.

MR. ANDERSON: Thanks so much. First of all, I want to respond to some of what Carolyn said because I think there's some fundamental differences in interpretations there. I do not see the states as being impeded because they have voluntarily entered into these reciprocity agreements. And as a part of that, it was agreed upon what items would be included. And when it has 49 states, you know, where clearly right now it could expand beyond. But we're talking about SARA and what exists. That actually raises the standards in 21 states who don't regulate out-of-state institutions. And those who chose to participate, it's not all their institutions, it's those participating in SARA chose too willingly. They weren't forced. If they decided this isn't good for us anymore, they could cut bait and go find something that suits them in their state context better. So that's what I want to make as far as my initial observation on that, I think that's just a fundamental difference in how we view this. But, getting back to this general discussion of education-specific. One question that I did have in regard to these

agreements, and I guess around distance Ed, is the intent for education-specific to be covered by the home state authorization when the institutions participate in a reciprocity agreement?

MR. MARTIN: Could you elucidate on that a little more?

MR. ANDERSON: Yeah. So, this idea of home state and when it's covered. Is it covered, I mean, this idea of education-specific. Is it covered by the home state authorization when that institution is participating within a reciprocity agreement?

MR. MARTIN: Well, when we get to (d), we have not used education-specific in the reciprocity agreement.

MS. KLEIN: I think that his question is about (a)(1) romanette one, which is what I was speaking to as well, which I think does actually say that the institution is subject to every state's education-specific laws. I'm sorry to jump in.

MR. MARTIN: Okay. Ensures the institution complies with the applicable state authorization or license requirements except as described in subsection three of the section and continues to meet a state's general purpose education laws. Are you saying does this apply- is this applicable to? Yes, the state

the school is operating in its laws or other states except under subsection (3).

MR. ANDERSON: And, you know, my concern again in some of this is what you get into, I think is, reciprocity quickly unraveling if you take these education-specific agreed upon items away. We have a policy process that allows states to raise concerns and try to raise what is called a floor, through consensus by the people who have agreed to participate in this reciprocity agreement. And when they agree, those standards will go up. But now it is where it is with 49 states. Like I said, 21 states don't even regulate this. And so they're definitely [inaudible] out. One-third of states don't require accreditation for degree-granting institutions and SARA requires accreditation, state authorization in the home state and ensures this oversight. So, my concern is in search of the perfect, you're going to blow up what has been very solid for states and 49 states have jumped on board with as a best option. And we're going to be left wondering what's next? How do you hold this together?

MR. WAGNER: Dave. I see your hand up, go ahead.

MR. MUSSER: Yeah. Just for a moment, I want to offer a little bit of context around

the Department's inclusion of the education-specific terms and the reason that we wanted to bring this up for discussion with the group. If folks remember going back in history somewhat, in, well, before 2016 when the Department first negotiated this topic in the NPRM that we published following the negotiated rulemaking sessions, we had first proposed to require that all state's consumer protection laws be complied with if they entered into a reciprocity agreement. There was a lot of discussion in the community about the definition of consumer protection laws. It became a very challenging term to define because that could be defined in many different ways. So, the Department ultimately landed on language that essentially said that, the reciprocity agreement could does not prohibit any state that is participating in the agreement from enforcing its own statutes and regulations, including general rule laws and regulations and those specifically directed at a group of institutions or a subgroup of such institutions. I'm paraphrasing. That's not exactly the language. That language never went into effect. The following administration delayed it and then ultimately negotiated and regulated that the current language that we have today, which focuses on general purpose laws that apply broadly. What we really want to do today is understand

the breadth of different education-specific laws and regulations that states might want to enforce, even while a part of a reciprocity agreement. And I think that's the top part of our issue paper today. If we want feedback from negotiators about that. Number one, what harm could be done to students because states are choosing not to enforce those because their reciprocity agreement demands it, as well as what could be potentially harmful to the reciprocity process if states decided to enforce education-specific laws. So, I want to be sure it's clear that we didn't just include the concept of education-specific willy nilly. We want to have a discussion about that today, and that's part of what we're doing right now. So, I'll give up the floor now.

MR. WAGNER: Thanks, Dave. Robyn, I see your hand. Go ahead.

MS. R. SMITH: Sure. So first, in response to Jillian's question about the kindergarten. State higher Ed statutes, or state education statutes, very specifically describe which businesses are subject to their oversight. I think to deal with that question, I would insert the word applicable before or higher education-specific laws in (a)(1) little (i). Just to be clear that we're talking either about higher education or

applicable laws that are applicable to the institutions that come under Title IV. The second issue I want to raise is, you know, while SARA might provide a higher bar for some states, it significantly lowers the bar for others that have very strong consumer protections applicable to primarily for-profit school institutions. And in fact, it hamstring the states that don't have those laws from enacting and enforcing new laws against what they may feel are predatory acts by out-of-state distance education institutions covered by SARA. So even if those states wanted to pass laws applicable to for-profit higher education out-of-state institutions, they couldn't under NC-SARA. As far as blowing up NC-SARA, I think there are potential alternatives. We know NC-SARA is the only game in town now, but there are other ways to do reciprocity. In fact, in 2013, the states themselves were working on coming up with a reciprocity agreement that would have allowed for states to accept the approval of other states, but still required them to comply with the higher education-specific consumer protections in state higher Ed laws. And that was cut off because NC-SARA sort of came into town and ended up getting passed by all the states. I also want to push back on the idea that states voluntarily accepted NC-SARA. Yes, they all complied, they all signed on, but one of the reasons is

that institutions have a lot of lobbyists. They have a lot of money to go to state legislatures and ask for the passage. Students and consumer advocates don't have that kind of lobbying money, and we don't have a significant presence in other states. So, in that process, essentially, the views and concerns of states, of law enforcement and of students weren't really heard. And it was happening really before anyone was paying attention. So I want to push back on this idea that things can't change, that states might want to change how they are members of SARA and [30 seconds] what the SARA provisions are and I want to note that it's very hard now for states to withdraw from NC-SARA, because if they do and there's no alternative, suddenly all of their students are not eligible for Title IV funding that are in these institutions. So, it makes it very hard for states to withdraw. And so, they're kind of hamstrung at this point into staying in NC-SARA until an alternative is created. So that's all.

MR. WAGNER: Okay. Thanks, Robyn. Carolyn, go ahead.

MS. FAST: I just wanted to respond quickly to the sort of the point that was made that NC-SARA or SARA essentially has its own consumer protections that replace what the states could be doing to protect

students. Unfortunately, there are very, very weak or practically nonexistent requirements. So, for all the ones that are supplanted in states with strong laws, there's not an alternate sort of rule that would come into effect to protect students. And that is a serious concern that could be fixed if SARA had stronger consumer protections. And I believe that when the states initially got together, when the state regulators were getting together to work on and envision what a reciprocity agreement would be like, there was an idea that there would be a high consumer protection standard. But unfortunately, that didn't happen. And, although there's been efforts to try to increase the floor, so to speak, at NC-SARA, so far those have been very unsuccessful, in my view, and leaves a lot of students potentially subject to predatory behavior.

MR. WAGNER: Thank you, Carolyn.

Diana, go ahead.

MS. HOOLEY: Thank you. I want to respond first to the idea that, you know, there are the general consumer protection laws. And, you know, certainly, those are important. They are, necessarily very broad in nature, right? Because they need to be able to respond to all kinds of new businesses, new tactics. And I think as state attorneys we've been in a

unique position where we've been investigating for-profit schools in this area for over a decade now and have had an opportunity to know exactly how students are being taken advantage of. It allowed us to in Massachusetts, and I know other states have done this as well, to promulgate specific regulations that were targeted to the types of behaviors that left so many students burdened with substantial debt, that we now have seen, you know, resulted in billions of dollars in student debt relief. But then, you know, that impacts the taxpayer. So, I mean, I just want to make a fine point on that is the general-purpose laws are great, but the specific laws that we've been able to enact, and that we are prohibited from using under the reciprocity agreements. Those are the most important regulations that we have in this area. You know they serve two purposes, right? Like, they can prevent the misrepresentations because it puts schools on notice of how they're supposed to be behaving. But it also informs students and gives them a much better picture of what it is that they're signing up for. So again, the specific regulations are incredibly important in this area. I had another point, but I'll just stand on that for now and I'll jump back in.

MR. WAGNER: Thank you. Barmak, go ahead.

MR. NASSIRIAN: Some observations on this. One of which is just an admonition to all of us that the purpose of these regulations is not to address any particular reciprocity agreement. It is to address a kind of broadly acceptable, federally acceptable reciprocity agreements. In policy, you very often kind of make the mistake of thinking that just because there is a certain way that things are today, that that's somehow the only way they could be. And it's important for us to remember there could be many different configurations of reciprocity arrangements. There is significant truth to the observation that SARA emerged out of a concern that the vast majority of institutions didn't have the resources to go to every state and get authorized. And this was supposed to be a device of institutional convenience at a time when most traditional institutions were perceived to be at a disadvantage. I think we need to kind of evolve in the direction of a well-ordered policy. I want to make sure the Department contemplates what the dynamic would be if we began to [inaudible] parse the difference between this kind of education-specific law versus the other. Because what would happen over time is that you would put in state institutions that are subject to the totality of a state's laws at a significant enough disadvantage that

they would begin to internally lobby for a race to the bottom, to level the playing field against out-of-state providers. So, it is critical that the Department view the state regulators as its allies, attempt to direct funding to them and create as much of a robust authority for them to do their jobs for the purpose, not only of overseeing out-of-state providers but their own. Because otherwise, we end up, as I said, in a race to the bottom. So that's just my general observation. Now I'm going to get obsessive with my English, a second language deficit and go back to the language to romanette three, which I was having such a hard time grasping. This is subsection (three) romanette three. I now see how the Department is reading it, but I just want to point out, when you say not later than July 1, 2030, a state action exempts the institution. I just want to make sure it's understood that it's not that if the state takes action prior to July 1 of 2030, it can perpetually exempt institutions. So, it should be something like, current state action exempts the institution, you know, no later than 2030. For what it's worth. Thank you. That should also apply to romanette two somehow. I don't have as clean of a solution for that one.

MR. MARTIN: We'll look at the language.

MR. WAGNER: Thanks, Barmak. I see everyone's hands. Really quickly, I just wanted to announce that Magin Sanchez will be in to comment. But Erika is up next, so I'll go to Erika.

MS. LINDEN: Thank you. I have several comments I'd like to share. One is- but for some questions, this was to Barmak. In your initial comments, you used the phrase mega schools. And I guess I'd like to understand if some of the concerns you have are really focused at large players who are operating in multiple states from within just their own state and enrolling thousands and thousands of students, or are you considering that the problems are coming from the public schools in states that enroll students in other states? I've been looking at the SARA data and for-profit schools, large for-profit schools represent less than 1% of the institutions that are part of SARA. So, I'm asking that question because I'm very concerned about throwing out the baby in the bathwater. If we have problem actors, we need to deal with problem actors without disadvantaging the students who are in those states who wish to exercise options by using educational programs outside of their state of residence, which SARA enables us to do as a smaller school. So, I really want to understand your objections to Carolyn's point about

the for-profits. Is that where the problem lies? How can we help? If that's the case, how can we continue to support the other schools, the other 92% of schools that are part of SARA in being able to take advantage of the benefits that SARA provides? And I'll stop there.

MR. WAGNER: Okay. Thank you. Just before I get to Robyn, who's up next, just wanted to announce Zack Goodwin will be in for financial aid admins for the remainder of the morning session. Okay, Robyn, go ahead, you're up.

MS. R. SMITH: Hi. Thanks. A quick response to Joe who raises a valid concern. I think it's important to note that the higher education-specific state laws we're talking about do not apply to public colleges or public schools across the board. So, if this kind of provision was passed, at least under current schemes, they would not suddenly become subject to those higher education-specific state laws. I think the intent is that the states would still be able to decide who is and who isn't. And typically, those laws apply to the risky schools, which are primarily for-profit schools in most cases. So that's what we're really talking about. I want to respond to the idea that the general-purpose laws are sufficient to oversee and take action against predatory schools. The problem is, that most state

agencies do not have any authority to impose or investigate or enforce UDAP laws, which are the primary laws against false advertising. They only have the authority to impose their higher education-specific laws. Sometimes the statute under which they operate allows them to use UDAP, sometimes it has a separate standard that's similar. But by precluding enforcement of higher education-specific state laws, you're essentially precluding state agencies from actually enforcing any kind of general-purpose state law because they don't have authority outside of their specific statutes. And that's really important for people to understand. Second, relying on AGs is really problematic because they don't have any statutory obligation to monitor higher education institutions, to take actions to investigate complaints. Those are all within an AG's discretion but not required. They are not a licensing agency. They can't- they don't monitor the conduct. They don't go to the institution and say, you need to fix this and fix that, or refund a student here and there. They are not that kind of entity, which is what state authorization contemplates is a licensing agency that can keep an eye on a school through an approval process, accept complaints, and is obligated to take actions which may range from revoking an approval to working with the school to address

problems so they can stay licensed. The AGs don't do that. If they take action, it's either to revoke a school's authority through a lawsuit or to try to settle the case. They aren't there to police the school and to take small actions to help the school stay in business or to respond to concerns. So, I just want to make sure it's understood that if you rely only on the general purpose laws, you're going to lack an on-the-beat police regulatory agency that can really take action as the problems are occurring. And as we have seen in the AG cases, when they do take action, typically after there's been millions of dollars, often of fraud for years and decades. And everyone knows who I'm talking about, ITT tech, I'm talking about Corinthian and I'm talking about multiple other schools. So, the AG solution is not a solution from a state authorization perspective. So, thank you.

MR. WAGNER: Thanks, Robyn. Just a couple of announcements before I get to John. Scott Dolan will be coming in for private nonprofits. And Jesse Morales is back for primary students and borrowers. So, with that being said, John, you have the floor, go ahead.

MS. WARE: Yeah. Thanks. I appreciate the Department for considering these issues.

Although I just to clarify, I don't think it was in the proposal right now in the language that the Department has proposed applying requiring SARA to allow states to apply education-specific laws. That's not in the language related to reciprocity right now anyway, is it? I'm a little unclear on whether that first section applies to reciprocity or whether that's just the general section on state laws?

MR. MARTIN: That is a general section. So, I want to be clear about that. So, let's just read that again. Ensures the institution complies with any applicable state authorization or licensure requirements, any applicable would be anywhere the school operates, except as described in subsection (three) of this section. To go back to subsection (three) and we look at romanette three, the institution is an exemption, this is not one that sunsets, unlike the other two, right, the institution is offering a distance education program in that state under a state authorization reciprocity agreement as defined in 600.2. So, they're separate. And we will get to what's in the actual reciprocity agreement rules in 600.9 (d) later on.

MS. WARE: Okay. Yeah. I appreciate that clarification. So just a couple comments on the general reciprocity debate. You know, I think this whole

focus on state enforcement actions is a little bit misguided in that, as a practical matter, they rarely take place. And when they do, I mean, it's a long-drawn-out process. So, I don't know that allowing states to take enforcement measures on their- I mean, I would look at California, for example. They're not in the reciprocity agreement right now. So, in theory, they could take any type of enforcement action against out-of-state online providers that they thought were not very specific consumer protection laws. But as far as I know, that's not going on. So, I don't know that if we got rid of reciprocity or allowed states to enforce their education-specific laws, we're just going to see a big growth of enforcement actions. In my opinion, the bigger issue has to do with closure related problems. I think the Department identified this in their certification rules that just came out that said that institutions must certify that they are compliance with state laws related to closure, record retention, those types of things. I think as far as reciprocity goes, that would be a bigger issue for state protections that is in Ohio. I want to know that if a school closes in another state, that there's going to be some type of protection for Ohio residents who are attending that out-of-state institution. You know, because right now, some states

have bonds, some states have tuition recovery funds. So, some states do have protections, but other states don't. So, like I said, I think that's a bigger reciprocity issue than the enforcement actions. And just one last comment, on something Robyn said is that one of the impetus for reciprocity was that states were applying for-profit regulations to out-of-state institutions that were seeking to be authorized. Under some state laws, those state institutions from out-of-state are essentially treated in the same manner as for-profit institutions. A heavy regulatory burden, in other words. Thank you.

MR. WAGNER: Thanks, John. Before I get to you, Magin, I just wanted to let people know that Emmett Blaney will be in for students or borrowers. Okay. Magin, go ahead.

MS. SANCHEZ: Yeah, I wondered about the point that John said in terms of closures, and I think it also goes in terms of enforcement as well. But, you know, I really do want to recenter the impact that these regulations have on students. And, you know, throughout this conversation, it reminds me of Stratford University. I live down the street, and every time we would go to mass, we would always go to this buffet after, it was across the street from Stratford

University. My first exposure to what college was. I'm like, okay, one day maybe I could go there, right? Fast forward, 20 years later, Stratford University closed abruptly, I believe 800 nursing students. It was a big deal here in local news, that their credits couldn't transfer over. The school had tons of complaints in terms of their NCLEX. That exam, certification exam, it was, I believe like a 50%, 52% passage rate. It was better than the groundhog, but still slightly around the rate of a coin. Right? And so, it was a lot of troubles there with that system and they got investigated for operating programs overseas, yadda yadda. The point being that they had so many problems that when their accreditor, ACICS closed down they couldn't find another one. [Inaudible] how many problems they had. And I think this kind of goes into our conversation today. You know, I appreciate the back and forth in terms of what we see as a vision for reciprocity and the role enforcement and what it has. But, you know, I think it's very important also for my constituency to keep in mind the role and the impact on students of color, right? My hometown, we're a predominantly Latino and Black community and on the impacts of these communities, it's so important that we have these measures in place because it's these students, the ones [inaudible] who are stuck

and have tons of that horrible life outcomes, that if we don't take seriously, these complaints that are impacting schools like Stratford, etc.. I do worry about what impacts down the road this can have - impacts these are already having. And so, I think it's important to keep that in mind as we have this conversation. Thank you.

MR. WAGNER: Thank you, Magin. Real quick, just want to make a quick announcement. There are several hands up. I just wanted to let everyone know that we're going to hear from those who have their hands up. They're currently raised because we're approaching the lunch break at noon. It's 11:50 Eastern. So, Jamie, take it away.

MS. STUDLEY: Thanks. I'll be brief. We're all looking ahead and trying to think, how we could get value from reciprocity, while maintaining and promoting quality at the same time. One thing we might want to think about, and I'd be interested in hearing whether there are any suggestions. We heard the phrase "increasing the floor at NC-SARA." I wonder whether there's anything that can be done in the way of encouragement or incentives or, whether this is an evolving area. It certainly seems that NC-SARA is evolving, in that direction. And whether there's anything in the regulations that there's a danger of

stifling that could be done affirmatively in that regard? And then as I try and think about what the consequences are, and there are a set of positive possible developments, there are, other ways that the reciprocity space could develop. There's also the possibility that's been suggested of changing SARA to the point that it was not feasible. And I simply want to mention, partly from conversations with institutions in California, that have been thinking about our state's particular situation. It is the smaller institutions or specialized or the non-mega or whatever non-mega is or institutions with specialized, small-scale programs that want to reach students who want them, but who cannot go through the full-scale exercise of getting approval in each state. If NC-SARA were not there, some people have speculated that the effect would be that people for whom this is a major enterprise, would find their way to every state and have the facilities and capacity to do that. It's the smaller institutions. Many of the public institutions had asked us here in California, what could be done. They were the ones who most need the efficiency and registration, and coordination support that's provided by a reciprocity agreement. So, I think we should try and think about the intended consequences and the possible risks. And where [30 seconds] would. Thank you.

MR. WAGNER: Thanks, Jamie. Go ahead, Scott.

MR. DOLAN: Yeah. I just want to go back. I know it's a little bit of a rehash to the conversation we had earlier, but, you know, I think in order for us to have an informed conversation, and one that we can all share around where the greatest risks, I think we do need to further define education-specific. Because I've heard a number of issues raised and concerns about limits on state's ability to protect students that reside in their state. But the examples that are used are already covered under consumer protection laws within the SARA agreement. So, veracity of recruitment, accuracy of job placement, complete and accurate admission requirements for courses and programs. I think if the goal was to really build a better floor for reciprocity agreements, let's be specific about what areas there is the greatest risk so that we can have an informed conversation about what tactics and strategies that we might use to address it. In absence of that, we're using blanket language that we all think we agree to. But it's very clear from our discussion here that there's not a lot of clarity in terms of what we're talking about, what the potential impact that might be, not only on institutions but more importantly, on

students. So, you know, maybe further defining this. And I see Carolyn your hands up. Maybe, you can address that as we're talking.

MR. WAGNER: Thank you, Scott.

Emmett, you're up next.

MR. BLANEY: Yeah. Thank you. I just wanted to respond. One, in support of Magin's comments on the specific examples that he shared of students not being protected by NC-SARA, in response to the comment that was just made that says that NC-SARA has protections for students and consumers. I wanted to share some additional examples on NC-SARA's failures to protect students and borrowers, the constituency that I'm representing. So, the Center for Excellence in Higher Education, which operated Independence University, Stevens-Henager College, which is also a specific example, they had a location in Denver, which is where I'm situated, closed in 2021 abruptly. But this was not a surprise to people who were paying attention. The school had been facing litigation by the Colorado Attorney General for consumer protection violations for years prior and was on probation for misleading advertising, recruitment, and academic outcomes months before the closure, which was just mentioned as being protected. But when the accreditor pulled its approval

of CEHE in April of 2021, the school began to spiral towards an abrupt closure. The closure was handled very poorly. Confusing and poorly planned information for students that the Department actually had to take an unprecedented, unusual move of stepping in to review transfer options that were being offered to students so the school couldn't keep putting undue pressure on students to take a transfer. 25 state AGs wrote to the Department at the time. NC-SARA's policies kept states from taking action to protect students at CEHE schools even when the school lost a lawsuit. So, as the AGs noted, NC-SARA did nothing to protect students or taxpayers, no bond or letter of credit, no disclosures to students, no teach-out planning. This shows obviously huge shortcomings of a reciprocity agreement designed to make oversight lighter for schools rather than protecting students. So, again, more specific examples of how it's failed and why I'm so strongly in favor of the language the Department put forward that would allow states participating in a reciprocity agreement to enforce their laws and protect their residents from predatory practices and institutions. Thanks.

MR. WAGNER: Thanks, Emmett.

Jillian, go ahead.

MS. KLEIN: Thanks. So this is back

to an earlier comment, but I had to wait in line. So, I think now twice Greg has been asked the question about the start of the state authorization section and how we are to understand education-specific laws with respect to reciprocity. And his answer both times has not been my understanding of what's written here. So, I'm not sure if we can bring the language up, but I have a drafting suggestion if his answer is actually what's intended by the Department, which I don't think Barmak or Carolyn or anybody else actually agrees with. But I think it's important to make sure that we're all on the same page in terms of what we're talking about. Because I think John and others have asked this question and been given an answer that reciprocity institutions under reciprocity agreements would be exempted from these laws. And that is not the way that the language is written. So, I'm not sure if somebody can bring up the start of 600.9? And if Greg's answer is right, then I'm sorry I got fighty last time. But I don't think it is with all due respect. So there's an and before continues so my reading of this and tell me if I'm wrong, because I'm not a lawyer. My reading of this is that the institution has to comply with state, like registration requirements, unless they're in a reciprocity agreement and then that's handled through NC-SARA. Also, even institutions

operating under reciprocity agreements have to meet state's general purpose and because we talked about that earlier, general education laws and regulations. So, my understanding is that the second part of that statement applies to institutions operating under a reciprocity agreement. Twice, Greg has said that that's not what this language says. So, I just want to be super clear on what the Department's intention is here and what we should be responding to, because I think John's answer would have been different, given a different answer.

MR. MARTIN: I'll take that back and come back to you with an answer after lunch. I want to make certain that what it says is absolutely exactly as we intend it. So that's a good point.

MR. WAGNER: Just really quickly, I'm gonna let Denise weigh in. I do see Robyn and Carolyn's hand up but we're coming up to the noon time break. We might want to start right off when we come back, and you'd be first to speak. So. Denise, go ahead.

MS. MORELLI: Greg already got it. So, we'll be back.

MR. WAGNER: Okay. Well, we're coming right at noon, so if you don't mind, we'll pick up with Robyn and Carolyn right after the lunch break. It is noon, so we will be taking a break and we can continue

the discussion. And thanks everyone for participating.  
Have all the participants join back probably ten minutes  
before, 1:00 Eastern. Okay?

**Zoom Chat Transcript**

**Program Integrity and Institutional Quality- Session 2, Day 2, Morning, February 6, 2024**

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

From Krystil Smith | FMCS Facilitator to Everyone:

Good morning - please remember the naming convention. P or A, Your Name, Your Constituency group

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

Emmett will be coming on camera as I have to step away for a second.

From P, John Ware, State Regulator to Everyone:

My alternate colleague Rob Anderson also has some thoughts on this issue.

From P, John Ware, State Regulator to Everyone:

My alternate Rob Anderson has a comment on education specific

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

Plus 1 to Jillian

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

I would not see it as problematic simply to rephrase as 'postsecondary education related' instead of 'education related.'

From P. Jo Blondin, Community Colleges to Everyone:

Reacted to "I would not see it..." with 

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

Reacted to "I would not see it a..." with 

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

Reacted to "I would not see it a..." with 

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

Reacted to "I would not see it a..." with 

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

Agree with Rob's concerns about interpretation

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

Reacted to "I would not see it a..." with 

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

Reacted to "Agree with Rob's con..." with 

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

Reacted to "Agree with Rob's con..." with 

From P, Jillian Klein, Proprietary Instit to Everyone:

I don't want to talk over everyone but I don't think Greg's answer is correct on the question Rob is asking.

From P, Jillian Klein, Proprietary Instit to Everyone:

600.9(a)(1)(i) is written to require institutions to be subject to every state's education-specific rules.

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

Replying to "I would not see it a..."

Adding postsecondary to the language does not address the concerns being raised about the specificity. Important points raised by Jillian about the need to be clearer.

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

Replying to "I would not see it a..."

Very true! I did not mean to imply otherwise, and thank you.

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

State governments made affirmative decisions to join SARA, they were not forced. If a state feels that its laws are not sufficiently applicable, it can choose to leave the SARA compact.

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

Reacted to "State governments ma..." with 

From A Alyssa Dobson, 4 Yr Public Institutions to Everyone:

Reacted to "State governments ma..." with 

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

Reacted to "State governments ma..." with 

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

I strongly disagree with characterization that institutions "coerced" states.

From P. Jo Blondin, Community Colleges to Everyone:

and on the fact that education-specific laws won't impact K-12...dual enrollment...

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

+1 to Robyn's comments on inaccessibility for students to participate in the process to bolster student protections.

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

Replying to "I strongly disagree ..."

I also disagree with this characterization.

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

Reacted to "State governments ma..." with 👍

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

Reacted to "I strongly disagree ..." with 👍

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

Magin Sanchez is going to join the table to comment.

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

Zack Goodwin will be coming on camera as I have to step away. Be back after lunch.

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

Scott Dolan will be coming table Private Nonprofits.

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

Jessi Morales is back on as primary for students/borrowers.

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

Emmett is coming to the table

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

Erika will step back to the table

